



An  
Bord  
Pleanála

## Inspector's Report ABP-303184-18.

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<b>Development</b>	Construction of 32 apartments and ESB substation. The development is a variation on that permitted under Reg SD07A/0540 (as extended under Reg SD07A/0540/EP).
<b>Location</b>	Junction of Grange Road, Nutgrove Avenue and Loreto Terrace, Rathfarnham, Dublin 14.
<b>Planning Authority</b>	South Dublin County Council.
<b>Planning Authority Reg. Ref.</b>	SD18A/0053.
<b>Applicant(s)</b>	Karl & Stuart Reid.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Multiple – First & Third Party.
<b>Appellant(s)</b>	First Party - Karl & Stuart Reid Third Party – Niamh Curtin & Others
<b>Observer(s)</b>	Anne & Tony Prendergast
<b>Date of Site Inspection</b>	20 <sup>th</sup> February, 2019
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located within the jurisdiction of South County Dublin and is located at the junction of Grange Road, Nutgrove Avenue and Loreto Terrace, Rathfarnham, Dublin 14. The surrounding area comprises primarily residential development, with a secondary school to the south west, and is located approximately 6km to the south of Dublin City, and 500m south east of Rathfarnham village.
- 1.2. The proposed development site is currently undeveloped and has a frontage of approximately 24m onto Nugrove Avenue to the north and 48m on Loreto Terrace to the south. The eastern boundary backs onto houses while the western boundary faces onto Grange Road. The existing site is currently overgrown and there are no existing buildings on it other than a steel container. The site is fenced.
- 1.3. To the north of Nutgrove Avenue, which is an important and busy distributor road in the area, is the Castle Golf Course. To the south east are the buildings and grounds of Loreto Abbey, a stunning example of Georgian Architecture which is occupied as a Gaelcholaiste, secondary school. The site has a stated area of 0.2595ha.

## 2.0 Proposed Development

- 2.1. Permission is sought for the construction of 32 apartments and ESB substation. The development is a variation on that permitted under Reg SD07A/0540 (as extended under Reg SD07A/0540/EP), at this site at the junction of Grange Road, Nutgrove Avenue and Loreto Terrace, Rathfarnham, Dublin 14.

The development proposes the construction of two 3 storey buildings, linked at first and second floor, with a gross floor area of 4,931m<sup>2</sup> including basement level. The development proposes the following:

- 2 x one bedroom apartments
- 28 x two bedroom apartments
- 2 x three bedroom apartments

- 2.2. The application was accompanied by the following documents:

- Plans, particulars and site notices including completed planning application form.
- Planning Report
- Schedule of accommodation
- Appropriate Assessment Screening Report
- Flood Risk Assessment Report
- Part V proposal
- Copies of the previously permitted development on the site.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant permission for the proposed development for 26 conditions, including the following:

- 5(ii). Financial contribution of €25,000 for the refurbishment of the existing signal-controlled junction to the north west of the site between Nutgrove Avenue and Grange Road.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The Planning Report from the Planning Authority formed the basis of the decision of the PA to grant permission for the proposed development. The initial report considered that a number of issues required further information including the height and scale of the proposed development, overlooking and overbearing impact, landscaping and open space provision as well as access and parking. In terms of appropriate assessment, the report notes that the applicant submitted an AA screening report which was deemed acceptable.

Following receipt of the response to the further information request, the Planning Report considered that the proposed development was acceptable and would provide an acceptable standard of residential amenity for future residents and would

be acceptable in terms of traffic safety. The report concludes recommending that planning permission be granted.

### 3.2.2. Other Technical Reports:

**Roads Department:** Further information required in relation to sightlines, footpaths and areas to be taken in charge. However, no objection also noted subject to conditions.

**Housing Procurement:** Part V submission noted. Details to be agreed subject to planning permission.

**Parks & Landscape Services:** The report raises a number of concerns and recommends that the proposed development be refused for reasons including the scale, the loss of valuable hedgerows and the poor quality of open space proposed with no opportunity for a childrens play area. If refusal is not upheld, the report requires further information be submitted.

Following receipt of the response to the FI request, the second report notes issues outstanding but recommends conditions to address these in the event of a grant of planning permission.

**Water Services:** Further information required with regard to attenuation proposals and floor risk.

### 3.2.3. Prescribed Bodies

**Irish Water:** Raised no objection subject to conditions.

**Inland Fisheries Ireland:** The submission makes a number of observations in relation to potential environmental impacts, and the management of surface waters.

### 3.2.4. Third Party Submissions

There are 11 submissions in relation to the proposed development, and the issues raised reflect those submitted in the third party appeal. I have read all of the submissions made to the Planning Authority relating to the proposed development. The issues raised are summarised as follows:

- Height & scale and associated visual impacts. The development constitutes an overdevelopment of the site.
- Overlooking of existing properties from balconies.

- Impacts on the existing residential amenities of the area will include the necessity to continually light the developments entry to the basement car park.
- Roads and traffic issues arising from the increased number of cars and associated public safety issues. There is already serious congestion on Loreto Terrace and onto Grange Road. Inadequate assessment submitted in relation to traffic impact.
- Parking is limited in the area and the development proposes inadequate parking facilities.
- Noise implications associated with the ramp to the car park.
- Non-compliance with the South Dublin County Council Development Plan 2016-2022 in terms of density and housing mix.
- Inadequate landscaping proposal to improve the streetscape or help to soften the mass of the building.
- The finished floor level of the building is considerably higher than the surrounding ground level and public pavement.
- No contextual information is provided in the submitted plans and drawings.
- The development will impact any potential future plans to extend adjacent property.
- Flood risk issues for the site as well as adjoining properties. The site is located within Flood Zone A of the Whitechurch Stream. The submitted FRA does not include any compensation strategy to address the impact of floodwaters displaced by the proposed development.
- No construction management plan has been submitted.
- Inaccurate information on the application form in relation to the flood history of the site, known as 'The Ponds' and 'The Dump'.
- Issues around the collection of bins raised as a concern.
- Water service issues in terms of the inability of the existing pipe network to accommodate the development.

## 4.0 Planning History

**PA ref SD07A/0540:** Planning permission granted for a mixed use development to include 24 apartments, medical centre and retail unit on the site.

**PA ref SD07A/0540EP:** Permission extended for the above permission to 20<sup>th</sup> February, 2018.

**PA ref SD06A/1021:** Permission refused for 6 retail units at ground floor with medical centre at first floor and 33 apartments with basement car park.

**ABP ref PL06S.124019) PA ref S00A/0885:** Permission granted for a three storey nursing home and medical consultancy centre. Permission upheld on appeal. This application is identical to the permitted development under ABP ref PL6/5/08588 (PA ref S89A/0764).

**ABP ref PL06S.105404 (PA ref S97A/0689):** Permission granted for 24 apartments.

**ABP ref PL06S.100735 (PA ref S96A/0434):** Permission refused for 30 apartments. Decision upheld on appeal.

**ABP ref PL06S.097300 (PA ref S95A/0148):** Permission refused for 36 apartments. Decision upheld on appeal.

**ABP ref PL6/5/08588 (PA ref S89A/0764):** Permission granted for nursing home and medical consultancy centre. Decision upheld on appeal. This application is identical to the permitted development under ABP ref PL06S.124019) PA ref S00A/0885.

**ABP ref PL6/5/76548 (PA ref S88A/0435):** Permission refused for a nursing home and medical consultancy. The appeal was withdrawn prior to a decision issuing from An Bord Pleanála.

## 5.0 Policy Context

### 5.1. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and

- compliance with plot ratio and site coverage standards adopted in development plans.

## 5.2. **Sustainable Urban Housing, Design Standards for New Apartments, Guidelines (DoEHLG, 2015):**

The primary aim of these guidelines is to promote sustainable urban housing, by ensuring that the design and layout of new apartments will provide satisfactory accommodation for a variety of household types and sizes – including families with children - over the medium to long term. These guidelines provide recommended minimum standards for:

- floor areas for different types of apartments,
- storage spaces,
- sizes for apartment balconies / patios, and
- room dimensions for certain rooms.

The appendix of the guidelines provides guidance in terms of recommended minimum floor areas and standards.

## 5.3. **Development Plan**

The subject site is located on lands which has the zoning objective RES – to protect and improve residential amenity.

The South Dublin County Development Plan 2016-2022 is the relevant policy document pertaining to the subject site and includes a number of policies and objectives which are relevant, including those relating to core strategy, residential development and development standards, water services, roads and transport and green infrastructure.

## 5.4. **Natural Heritage Designations**

The site is not located within any designated site. The closest European Site is the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and South Dublin Bay SAC, (site code 000210) located approximately 5.5km to the east. The Dodder



Valley pNHA (site code 000991) is located approximately 3km to the south west of the site.

## **5.5. Environmental Impact Assessment**

Having regard to the brownfield nature of the subject site, together with the scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

This is a multiple appeal including a first party appeal against the inclusion of Condition 5(ii) in the grant of planning permission and one third party appeal, against the decision to grant permission.

### **6.1. Grounds of Appeal**

This is a first party appeal against the decision of the planning authority to include condition 5(ii) in the decision to grant permission for the proposed residential development.

#### **6.1.1. First Party Appeal:**

The applicant has appealed the inclusion of condition 5(ii) in the decision to grant planning permission for the development. Condition 5(ii) seeks the payment of a Development Contribution in the amount of €25,000 for the refurbishment of the existing signal controlled junction to the northwest of the site between Nutgrove Avenue and Grange Road. The reason for the condition states 'in the interest of traffic and pedestrian safety.' The grounds of appeal are summarised as follows:

- The condition omits reference to the Section of the Act in which the financial contribution derives from and a justification for the fee as no calculations were provided within the decision notice.

- The standard financial contribution condition 25 requires the payment of €244,197.29 based on a rate of €90.42/m<sup>2</sup>. €22.61/m<sup>2</sup> is for Roads Infrastructure and facilities.
- It is submitted that the inclusion of condition 5(ii) represents double counting.
- In terms of a Special Development Contribution, no details for specific exceptional costs are provided by the Planning Authority. The Act requires that for any special contribution, the basis for the calculation must be explained, and the scope of works, expenditure involved and how the costs have been apportioned to the particular development, clearly described.
- Email from the Council detailing the basis for the calculation is submitted.
- It is requested that the condition be omitted.

#### 6.1.2. **Third Party Appeal**

The third party appeal is submitted on behalf of Niamh & Kieran Curtin, Diarmaid Marrinan & Beatrice O'Connell, Yvonne & Paul Mason, Conor Doyle & Charleen Hurtubise-Doyle, Christopher B Doyle & Mary Doyle, Robert & Lorna Campbell, Brian Cleary & Lorraine Madden, James & Bridget Casy, Miriam Lynam, Louise Kenny and Deryn Ryan. The third party appeal is submitted against the decision of the Planning Authority to grant permission for the residential development. The grounds of appeal are similar to those issues raised during the Planning Authority's assessment of the proposed development and are summarised as follows:

- Proximity to existing residential properties raised as an issue. The proposed 3 storey development is between 15-17m to the single storey dormer style houses on Loreto Terrace. This distance does not comply with the requirements of the SDCDP 2016.
- While permission for a similar development was granted in the past, and expired in February 2018 having been extended, the current CDP represents significant changes compared to the previous plan, requiring a separation distance of 35m.
- The development site is located within a suburban area and not an urban area.

- In terms of overlooking, the proposed balconies and terraces will result in a significant loss of privacy to existing residents. The developer has not adequately addressed these concerns.
- Issues in relation to the flood zone of the site have not been adequately addressed.
- The site is incapable of providing adequate SUDs measures and there are inconsistencies in relation to attenuation on the site. The recommendation of the Environmental Services Department requires details in relation to attenuation while condition 13 of the grant of permission explicitly excludes underground attenuation.
- No provision has been made for cyclists.
- No waste strategy has been provided and the handling of refuse collection along the cul-de-sac is a concern.
- Roads and traffic issues have been documented and if permitted, the traffic impact of the development presents a hazard and safety risk to local residents, pedestrians and school going children.

It is requested that permission be refused.

## 6.2. Applicant Response

The first party has responded to the third party appeal as follows:

- The appeal should be invalid on the basis that Mr. Paul Mason did not make a submission within the initial 5-week observation period. The First Party does not concur with the interpretation given by ABP that as Ms Yvonne Mason made the initial observation, the appeal was valid. It is requested that the Board adjudicate on this issue.
- Accepting the third party appeal as valid has implications for the applicants in terms of the vacant site levy which will accumulate while the appeal is being considered.

- The proposed development is effectively a replacement scheme for one that was previously permitted. The response presents a comparison of the permitted and proposed schemes.
- The response submits that the last flood event in the area did not result in the site flooding. It is concluded that the site would not flood during a 1 in 100 year storm event.
- In relation to the separation distance between the proposed development and houses, the response disagrees with the third party appellant that the development does not comply with the guidelines. The previous permission did not restrict the development to 35m separation.
- In relation to overlooking, it is submitted that the requirements of condition 20 of the PAs decision, to provide translucent glass balconies, sufficiently addresses any concerns as the windows are set back 2.5m from the balcony screens.
- In relation to SUDs measures, it is proposed to provide a 'blue roof' in order to comply with condition 13 of the PAs decision to grant permission.
- In terms of cycle infrastructure, the area referred to lies outside the site boundary. The GDA Cycle Network Plan indicates that a level C3 and C2 cycle lanes and tracks are present on both Nutgrove Avenue and Grange Road.
- The designated basement bin storage provides a holding area for bins and includes screening from the public. Bins will be accessible from the access ramp, where by collectors will be c5.4m from the designated recycle bin storage in the basement. It is proposed that the bins would be transferred to the top of the ramp by the management company and held behind the screen barrier on the green area along the south east boundary, on collection days.
- In terms of traffic issues raised, it is noted that the Roads Department of SDCC considered the proposed development acceptable.

It is requested that the Councils decision be upheld.

### 6.3. Planning Authority Response

The Planning Authority responded to the first party appeal advising that it confirms its decision. A calculation of the financial contribution is presented<sup>1</sup>.

### 6.4. Observations

There is 1 observation noted in relation to the proposed development. This observation seeks to support the third party appeal and the issues raised are similar to those raised in the third party appeal.

### 6.5. Further Responses

Third Party Response to First Party Response to the Third Party Appeal

The Third Party appellant submitted a response to the first party response to their appeal. The response restates the concerns raised in the appeal and in particular:

- Disagrees with the First party opinion that the site falls within a zone B flood area. Both pluvial and fluvial flood risks apply to the subject site. The proposal to raise the finished floor level by 500mm will protect the development but not the adjoining properties.
- The development is too close to existing properties given the scale of the proposed development and does not comply with the requirements of the SDUDP 2016.
- The development will result in overlooking.
- The development if constructed as proposed will present challenges in extending the cycle route.
- Issues remain in relation to waste management and refuse collection holding area. The proposals to located the holding area appears to fall within the open space area, no screening is proposed, the grass block surface proposed is not compatible with bin wheel castors and the area proposed appears small for the waste arising from 32 apartments.

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<sup>1</sup> The Board will note that the response from the PA relates to the General Development Contribution Scheme condition, no. 25. No detail is submitted in relation to condition no. 5, which relates to the requested contribution of €25,000 and which is the subject of this first party appeal.

The appellants are not opposed to development in principle, rather the scale of the development proposed.

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of previous uses on the site, together with uses in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. General Compliance with National Guidelines & Standards and the South Dublin County Development Plan
2. Visual & Residential Amenity issues
3. Roads & Traffic
4. Flood Risk Assessment
5. First Party Appeal
6. Appropriate Assessment

### 7.1. Compliance with National Guidelines & Standards and the South Dublin County Development Plan:

#### Sustainable Residential Development in Urban Areas (DoEHLG, 2009)

- 7.1.1. Given that the subject site is located on lands zoned for residential purposes, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The 2009 guidelines updated the Residential Density Guidelines for Planning Authorities (1999) and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines. The proposed development site is located within an area which is well serviced in terms of public transport, parks and recreation areas, schools, shops and other amenities.

The development proposes the construction of 32 apartments on a site covering 0.2595ha, which equates to density of 127 units per Ha and a site coverage of 67%. In terms of the recommendations of the Guidelines, I have no objection to the proposed density of same in principle.

The Sustainable Urban Housing: Design Standards for New Apartments, DoECLG December, 2015

7.1.2. These guidelines update the guidelines from 2007 and specific policy objectives contained in these guidelines take precedence over policies and objectives of development plans. The aims of the guidelines are to uphold proper standards for apartment designs and to ensure that new apartment developments will be affordable to construct.

7.1.3. Chapter 3 of the Guidelines provide Design Standards and I proposed to consider the proposed development against these requirements as follows:

a) *Apartment floor area:*

The Guidelines require that the following floor areas be applied to apartment developments:

**Minimum overall apartment floor areas**

Studio	40 sq m
One bedroom	45 sq m
Two bedrooms	73 sq m
Three or more bedrooms	90 sq m

The development proposes 2 x 1 bedroom, 28 x 2 bedroom and 2 x 3 bedroom apartments. All apartments proposed achieve the minimum floor area required by the guidelines.

In terms of room sizes, the Board will note that overall, the proposed bedrooms, both double and single, appear to comply with the minimum width requirements. Bedroom 2, apartment 2 appears to fall below the floor area requirement by 1.4m<sup>2</sup> as it is shown as a double room.

The guidelines also provide for the following minimum requirements in terms of the living / dining and kitchen room areas:

**Minimum aggregate floor areas for living/dining/kitchen rooms**

<b>Minimum widths for the main living/dining rooms Apartment type</b>	<b>Width of living/dining room</b>	<b>Aggregate floor area of living / dining / kitchen area*</b>
One bedroom	3.3 m	23 sq m
Two bedrooms	3.6 m	30 sq m
Three bedrooms	3.8 m	34 sq m

All units generally accord with the above requirements.

*b) Dual aspect ratios:*

This issue relates to the availability of daylighting and orientation of living spaces in order to maximise the amenity of occupants of the apartments. The proposed development provides for 32 apartments over three floors in a three-storey height building over basement. Most units have dual aspect and therefore I consider this acceptable.

*c) Floor to Ceiling Height:*

It is a specific policy requirement that ground level apartment floor to ceiling heights shall be a minimum of 2.7m, and 3m should be considered for multi-storey buildings. In the interests of future adaptability for possible commercial uses, the guidelines recommend that in certain urban centres, the floor to ceiling height of 3.5-4m should be considered.

The submitted plans provide a floor to ceiling height at ground floor level of 2.9m with the upper floors having a floor to ceiling height of 2.7m. The floor to ceiling height of the basement car park is indicated at 2.7m, reducing to 2m in places.

*d) Lift & Stair Cores:*

Four cores are proposed across the development. Having regard to the limited scale of the proposed development, I am satisfied that the proposed stairs and lift arrangement is acceptable.

*e) Internal Storage:*



The proposed development provides for storage both within all apartments as well as in the basement. The minimum storage requirements are indicated as follows:

**Minimum storage space requirements**

One bedroom	3 sq m
Two bedrooms	6 sq m
Three or more bedrooms	9 sq m

I refer the Board to Section 3.21 of the Guidelines which state that ‘hot presses or boiler space will not count as general storage’ and ‘as a rule, no individual storage room within an apartment should exceed 3.5 square meters.’ There are a number of units which provide for storage rooms in excess of 3.5m<sup>2</sup>, and a number of units which appear to include the hot press area within the storage calculations.

Overall, I am satisfied that the development provides for adequate storage, between storage in the apartments and the basement. Should the Board be minded to grant permission in this instance, the storage rooms within apartments should not exceed 3.5m<sup>2</sup> and a layout plan for the basement storage area should be submitted. These issues can be dealt with by way of condition.

f) *Private Amenity Space:*

It is a specific planning policy requirement that private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels. The guidelines require the following minimum floor area for private amenity space:

**Minimum floor area for private amenity space**

One bedroom	5 sq m
Two bedrooms	7 sq m
Three or more bedrooms	9 sq m

All apartments are provided with balconies however, there are a number which do not meet the minimum requirements. Section 3.25 of the guidelines

state that 'balconies shall adjoin and have a functional relationship with the main living areas of the apartment', and while this is the case, there are a number of units which have the balcony area split between the living areas and bedrooms. I have particular concern for those apartments where the living areas face north and in this regard, the quality of the private amenity space is questionable.

7.1.4. Chapter 4 of the Guidelines seeks to deal with communal facilities in apartments and deals with access & services, communal rooms, refuse storage, communal amenity space, children's play, car parking and bicycle parking. Given the scale of the proposed apartment block as part of the development, I am satisfied that there is no requirement for a communal room and that the communal areas are adequately sized.

7.1.5. In terms of the provision of refuse storage, the Board will note that a bin storage area to service the apartments is proposed within the basement at the at the western corner. A separate recycling store is also proposed which will be located centrally in the basement area. The bin storage area depicts 2 large wheelie type bins with an additional 7 standard sized bins, while the recycling store provides for 4 large wheelie bins with an additional 6 standard sized wheelie bins.

Having regard to the proposed layout of the basement area, I have a real concern in terms of the location of the bin store area for a number of reasons. The location is not particularly central for all future occupants of the scheme and given that the ceiling height of the basement is indicated at only 2.7m, waste collectors will not be able to access the store. In addition, there is no indication of any ventilation proposed in the area of the bin store. While this might be considered minor, a condition to include ventilation may have significant impacts for the residential amenity of the apartment above given the location of the proposed terrace associated with proposed unit no. 4.

I note that it is the intention for the management company to move bins from the basement to an area adjacent to the entrance to the scheme for collection. The Guidelines advise that 'waste storage areas in basements should be avoided where possible, but where provided, must ensure adequate manoeuvring space for collection vehicles'. In this regard, I do not consider that the proposed development is acceptable or in compliance with the guidelines. However, I suggest that the issue

can be addressed by way of condition which seeks to relocate the bin store area in the basement to a more central location.

With regard to the proposal to provide an area at the entrance to the site to accommodate the bins for collection, I am satisfied that this can be addressed by way of appropriate condition. Should the Board be minded to grant permission, the 'holding area' should be appropriately designed and secured with written agreement with the Planning Authority necessary prior to any development works at the site.

7.1.6. In relation to communal amenity spaces, to the east of the proposed apartment building, the plans provide for an area of open space including a courtyard and children's play area. In the context of the site, the landscaping plan seeks to retain the existing site boundary with existing residential properties to the east and to supplement with ivy screen panels, screen planting and trees. The submissions on file include details of the proposed planting of trees and vegetation, hard and soft landscaping as well as a timescale for implementation. I note the initial concerns of the Planning Department in this regard, and would agree that should the Board be minded to grant permission in this instance, appropriate conditions should be included.

7.1.7. Car parking and bicycle parking is proposed under ground floor level within the basement. The proposed development provides for 40 car parking spaces and 48 bicycle parking spaces within the basement. Three additional parking spaces are proposed along Loreto Terrace. This is acceptable given the proximity to amenities and that there is bus stops adjacent to the site.

7.1.8. I consider that the principle of a residential development is acceptable, given the location of the subject site within South County Dublin and its current RES zoning, and I have no objections in principle to the design presented. The potential impacts of the development on adjoining properties will be discussed further below in section 7.2 of this report. Having regard to my assessment of the proposed development against the requirements of the Sustainable Urban Housing: Design Standards for New Apartments, DoECLG December, 2015, I conclude that the development is generally in compliance and can be considered acceptable in principle.

## 7.2. Visual & Residential Amenity issues

7.2.1. In relation to the overall height and scale of the proposed development, the Board will note the submission of the third parties. The prominent corner site lies adjacent to houses of a single storey, dormer and two storey scale. The County Development Plan, housing Policy 9, deals with Residential Building Heights and Objective 3 seeks 'To ensure that new residential developments immediately adjoining existing one and two storey housing incorporate a gradual change in building heights with no significant marked increase in building height in close proximity to existing housing (see also Section 11.2.7 Building Heights).' Section 11.2.7 of the Plan notes that:

'The appropriate maximum or minimum height of any building will be determined by:

- The prevailing building height in the surrounding area.
- The proximity of existing housing - new residential development that adjoins existing one and/or two storey housing (backs or sides onto or faces) shall be no more than two storeys in height, unless a separation distance of 35 metres or greater is achieved.
- The formation of a cohesive streetscape pattern – including height and scale of the proposed development in relation to width of the street, or area of open space.
- The proximity of any Protected Structures, Architectural Conservation Areas and/or other sensitive development.

In the context of the above, the proposed development does not appear to comply as the 35m separation distance cannot be achieved. The proposed development provides for set backs along the eastern sides of the proposed building – being the side which adjoins existing single and two storey houses. The set backs result in the second floor of the proposed building being located approximately 9m from the single storey house and 18m from the two storey house. The dormer houses to the south of Loreto Terrace would be located approximately 15m from the upper floors of the development, all of these distances fall below the 35m minimum cited.

7.2.2. In relation to the Development Plan, I note the support for higher buildings, and I would consider that this site is capable of accommodating a residential development of the scale proposed. In terms of the above minimum separation distance requirement, I also note that developments are required to provide measures that promote the transition to higher buildings. In the wider context of the subject site, there are three storey apartment developments which co-exist alongside houses, including those at Loreto Abbey to the south east of the site. I would also note that National Policy supports higher buildings in order to provide sustainable housing in areas where services and infrastructure are available. In this regard, I would have no real objections to the proposed development as proposed. I also note the planning history associated with the subject site where a higher development was permitted in the past.

7.2.3. The Board will note the third party submissions in relation to the proposed development and the primary concerns raised in terms of overlooking, overbearing and impacts on existing residential amenity. In this regard, I note that the houses are located to the south and east of the subject site and therefore, I am generally satisfied that no issues of overshadowing arise. Proposals to minimise potential overlooking is also provided within the design of the scheme, including the use of translucent glass on balconies and terraces. Overall, I am satisfied that the receiving environment is suitable for the proposal and that there is a strong urban design rationale to support the development as proposed. If permitted, I consider that the proposed development would represent an acceptable form of development and one which would accord with the zoning afforded to the site.

### **7.3. Roads & Traffic**

7.3.1. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013. The proposed development site accesses a public road, Loreto Terrace, which is a cul-de-sac, residential street with a carriage width of 6m.

7.3.2. The DMURS Manual seeks to address street design within urban areas (i.e. cities, towns and villages). It sets out an integrated design approach. The key design principles for roads include –

- Integrated streets to promote higher permeability & legibility;
- Multi-functional, placed-based, self-regulations streets for needs of all users;
- Measuring of street quality on the basis of quality of the pedestrian environment
- Plan-led, multidisciplinary approach to design.
- The importance of this design approach is dependent on site context, but also on road type - local, arterial or link. The DMURS defines a hierarchy of places based on place-context and place-value, with centres (such as town and district centres) having highest place-value. Places with higher context / place-value require:
  - Greater levels of connectivity;
  - Higher quality design solutions that highlight place;
  - Catering for and promotion of higher levels of pedestrian movement;
  - A higher level of integration between users to calm traffic and increase ease of movement for vulnerable users.

7.3.3. In terms of the proposed development, there is only one vehicular access which goes directly to the underground car park. The applicant has sought to design the car park to ensure compliance with DMURS and the width of the road is 6m. Pedestrian circulation areas are also proposed within the basement area. The Roads section of South Dublin County Council initially required further information in relation to sight distances at the entrance, footpaths and areas to be taken in charge. Following the receipt of the response to the further information request, the Board will note that the Roads Section have no objections to the proposed development with regard to roads and traffic, subject to compliance with conditions. I acknowledge the concerns raised by existing residents at peak hours, but would not consider it appropriate to refuse permission solely on this issue given the location of the subject site in proximity to public transport services and other amenities. As such, I am satisfied that the development is acceptable from and roads and traffic point of view.

7.3.4. In terms of permeability, DMURS seeks to promote high connectivity which maximises permeability particularly for pedestrians and cyclists. In terms of the proposed development, the Board will note that the development proposes to provide a footpath along the perimeter of the site, including across the existing green area to the north west of the site, where there is currently a mud path. Overall, I would consider that the principles of DMURS have been adequately complied with, particularly as they relate to pedestrian and cyclist hierarchy.

7.3.5. In terms of general roads and traffic issues, I am satisfied, based on the information submitted, that the requirements of the Design Manual for Urban Roads and Streets, have and can be met. While I acknowledge the potential impact of the proposed development, and the traffic generated by same on the local road network, I conclude that the development, if permitted, would not result in a significant traffic hazard for existing residents in the area and would not adversely affect the existing residential amenities of the existing residents by reason of the additional traffic resulting from the proposed development.

#### **7.4. Flood Risk Assessment**

7.4.1. In terms of the requirements of The Planning System & Flood Risk Management Guidelines for Planning Authorities (DoEHL 2009), the key principles are to:

- Avoid the risk, where possible,
- Substitute less vulnerable uses, where avoidance is not possible, and
- Mitigate and manage the risk, where avoidance and substitution are not possible.

The guidelines provide a decision making tool for assessing exceptions to the restriction of development due to potential flood risks, namely, the Justification Test. This test has been separated into the plan making justification test and the development management justification test. The purpose of the justification test is to provide clarity as to the appropriate flood risk assessment considerations at various levels of the planning process and where exceptions are provided where an overriding planning need and the sustainable management of flood risk to an acceptable level can be demonstrated.

7.4.2. The subject site comprises an existing green field site which is currently unused and which appears to have been subject to minor dumping incidents. Third party appellants have raised concerns regarding the flood potential of the site and disagree with the First Party opinion that the site falls within a zone B flood area. It is submitted that both pluvial and fluvial flood risks apply to the subject site and it is noted that the proposal to raise the finished floor level by 500mm will protect the development but not the adjoining properties. In this regard, concern is raised that the development will exacerbate flooding in the vicinity and that the site is located in Flood Zone A.

7.4.3. In support of the planning application, the first party submitted a site specific flood risk assessment, which noted that there have been recorded flood events near the site. The Risk Assessment submitted determined that the site falls within a Flood Zone B and is subject to moderate flood risk and as such, it is proposed to raise the site by 0.85m above the predicted flood level. The proposed finished floor level of the development will therefore be +50.05m and it is submitted that the development has been designed to reduce the existing run-off volume which will result in the impact of the development on flood risk being minimal. In terms of previous flood events in the vicinity of the site, it is noted that the subject side did not flood and if using the a probability of error of 40m, the subject site would be located outside any flood zone.

7.4.4. In terms of the design of the development, the Board will note the intention of the applicant to provide a green roof, covering 80% of the building and the inclusion of an attenuation tank to cater for the 1 in 100yr event. These details were submitted following a response to the further information request. Condition 13 of the Notification of Intention to Grant planning permission, issued by South Dublin County Council seeks revised drainage proposals and the provision of a SUDS system which does not include the use of any underground attenuation. As part of the response to the third party appeal, the first party has submitted that it is proposed to provide a 'blue roof' which will restrict the discharge of stormwater to a calculated and predesigned flow rate to slow down the volume of water leaving the site significantly. The storage capacity of the blue roof is equal to that proposed by the attenuation tank.

7.4.5. Overall, while I acknowledge the third party submission, I am satisfied that the development has been designed to minimise the risk of flooding on the site. In



addition, I am satisfied that the flood risk assessment, and Justification Test, as presented are robust and acceptable. In this regard, I also note the planning history of the site, the fact that the lands are zoned for residential development and I am generally satisfied that the development as proposed is unlikely to increase flood risk elsewhere, subject to the implementation of appropriate conditions. In considering the merits of the proposed development, I accept that the nature of the development seeks to promote the principles of sustainable development in relation the location of development where services and uses including, retail, commercial, employment, residential, educational and recreational uses, are all within easy reach of one another either on foot, by bicycle or on public transport.

## **7.5. First Party Appeal**

- 7.5.1. The first party has submitted an appeal against the inclusion of condition 5(ii), which requires the payment of a financial contribution in the amount of €25,000, for a signal control upgrade at the junction, north west of the site between Nutgrove Avenue and Grange Road. The first party submits that the inclusion of this condition is effectively double counting, given the inclusion of condition 25, which relates to the standard financial contribution requirement. It is requested that the condition be omitted.
- 7.5.2. The South Dublin County Council, Development Contribution Scheme provides details as to how development contributions are calculated. The proposed development falls within a category of development for which the Development Contribution Scheme applies. In this regard, a condition requiring the payment of a development contribution should be included in any decision to grant permission.
- 7.5.3. In terms of the inclusion of Condition 5(ii), the Board will note that the SDCC scheme also provides for the imposition of Special Development Contributions where exceptional costs arise in respect of the provision of infrastructure or facilities which will benefit the development, and which are not covered by the Scheme. The Roads section of South Dublin County Council have included a requirement for the payment of €25,000 for works described above. It is the first party submission, that the cited works are covered by the general scheme and therefore, a special contribution is not warranted. The Board will note that the County Council issued an email to the First Party in relation to the special contribution whereby it was advised that the cost of the reconstruction of the signal controls is valued at €85,000, with the €25,000

sought amounting to 30%. I also note that no justification for the levying of 30% of the total costs to the first party is provided.

- 7.5.4. Having regard to all of the information available, I am inclined to agree with the First Party in this instance. Should the Board be minded to grant permission in this instance, I recommend that condition 5(ii) be omitted.

#### **7.6. Appropriate Assessment**

The site is not located within any designated site. The closest European Site is the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and South Dublin Bay SAC, (site code 000210) located approximately 5.5km to the east. The Dodder Valley pNHA (site code 000991) is located approximately 3km to the south west of the site.

Having regard to the location of the subject site immediately adjacent to an established residential area, together with the nature and scale of the proposed development on zoned lands, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

#### **8.0 Recommendation**

I recommend that planning permission be granted for the proposed residential development for the following stated reasons.

## 9.0 Reasons and Considerations

Having regard to:

- (a) the residential zoning objective for the subject site,
- (b) the objectives of the National Planning Framework - Project Ireland 2040 issued by the Government in February, 2018, which seeks to pursue a compact growth policy and to deliver a greater proportion of residential development within existing built up areas,
- (c) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Heritage and Local Government in May, 2009, which promotes higher residential densities on residential zoned land in suitable locations,
- (d) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government in March, 2018, which outlines the need for apartment type developments in particular to meet growing demand,
- (e) the location of the site within close proximity of public transport corridors, and
- (f) the pattern of existing and permitted development in the area and wider area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable density and scale in this location, would not seriously injure the residential amenities of neighbouring property, would be acceptable in terms of pedestrian and traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 17<sup>th</sup> day of October, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning

authority, the developer shall agree such details with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The development shall be amended as follows:
  - (a) No storage space within the apartments shall exceed 3.5m<sup>2</sup> in area.
  - (b) Translucent glass shall be used in the balconies and terraces fronting onto Loreto Terrace on the south western elevation.
  - (c) The bin storage area proposed in the basement shall be located to a more central location.
  - (d) Full details of the proposed 'bin holding area', as well as detailed proposals for the management of this area, including the moving of the bins to and from the area, shall be provided.

Prior to the commencement of any development on site, full details of the above shall be submitted for the written agreement of the Planning Authority.

3. Water supply and drainage arrangements including the disposal of surface water, which shall be adequately attenuated on site prior to discharge, shall be in accordance with the detailed requirements of the planning authority.

**Reason:** In the interest of public health and to reduce the potential for flooding.

4. A comprehensive boundary treatment and landscaping plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan which shall be designed by a landscaping professional shall include the following:
  - (a) Details of all proposed hard surface finishes including samples of proposed paving slabs, materials for footpaths, kerbing and road surfaces within the development.
  - (b) Details of the location, number, type and spacing of all species proposed.

- (c) Details of any street furniture including bollards, lighting fixtures and seating.
- (d) Details of proposed boundary treatment at the perimeter of the site, including heights, materials and finishes.
- (e) Play space shall be in accordance with the requirements of the planning authority.
- (f) The boundary treatment and landscaping shall be carried out in accordance with agreed scheme. The approved scheme shall be completed prior to the making available by the developer for occupation of any of the proposed units.

**Reason:** In the interests of visual and residential amenity.

5. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available of occupation of any unit within the scheme.

**Reason:** In the interests of amenity and public safety.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be placed underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

7. No additional development shall take place at roof level including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunications aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** In order to protect the visual amenities of the area and to permit the planning authority to assess any such development through the statutory planning process.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

9. A plan containing details for the management of waste (and in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interests of protecting the environment.

10. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

11. Proposals for a development name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the development name, signs and apartment numbers shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternative acceptable to the planning authority.

No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility.

12. (a) The communal open spaces, including hard and soft landscaping, car parking and access way, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority shall be maintained by a legally constituted management company.

(b) Details of the management company contract and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with. the planning authority before any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

13. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and 3 (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other

security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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A. Considine  
Planning Inspector  
12<sup>th</sup> March, 2019