



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304708-19

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<b>Development</b>	Nursing home, retirement home, internal alterations and improvements to part of existing convent building, car parking, vehicular and pedestrian entrances.
<b>Location</b>	Presentation Convent, Convent Road, Clondalkin, Dublin 22.
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD18A/0328
<b>Applicant(s)</b>	Bartra Property (NH) Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission subject to Conditions.
<b>Type of Appeal</b>	Third Party V. Decision. First Party V. Condition only.
<b>Appellant(s)</b>	Anna Kelly & (20 Others).
<b>Observer(s)</b>	Board of Management Scoil Mhuire Primary School.
<b>Date of Site Inspection</b>	8 <sup>th</sup> October 2019.
<b>Inspector</b>	Susan McHugh

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## 1.0 Site Location and Description

- 1.1. The appeal site is located approx. 300m south of Clondalkin village at the eastern side of Convent Road. It forms part of a larger site which contains the Presentation Convent, currently occupied by members of the religious community, and Church of the Immaculate Conception which are Protected Structures (RPS Ref:158).
- 1.2. The Church is orientated on a west-east axis and the Convent and Parish Office form a quadrangle to the south of the Church. The appeal site excludes the existing Church and Parish Offices, which are to be retained in their current form. The Convent is primarily two storey with a three storey element to the western part of the southern block of the quadrangle.
- 1.3. The overall site currently has access from both Laurel Park/New Road to the east, and from Convent Road to the west. The appeal site has no vehicular access from a public road.
- 1.4. The appeal site is bounded by the existing entrance and surface car park serving the Church and Convent, to the north. Laurel Park residential estate and detached residential development are located to the east along Laurel Park/New Road. Two primary schools Scoil Mhuire and Scoil Naomh Ide are located to the south west and south east respectively. Scoil Mhuire, is accessed from Convent Road, while Scoil Naomh Ide is accessed from Laurel Park/New Road. Semi-detached two storey residential development along Convent Road adjoin the appeal site to the west.
- 1.5. The appeal site contains a large grassed area to the east with a number of mature trees, which includes a line of trees along Laurel Park/New Road to the eastern boundary of the site. To the south of this sylvan and grassed area is a small cemetery that is accessed directly from the north and the main site. The southern boundary of the overall site is also defined by a tree line, which is mature along its eastern half. A roughly square grassed area forms the western part of the site. The site is bounded by 2.5-3m high stone walls with rounded capping above the wall to the east along Convent Road, and similarly along Laurel Park/New Road.
- 1.6. The site has a stated area of approx. 1.2ha.

## 2.0 Proposed Development

2.1. The application was lodged with the planning authority on the 14/09/2018, with further plans and details submitted on the 25/04/2019. The significant further information triggered revised public notices.

2.2. The proposed development as lodged comprises:

- *Nursing Home* – The construction of a part three, part four storey nursing home building (7,741sq.m gross floor area) located on lands to the south and west of the Convent Building. It will to accommodate 155 bedrooms and ancillary resident and staff facilities.
- *Retirement Home* – The construction of a two storey 14 room accommodation wing (916sq.m gross floor area) to the east of the Convent and internally connected to the nursing home.
- *Improvement/refurbishment Works to Protected Structure* – Internal alterations and improvements to part of the existing Convent Building (Protected Structure) at ground, first and second floor levels which is to be used for nursing home staff accommodation (1,203.3 sqm). The proposed works in summary include the following;
  - Subdivision of Convent Chapel to provide quiet room (accessed from the adjacent Church only).
  - Adjustment, removal and addition of partitions, services and fittings to create ensuite bathroom facilities in 25 no. bedrooms at ground, first and second floor levels.
  - Works to facilitate use of rooms as communal living rooms and ancillary uses.
  - Sundry internal improvements to meet fire regulations and building regulations.
  - Sundry refurbishment works to allow for conservation and repair of building fabric, roof finishes, structure and retained fixtures.

- 2.3. The existing Parish Offices and meeting rooms within the Convent Building are to be retained in their current use and no works are proposed to these rooms which are excluded from the current application.
- 2.4. The development will be accessed via a new vehicular access and two pedestrian entrances from New Road and will provide a total of 42 car parking spaces and 60 bicycle spaces. Existing vehicular entrances from New Road and Convent Road serving the church will be retained.
- 2.5. Permission is also sought for the construction of a single storey detached substation and switch room (20.5sq.m) and 2 single storey detached store buildings (89.5sq.m). It is proposed to demolish the existing substation and detached single storey ancillary store buildings (192.2sq.m).
- 2.6. Permission is also sought to implement soft landscaping, boundary treatment and all ancillary and associated site and development works.
- 2.7. Two storm water tanks are proposed either side of the existing Convent each with a capacity of 190m<sup>3</sup> and 147m<sup>3</sup> respectively.
- 2.8. The planning application was accompanied by the following;
- Planning Report – BMA Planning
  - Design Statement – Conroy Crowe Kelly
  - Conservation Report & Architectural Assessment – Sheehan and Barry Conservation Architects
  - External Lighting Report – JV Tierney& Co.
  - Energy Efficiency and Climate Adaption Design Statement - JV Tierney& Co.
  - Traffic Impact Assessment – Cronin Sutton Consulting Engineers
  - Flood Risk Assessment - Cronin Sutton Consulting Engineers
  - Waste Management Plan - Cronin Sutton Consulting Engineers
  - Engineering Services Report - Cronin Sutton Consulting Engineers
  - Outline Construction Management Plan - Cronin Sutton Consulting Engineers
  - Tree Survey and Arborist Report – The Tree File Ltd., Consulting Arborists

- Landscape Design Report - Ronan Mac Diarmada Associates, Landscape Architects and Consultants
- Appropriate Assessment – Openfield Ecological Services
- Ecological Impact Statement - Openfield Ecological Services
- Bat Assessment – Brian Keely

2.9. In the interests of clarity for the Board, pursuant to further information, the applicant submitted revised plans which modified the development, and include the following;

- Omission of two storey Retirement Home building, and incorporation of accommodation within the building to the south of the Convent Building.
- Revised plans in relation to the works to the Convent Building (Protected Structure).
- Revised plans and elevations for the Nursing Home building with the omission of two no. bedrooms and the setting back of the second floor, including photomontages.
- This increased the no. of bedrooms within the Retirement Home from 14 to 18 (stated floor area of 1,069sqm) and reduced the number of bedrooms within the Nursing Home to 145 (stated floor area 7,619sqm)
- Revised plans in relation to landscaping proposals with a reduction in no. of trees to be removed from 32 to 17.
- Revised plans in relation to surface water drainage, access and other engineering matters.
- Reduction in the no. of car parking spaces from 41 to 39.

2.10. The response to further information was accompanied by the following;

- Design Statement – Conroy Crowe Kelly Architects
- Conservation Response – Sheehan and Barry Conservation Architects
- Landscape masterplan and landscape proposals – Ronan Mac Diarmada and Associates, Landscape Architects and Consultants
- Arboriculture Report – The Tree File Ltd., Consulting Arborists

- Revised Drawings including site lighting JV Tierney & Co.
- Statutory Declaration – The Presentation Sisters
- Land ownership details

2.11. This assessment makes reference to the plans submitted at further information stage and the original application stage.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The planning authority decided to grant permission on the 22<sup>nd</sup> May 2019 subject to 32 no. conditions. Conditions of note include;

- Condition 1. Plans and particulars.
- Condition 2 & 3. Works to Protected Structure and requirements of South Dublin County Council (SDCC) Architectural Conservation Officer.
- Condition 4. Use of existing stone along boundary walls and entrances.
- Condition 5. Phasing to be agreed.
- Condition 6. Occupation of the nursing home and completion of works to the Protected Structure.
- Condition 7. Use of Protected Structure
- Condition 8-11. Tree Bond and Tree protection requirements.
- Condition 12 & 13. Ecology and Bats
- Condition 14. Public Lighting
- Condition 15. Archaeological Monitoring
- Condition 16 & 17. Bicycle parking and parking surfaces
- Condition 18 & 19. Construction Traffic Management Plan and Mobility Management Plan
- Condition 20 & 21. Electric Vehicles and Dish Kerb and Footpath requirements
- Condition 22. Taking in Charge/Management Company

- Condition 23. Construction Waste Management Plan
- Condition 24 & 25. Services to be Underground and Occupation Subject to Service Connection.
- Condition 26. Irish Water Connection Agreement
- Condition 27. Drainage requirements
- Condition 28. Environmental Health
- Condition 29. Aviation Safety
- Condition 30. Minimise Air Blown Dust
- Condition 31. Construction Noise and Hours
- Condition 32. Section 48 Development Contribution

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports (dated 06/11/2018 and 22/05/2019)

Basis for the planning authority decision. First planning report recommends further information on the following;

- *Item No. 1 Layout Design and Massing* – Alternative site layout indicating the omission of the proposed two storey retirement home block to the east of the convent building, and incorporated into the proposed new build and or existing convent building, measures to protect the amenity of the school to the south, retention and protection of trees, and retention of stone boundary wall along southern boundary, details in relation to DMURS, revised materials palette, and modifications to the western boundary wall on Convent Road.
- *Item No. 2 Ground floor area of the Protected Structure* – Material changes required to the existing chapel which connects to the existing Church and front reception rooms. Bedrooms with ensuite should be kept to the first and second floors allowing the main rooms at ground floor to remain in their current form, alternative layouts should be provided to minimise the subdivision of rooms, revised ground floor plan to minimise the overall plan form and proposed use of the existing rooms and chapel within the Protected Structure, and retention of more of the



internal boundary wall along the southern side of the site, with parking located behind the wall and with one access point.

- *Item No. 3 Board of Management of the schools to the south* – Details of land ownership, and right of way from adjoining school to area of open space and use as fire evacuation measure.
- *Item No. 4 Parks and Landscape Services / Public Realm Department* – Level of tree loss proposed is unacceptable, revised proposals to indicate retention of trees on the south and east of the site, applicant to submit a Landscape Design Rationale and comprehensive detailed landscape proposals, Tree Report including boundary trees in the north of the site, details in respect of the public realm, all boundaries, details of services that will not impinge on the proposed and existing trees, and taking in charge and or management company details.
- *Item No. 5 Water Services Section* – Surface water network and attenuation system, hard standing surface areas and soft areas, catchment areas and details of where they drain to, clarify discrepancy between two site areas used in attenuation calculations and total site area used in report.

The second planners report dealt with the applicants' response to further information which was considered to have addressed the items raised and was acceptable.

The planner recommended a grant of permission subject to conditions.

### 3.2.2. Other Technical Reports

- **Water Services:** Initial report dated 17/10/2018 recommends further information. Second report dated 1/05/2018<sup>1</sup> recommended no objection subject to requirements.
- **Roads Department:** Report dated 5/10/2018 recommends no objection subject to conditions.
- **Parks and Landscape Services/Public Realm:** Initial report dated 04/10/2018 recommended a **refusal**, but also recommended further information. Second report dated 09/05/2019 recommends no objection subject to conditions.

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<sup>1</sup> Error should read 2019.

- **Architectural Conservation Officer:** Initial report dated 16/10/2018 recommended further information. Second report dated 17/05/2019 recommends no objection subject to conditions.

### 3.3. Prescribed Bodies

- **Irish Water:** Initial report dated 18/10/2018 recommended no objection, second report dated 10/05/2019.
- **Environmental Health Officer:** Report dated 18/10/2018 recommends no objection subject to requirements.
- **An Taisce:** Report dated 11/10/2018 notes the impact on the amenity of the area and the ambiance of the Protected Structures which should not be unduly affected.
- **Development Applications Unit (DAU) Department of Culture, Heritage and the Gaeltacht:** Report dated 23/05/2019 recommends an Archaeological Impact Assessment be carried out subject to requirements.
- **Department of Defence:** Report dated 30/10/2018 noted the proximity of the appeal site to Casement Aerodrome, and requirements in relation to the operation of cranes and that the area may be subject to a high level of noise from aircraft operating in the vicinity.

The application was referred by the planning authority to the Arts Council, The Heritage Council and Fáilte Ireland, but no reports were received.

#### 3.3.1. **Development Applications Unit (DAU) Department of Culture, Heritage and the Gaeltacht**

Having regard to the proposed development relating to protected structures, the Board referred the proposed development to the DAU, but no report was received.

### 3.4. Third Party Observations

- 3.4.1. A significant number of third party observations were lodged with the planning authority. The submissions were mostly from individual local residents, including Clondalkin Local Residents (representing 12 households) and St. Brigid's Resident Association. Submissions were also from the Board of Management of Scoil Mhuire and of Scoil Naomh Ide; the Clondalkin History Society; Clondalkin Round Tower

Heritage Group; and Clondalkin Tidy Towns. Submissions were also received Cllr. B. Bonner and Cllr. F. Timmons.

Issues raised can be summarised as follows;

#### Impact on existing Nursing Homes

- Negative impact on the viability of smaller nursing homes in the area
- Existing permissions for nursing homes not yet constructed
- Impact on Tallaght Hospital

#### Impact on Amenity

- Overlooking of residential properties, and of adjoining schools
- Overshadowing and loss of natural light in Scoil Mhuire
- Light pollution
- Loss of open space used by Scoil Mhuire
- Noise and air pollution especially during school opening times

#### Trees and Ecology

- Loss of trees
- Impacts on bats and swifts

#### Traffic and Parking

- Traffic impacts
- Inadequate parking and impact on New Road
- Health and safety concerns for school children attending Scoil Naomh Ide and Scoil Mhuire using New Road and Convent Road.

#### Heritage

- Building height, massing and materials not in keeping with Clondalkin Village
- Negative impact on heritage of Clondalkin Village
- Impact on setting of the Protected Structure
- Negative impact on the area as a result of the removal of limestone wall

## Miscellaneous

- Lack of consultation with local residents
  - Additional pressure on services and infrastructure
- 3.4.2. In response to the further information, again a large number of third party submissions from local residents including a petition, and a number of community groups were lodged with the planning authority. Submissions were also received from Cllr. Bonner, Cllr. Higgins, Cllr. Gilligan, Cllr. Gogarty, Cllr. Timmons and Deputy Fitzgerald & Cllr. Egan.
- 3.4.3. Issues raised were similar to those previously raised.
- 3.4.4. Submissions and representations received are on file and issues raised are similar to those raised in the grounds of appeal and are summarised in section 6.0 below.

## 4.0 Planning History

**P.A.Reg.Ref.SD11A/0234:** Permission **granted** 17/11/2011 for external lights in church grounds; and guard rail and handrails at the altar. (a Protected Structure).

**P.A.Reg.Ref.SD07A/0012:** Permission **granted** 26/02/2007 to (1) remove of paint from the stone pillars and window tracery to expose stone finish; (2) remove railings around the original baptismal font and constructing a vesting room there; (3) remove 2 (1960's) confessional boxes; (4) construct a ceiling over the sacristy porch.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative development plan for the area is the South Dublin County Development Plan 2016-2022. The site is zoned 'RES – *To Protect and/or Improve Residential Amenity*'. Housing for older people, nursing home and retirement home are uses 'permitted in principle' under this zoning objective.

5.1.2. **Chapter 2** refers to **Housing**

**Section 2.1.2** refers to *Housing for Older People*

**Housing Policy H3** states *'It is the policy of the Council to support the provision of accommodation for older people in established residential and mixed use areas that offer a choice and mix of accommodation types to older people (independent and semi-independent living) within their communities and at locations that are proximate to services and amenities.'*

**H3 Objective 1** states that *'To support housing that is designed for older people (including independent, semi-independent or nursing home accommodation) in residential and mixed use areas, at locations that are proximate to existing services and amenities including pedestrian paths, local shops, parks and public transport.'*

5.1.3. **Chapter 9** refers to **Heritage, Conservation and Landscapes**

**HCL Policy 2** refers to *Archaeological Heritage*

**HCL2 Objective 3** states *'To protect and enhance sites listed in the Record of Monuments and Places and ensure that development in the vicinity of a Recorded Monument or Area of Archaeological Potential does not detract from the setting of the site, monument, feature or object and is sited and designed appropriately.'*

**HCL Policy 3** refers to *Protected Structures*

**HCL3 Objective 1** states *'To ensure the protection of all structures (or parts of structures) and the immediate surroundings including the curtilage and attendant grounds of structures contained in the Record of Protected Structures.'*

**HCL3 Objective 2** states *'To ensure that all development proposals that affect a Protected Structure and its setting including proposals to extend, alter or refurbish any Protected Structure are sympathetic to its special character and integrity and are appropriate in terms of architectural treatment, character, scale and form. All such proposals shall be consistent with the Architectural Heritage Guidelines for Planning Authorities, DAHG (2011) including the principles of conservation.'*

**HCL5 Objective 3** states *'To address dereliction and encourage the rehabilitation, renovation, appropriate use and re-use of Protected Structures.'*

**HCL Policy 16** refers to *Public Rights of Way and Permissive Access Routes*

5.1.4. **Chapter 11** refers to **Implementation**

**Section 11.4.2** refers to *Car Parking Standards*

**Section 11.5.2** refers to *Protected Structures*

### 5.1.5. **Schedule 2 Record of Protected Structures**

(RPS) No. 158 Presentation Convent and Church of Immaculate Conception Clondalkin.

## 5.2. **Relevant Planning Policy**

### 5.2.1. **Project Ireland 2040 - National Planning Framework**

The National Planning Framework targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas. National Policy Objective 13 refers to urban areas, and that planning and related standards including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high-quality outcomes in order to achieve targeted growth.

### 5.2.2. **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- 'Architectural Heritage Protection – Guidelines for Planning Authorities'
- 'Design Manual for Urban Roads and Streets'
- 'Urban Development and Building Heights – Guidelines for Planning Authorities',

### 5.2.3. **National Inventory of Architectural Heritage (NIAH)**

Reg. No.11209046 – Description

*'Detached multiple-bay two-and-three storey Gothic Revival convent on a U-plan built 1857, with attached gable-fronted church to north forming quadrangle. Squared limestone walls throughout with cut stone dressings. Timber sash windows in pointed, segmental and cusp-headed openings to convent. Timber door in shallow elaborate porch. Pointed openings with stone tracery to church. Apse to east, porch to north and pointed doorway to west. Steep pitched slate roofs throughout. Ornate timber panelled interior and stained glass to church. Gabled entrance screen*

*gateway with cast-iron gates and flanking ashlar plinth walls with cast-iron gates. Small cemetery of the Sisters of the Convent to the south with a small stepped gable-fronted building to the south with pointed arched openings. Wooden statue displayed in the lawns to the east.'*

Reg. No.11209046 – Appraisal

*'This very attractive, well-maintained and beautifully executed Gothic-style church and convent group holds not only a very important role socially to the people of Clondalkin but has an interesting and significant history. The many noteworthy features retained, such as the stonework, windows, entrance screen and church interior, allow a full appreciation of the design integrity of the Victorian religious complex.'*

### **5.3. Natural Heritage Designations**

The site is not located within or directly adjacent to any designated Natura 2000 sites.

### **5.4. EIA Screening**

Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, 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**

### **6.1. Grounds of Appeals**

#### **6.1.1. Appeal No. 1.**

A Third-Party appeal was lodged by Marston Planning Consultancy on behalf of 20 no. appellants against the Notification of Decision to grant permission. The parties to the appeal include the following;

### Community Groups - Clondalkin

St. Brigid's Resident Association,	49 St. Brigid's Road.
Clondalkin History Society,	The Gables, Monastery Road.
Clondalkin Residents,	3 Watery Lane.
Clondalkin Round Tower Heritage Group,	21 Monastery Walk.

### Residents - Clondalkin

• Johanna Barry,	3 St. John's Road.
• Josephine Byrne,	64 Floraville Avenue.
• Margaret Caddle,	8 Bushfield Grove.
• Nicola Caddle,	25 St. Bridgid's Road.
• Robert Dowds,	43 Castle Park.
• Thomas Finlay,	6 Laurel Park.
• Anna Kelly,	12 Moyle Park.
• Carmel Lyons,	13 Oldchurch Crescent.
• Mayon Family,	65 New Road.
• Joseph Menton,	13 Knockmeenagh Road, Newlands Estate.
• Edward Murphy & Monica McGill,	Camac Cottage, Orchard Road.
• Nora O'Brien,	35 Convent Road.
• Eoin Ó Broin,	3 Watery Lane.
• Eugene & Joan Tully,	21 Laurel Park.
• Kevin & Rosaleen Voelkin,	10 Moyle Park.

### Resident – Lucan

• Cathal Byrne,	8 Moy Glas Vale.
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The grounds of appeal can be summarised as follows;

- *Negative Impact on Protected Structures* – The setting of the convent and church structures are intrinsically linked. The primary setting of the protected structures will



be irrevocably removed as a result of the proposal, which will loop around the convent in a manner that will largely hide its exposure as a group of protected structures when viewed from the public realm. Submit that this will have a profoundly negative impact on the setting of the protected structures. This impact will be compounded by the applicants proposals to remove the boundary of the protected structure, (which forms part of the setting of the protected structure itself) and replace it with a low plinth wall with railings above. Submit that the impact of the primarily four storey proposal on the setting and character of the protected structures is irrevocably damaged by the proposal. The negative impact is compounded by the height of the nursing home relative to the eaves of the convent building and its position so close to Convent Road (which will sit 52m in front of the church and convent). Proposal would be contrary to Policy HCL3, HCL Objective 2 and HCL3 Objective 1 of the County Development Plan. Request the Board to overturn the Council decision and refuse permission.

- *Impact on Protected Species* –Swifts annually use the cloister on the convent building to nest. The ecological report was based on a bat survey undertaken in October 2017, is out of date and outside the primary times for undertaking bat surveys to establish the presence of roosting bats. Survey noted presence of Leisler’s bats as well as Common and Soprano Pipistrelle bats. The introduction of breaks in the tree lines and removal of trees to the west side of the southern boundary, that could be used by bats for foraging, as well as the introduction of additional artificial lighting has the potential to have a negative impact on commuting and foraging habitat for bats using the area. There is a lack of clarity in terms of the impact on the swift and bat populations on site and there is a need to take a precautionary approach to development and refuse permission.

- *Overdevelopment, negative impact on residential and visual amenity, and amenity of the school* – The nearest school (Scoil Mhuire) will be located between 4-9m away from the four storey block of the nursing home that will contain several bedroom windows facing the school. The very slight changes made to the nursing home at upper level has not altered concerns in relation to scale and is over scaled in the context of both the neighbouring school and the protected structures. The issue of loss of access to open space within the appeal site by the adjoining school is also raised.

- *Negative Impact on Sylvan Setting* – The removal of trees primarily along the southern boundary with the school (Scoil Mhuire) are primarily to facilitate the proposed entrance noting that these are all good quality trees. The loss of trees amounts to 24.3% of all trees on the overall site and has a significant negative impact and contrary to the policies of the County Development Plan and the Tree Policy Living with Trees 2015-2022 and will compound the overbearing impact of the proposal on the school.
- *Inappropriate Vehicular Access and Car Parking/Traffic Hazard* – Conflict between the existing uses on site and the proposal. Contend that the planning authority have not adequately taken the existing surrounding land uses and traffic into account in making their decision. The impact in terms of traffic is compounded by the fact that the pedestrian entrance to Scoil Naomh Ide is located 20m from the new vehicular entrance to the proposal off New Road, which is used as a crossing point for pupils at school opening and closing times. This pedestrian access also provides a pedestrian link to the other two schools that have vehicular access off Convent Road. The three schools have been extended in recent years which has led to an increase in traffic. The existing church car park is used by parents dropping and picking up children. The proposed closure of the pedestrian link from the convent to the school will not stop this but will mean that primary school children will be required to walk along Convent Road to access the school. The footpath is narrow and not suitable for young pupils, and the proposed development will result in a traffic hazard. Submit that the provision of 42 car parking spaces is likely to be inadequate, given the high level of staffing required for the proposed development and is likely to result in a spill-over car parking into the surrounding streets, and have a material impact on the safety of children trying to access the school.
- Request for an Oral hearing.

#### 6.1.2. **Appeal No.2.**

A First-Party appeal was lodged by BMA Planning on behalf of the applicant Bartra Property (NH) Ltd., against Condition No. 6 only of the Notification of Decision to grant permission, which states;

*'The nursing home shall not be occupied until all works are completed to the Protected Structure to the satisfaction of SDCC Architectural Conservation Officer and that this has been agreed in writing with the Planning Authority.'*

*Reason: To ensure that works to the protected structure are carried out in full as part of the overall development.'*

The grounds of appeal can be summarised as follows;

- Request that the Board direct the planning authority to remove condition no. 6, on the basis that the condition is unworkable, as the nursing home and retirement home are proposed to come into operation in unison.
- Contend that an appropriate phasing strategy in accordance with condition no. 5 will ensure the implementation of the overall development including the works to the Protected Structure.
- The rationale behind the need to commence works and occupy the new build element of the scheme prior to the protected structure was set out in the response for further information. This states that *'it is intended that the nuns remain in the existing convent building until the new build element of the scheme is ready for occupation. Once the nuns have vacated the convent, works will commence on the refurbishment of the existing convent and it will be phased into use as ancillary accommodation to the nursing home.'*
- Assert that the requirement is overly restrictive and will unnecessarily delay the opening of a much needed community service within the Clondalkin locality.
- Submit that there will be significant implications to the viability of the project that the delay in occupancy will present from a commercial and funding perspective.

## 6.2. Applicant Response

A response to the Third-Party appeal was lodged by BMA Planning on behalf of the applicant, and can be summarised as follows;

- *Request for an Oral Hearing* – Not necessary.

- *Positive Intervention for the Site and Area Generally* – Will enable the Presentation Sisters to remain part of Clondalkin community through the provision of suitable retirement home accommodation on site with access to support services of the nursing home. Provide a suitable use for the convent which is no longer required for its original purpose and an impetus to refurbish and modernise aspects of the building. Facilitate the densification of this urban site which is located close to Clondalkin village centre.
- *Negative Impact on Protected Structures* – Internal works have been carefully considered and are described in some detail in the Conservation and Architectural Report and the applicants conservation consultant worked closely with the Conservation Officer of the planning authority. Externally the scheme was amended following a request for further information to include the omission of the previously proposed two storey eastern wing and incorporate the retirement home into the proposed nursing home building. The massing and overall footprint of the development was reduced, and the entire building is now moved to the rear of the building line leaving the entire foreground of the convent and church buildings entirely free of buildings and the dominant perspective of the front of the convent and church from New Road will be retained. The perspective from Convent Road is secondary and obscured at present by the boundary wall. Submit that the proposed buildings represent sympathetic forms of development that preserve the architectural integrity and character of the protected structures and their curtilage in compliance with the provisions of the South Dublin County Council Development Plan 2016-2022.
- *Impact on Protected Species* – Submit that there is no issue with the proposed development from an ecological perspective and no concerns were raised in this regard throughout the application process. Mitigation measures during the construction phase of the development have been proposed and will be implemented.
- *Overdevelopment will have a negative impact on residential and visual amenity of the area* – The nursing home use is an ideal fit for the subject site in terms of the layout of the site but also having regard to its central location relative to Clondalkin village centre and is supported by Housing (H) Policy 3:

Housing for Older People. There are no residential properties adversely impacted by the development. Scoil Mhuire school is located at the southern boundary closest to the nursing home building and this relationship has been examined thoroughly in the application.

- *Negative impact on Sylvan setting* – With the exception of some trees to facilitate the new entrance, the majority of trees to the front of the building as viewed from New Road will be retained and enhanced as part of the development. The additional tree planting shall be in excess of the existing trees on site both in number and range of species. The trees to be removed along the southern boundary are relatively young, and not considered to possess significant amenity value to the site or wider area.
- *Inappropriate vehicular access and car parking that will result in a traffic hazard* – Existing vehicular entrances from New Road and Convent Road serving the Church will be retained and the new development will be accessed via a new vehicular and pedestrian entrance from New Road. The Traffic Impact Assessment undertaken by CS Consulting Group demonstrates that the additional traffic generated by the proposed scheme will only have a minor impact on this junction. Traffic generated by the proposed development will generally not coincide with school traffic, and parking provision is in accordance with development plan policy.

### **6.3. Planning Authority Response**

- 6.3.1. The planning authority in a letter dated 16/07/2019 confirmed its decision and refers to the condition with regard to occupation and schedule of construction for the project which have been covered in the planner's report.
- 6.3.2. It is also stated that this is integral to the overall assessment made by the Council's Architectural Conservation Officer and Area Planner and therefore needs to be recognised as a very considered condition attached to a grant of permission by the Board in their assessment of such a condition.

## 6.4. Observations

6.4.1. One observation to the appeal was lodged by Ryan and Ryan Solicitors on behalf of the Board of Management of Scoil Mhuire Primary School, Convent Road, Clondalkin, Dublin 22. The issues raised can be summarised as follows;

- *Right of Way* - exists between Scoil Mhuire and the Church of the Immaculate Conception, accompanied by a statutory declaration and indicative map.
- If the right of way is denied to the pupils of the school, they would be forced to use an alternative access to the church via the footpath on Convent Road which is extremely narrow and are concerned in relation to safety.
- The school uses the right of way to gain access to other local amenities such as the library, swimming pool, Round Tower, Clondalkin Village Centre and other locations.
- The school has a right to the use of the classrooms and the hall, it also has a right to the use of the field as outlined on the map submitted, which has always formed an essential part of the school footprint and is an essential part of the school.
- The school has until recently had full and free access to the field either directly from the school through the steps leaving the hall or alternatively through the side gate.

## 6.5. Further Responses

6.5.1. A response to the First-Party appeal was lodged by Marston Planning Consultancy on behalf of the Third-Parties Anna Kelly and 20 others, and can be summarised as follows;

- In the unlikely scenario that the Board are minded to grant permission, then condition no. 6, or a variation of same, should be requisite of works prior to the commencement of development on the nursing home.
- Suggested phasing of development by the first party, so that the works to the protected structure form the final phase of the development, would be unacceptable.

- Request that the Board overturn the decision of the planning authority, and refuse permission, on the basis that the proposal would be contrary to Policy HCL3, HCL Objective 2, and HCL3 Objective 1 of the County Development Plan.
- The impact of the proposal is unacceptable and contrary to the proper planning and sustainable development of the area, including the preservation and improvement of amenities thereof.

## 7.0 **Assessment**

7.1. There are two appeals, a Third-Party appeal against the decision to grant permission, and a First-Party appeal against a condition only, and I intend to deal with both appeals jointly. The main issues in the appeals are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings;

- Principle of Development
- Impact on the Setting of the Protected Structures
- Works to the Protected Structure
- Impact on Amenities and of Adjoining Primary School
- Traffic, Access and Parking
- Impact on Sylvan Setting
- Ecology - Impact on Protected Species
- Other Matters
- Appropriate Assessment

### 7.2. **Principle of Development**

7.2.1. The proposed development comprises the construction of a nursing home, retirement home and works to the existing Convent Building a Protected Structure. It is detailed in the application that the current use of the Convent Building and

grounds by the religious community is no longer sustainable, and the building is no longer fit for purpose.

- 7.2.2. The current proposal includes the Convent Building and attendant grounds but excludes the existing Church and Parish Offices and vehicular access routes along the northern part of the site. The overall site area is 1.2ha and it is not designated as an Architectural Conservation Area.
- 7.2.3. The operative Development Plan is the South Dublin County Development Plan 2016-2022. The site is zoned RES: *To Protect and/or Improve Residential Amenity*. Housing for older people, nursing home and retirement home are uses 'permitted in principle' under this zoning objective. I consider that the development is, therefore, acceptable in principle at this location.
- 7.2.4. It is also noted that the Development Plan incorporates a number of policies in support of such development including Housing Policy H3 which supports the provision of accommodation for older people in established residential and mixed use areas that offer a choice and mix of accommodation types to older people (independent and semi-independent living) within their communities and at locations that are proximate to services and amenities. In this context, the proposed development is considered entirely appropriate. The site is located adjacent to other community buildings and within easy walking distance of Clondalkin Village. It is served by public transport and I consider the public footpaths and pedestrian routes through the site more than adequate to serve connections in the area.
- 7.2.5. I am satisfied, therefore, that the development is fully in accordance with the zoning objective for the site, and that it will make a positive contribution to housing for the elderly in the area.

### **7.3. Impact on the Setting of the Protected Structures**

- 7.3.1. As already noted in Section 5 above the existing Presentation Convent which is currently occupied by members of the religious community, and Church of the Immaculate Conception are Protected Structures (RPS Ref:158).
- 7.3.2. There are three distinct elements to the proposed development as lodged which include the proposed new nursing home building, retirement home building and the alterations and modifications to the existing Convent Building.



- 7.3.3. Importantly the new build and alterations to existing boundary walls constitute works within the curtilage of the Protected Structures (Convent and Church) and therefore, the overall impact on the setting of the protected structures and context on the site along Convent Road and New Road.
- 7.3.4. The Architects Design Statement carried out by Conroy Crowe Kelly submitted with the application outlines that the proposed development places the protected structure at its centre, and that the form and shape of new development will be subservient to the historic buildings. A site analysis determined that the most appropriate location for new development on the site is along the southern boundary on the west side. A key consideration in the selection process is the preservation of the east lawns and the mature specimen trees which is an essential component of the setting of the protected structure.
- 7.3.5. The stated design approach is to form a new quadrangle or square of buildings on the Convent Road side of the site, taking their cue from the geometry and grid of the existing buildings on site. This arrangement it is asserted allows the protected structure to sit at the centre of the site, rise above the new buildings in height, and to maintain its primacy and thus protecting the setting of the historic buildings.
- 7.3.6. The western quadrangle block (Nursing Home) will form a new square with the old buildings and create a new street frontage onto Convent Road and is four storeys in height. It is also proposed to provide two smaller glazed transparent elements to facilitate views through to the courtyards behind.
- 7.3.7. The central block (Nursing Home) aligns with the footprint and grid of the existing convent building to the south and is three storeys, while the curved eastern block, (Retirement Home) is two storeys in height. Each block is treated in a simple contemporary style and contrasts with the detailing of the existing buildings.
- 7.3.8. The Conservation Report & Architectural Assessment carried out by Sheehan and Barry submitted with the application includes an impact analysis of the proposed works and new structures within the curtilage of the Protected Structure which I have read and considered.
- 7.3.9. Concern was raised by the Conservation Officer of the planning authority and in third party submissions in respect to the overall layout and design of the development. In response to a request for further information, the two storey Retirement Home

building which formed a curved eastern block was omitted, and accommodation was instead incorporated within the proposed Nursing Home building to the south of the Convent Building.

- 7.3.10. Notwithstanding the alterations made, concerns are raised in the third party appeal in relation to the impact of the proposed development on the setting of the Convent and Church structures, noting in particular that they are intrinsically linked.
- 7.3.11. It is contended by the third parties that the primary setting of the protected structures will be irrevocably removed as a result of the proposal and will largely hide their exposure as a group of protected structures when viewed from the public realm. It is submitted that this will have a profoundly negative impact on the setting of the protected structures.
- 7.3.12. I accept that the current proposal is a significant development in terms of scale and massing, but I am also cognisant of the overall area, location and context of the appeal site. A balance therefore, needs to be struck between facilitating appropriate residential development on a zoned site for residential development which is currently underutilised, while also acknowledging that the current use of the Convent by the religious community is no longer sustainable.
- 7.3.13. I accept the rationale put forward by the applicant in providing the main block of development to the west and southern part of the site, while maintaining the eastern lawns and mature trees (onto which the front elevation of the Convent addresses) to be a reasonable and considered design approach. I consider the omission of the retirement home building, which previously extended beyond the principle front/east facing elevation of the Convent Building, to be a positive design intervention.
- 7.3.14. I have reviewed the layout, design, massing and relationship of the proposed development relative to existing structures on site, illustrated on drawings and photomontages submitted, and subsequently revised by way of further information.
- 7.3.15. I am satisfied, that the overall layout makes optimum use of the part of the site which has a greater capacity to absorb development, while also informed by and relating to the existing form and layout of the Convent buildings. The contemporary design of the proposal in my opinion complements the protected structures and is of an appropriate scale given existing buildings on site. I also consider the scale of the

proposed development is appropriate given the proximity of the site to services and Clondalkin village centre.

### *Building Height*

- 7.3.16. It is submitted in the third party appeal that the impact of the primarily four storey proposal on the setting and character of the protected structures is irrevocably damaged by the proposal. It is further asserted that the negative impact is compounded by the height of the nursing home relative to the Convent building and its position so close to Convent Road.
- 7.3.17. In this regard I note that the existing Convent building is primarily two storey and includes a three storey element to the western part of the southern block of the quadrangle, while the proposed development is part three, part four storeys in height.
- 7.3.18. The eastern elevation of the central block (Retirement Home) which is contiguous with the front elevation of the Convent building addresses the grassed lawn to the east and is three storeys in height. I note from elevation and section Drawing 1728 AI 200 that a double height entrance pavilion finished in glass separates the three storey building from the Convent building. The glass pavilion is set back from the southern elevation of the Convent building by approx. 2.2m and allows views through to three storey element of the Convent building to the rear. The three storey element is set back approx. 8.6m from the Convent building.
- 7.3.19. The southern elevation of the central block (Nursing Home) which addresses the adjoining primary school Scoil Mhuire is three storeys in height over lower ground floor. I note from section and southern elevation Drawing 1728 AI 202, that it is proposed to lower site levels by approx. 2.4m, which includes retaining walls along the southern boundary, such that it would read as a three storey block from the adjoining primary school.
- 7.3.20. The western elevation of the quadrangle block (Nursing Home) which addresses Convent Road, is four storeys in height. I note from the western elevation Drawing 1728 AI 200, that it is proposed to lower site levels such that it would read as a three and a half storey block when viewed along Convent Road.
- 7.3.21. The northern elevation of the quadrangle block (Nursing Home) which addresses the vehicular entrance to the church and associated surface car park, is four storeys in

height. I note from northern elevation Drawing 1728 AI 200, and that this block is set off the front entrance to the Church and Parish offices by approx. 16.4m and is also recessed from the side elevation of the Church. I also note from section 8 Drawing 1728 AI 202 that is also proposed to lower site levels by approx. 2m such that it would read as a three and a half storey block along this elevation.

- 7.3.22. In my opinion, the overall building heights when taken in the context of existing building heights, roof and tower profiles on site, in conjunction with the lowering of site levels, setbacks from the protected structures, and the removal of the existing boundary walls along Convent Road, the proposed building heights can be assimilated successfully within the overall site. I do not consider a four storey development on this site to be excessive in height.
- 7.3.23. I am also satisfied that the use of a variety of finishes including a variety of light, medium and dark grey brick and render are used to good effect in breaking down the massing of the proposed elevations.
- 7.3.24. I am satisfied that the principal Church and Convent buildings, which stand at the heart of the development, will still be clearly legible from within the site and particularly along the existing entrance to the Convent and proposed entrance to the development from New Road.

#### *Boundary Walls*

- 7.3.25. Concern has also been raised by the appellants, that the impact of the proposed development will be further compounded by the removal of the boundary of the protected structure, which form part of the setting of the protected structure itself.
- 7.3.26. It is proposed to replace the existing western boundary wall along Convent Road, and an existing internal boundary wall which runs east west inside the boundary entrance to the site from Convent Road with a low plinth stone wall and railings. This is intended to improve and energise this street frontage. It was also originally proposed to remove a large section of another internal stone boundary wall along the southern boundary.
- 7.3.27. Concern was raised by the Conservation Officer of the planning authority and in third party submissions in respect to the removal of these boundary walls. In response to a request for further information the stone boundary wall along the southern boundary (facilitated by the omission of the curved eastern block) is indicated to be

largely retained, with only two openings for vehicular access to service area staff car parking and bicycle parking.

- 7.3.28. In my opinion, the existing boundary walls along the western boundary of the appeal site with Convent Road, and the northern part of the site to the church car park, effectively screen views of the Church and Convent buildings from public view. I also consider that these boundary walls, are not of any architectural merit and because of their height are quite imposing.
- 7.3.29. On balance, therefore, I am of the opinion that there is merit in opening up views into the site from the western boundary along Convent Road, and along the northern boundary from the surface car into the existing and proposed development for the community and future occupants. I also consider that the proposed development will animate this section of Convent Road and entrance to the church and surface car park.
- 7.3.30. I consider the retention of significant sections of the southern boundary wall a welcome compromise and is appropriate in maintaining the setting of the Convent Building a protected structure.
- 7.3.31. I am satisfied, that the proposed development and works to the protected structure are in keeping with the spirit of the original use of the Presentation Convent and attendant grounds, and that the design, layout and massing of the proposed development will complement existing buildings on site.
- 7.3.32. I am satisfied therefore, that the proposed development will not detract from the integrity of the Protected Structures and that the proposal complies with Policy HCL Policy 3, HCL3 Objective 1, and HCL3 Objective 2 and of the County Development Plan 2016-2022, the Architectural Heritage Protection Guidelines for Planning Authorities, and therefore, there is no basis to this ground of appeal, and no obstacle to a grant of permission.

#### **7.4. Works to the Protected Structure**

- 7.4.1. The first party appeal is against Condition no. 6 which refers to a requirement that the nursing home not be occupied until all works are completed to the Presentation Convent a Protected Structure.

- 7.4.2. It is submitted by the applicant that this condition is unworkable, as the nursing home and retirement home are proposed to come into operation contemporaneously. The applicant contends that an appropriate phasing strategy in accordance with condition no. 5 will ensure the implementation of the overall development including the works to the Protected Structure.
- 7.4.3. In this regard I note that the works to the existing Convent Building as described in Section 2 above, ostensibly relate to internal alterations and refurbishment works, including the removal and addition of partitions, services and fittings to create ensuite bathroom facilities in 25 no. bedrooms at ground, first and second floor levels.
- 7.4.4. The Conservation Report & Architectural Assessment carried out by Sheehan and Barry submitted with the application, includes a detailed room by room analysis and photographic report of the external and internal areas of the building for reference, which I have read and considered, along with my site inspection of the principal rooms and chapel at ground floor only.
- 7.4.5. The initial report of the Conservation Officer of the planning authority highlights the importance of the need for the continued use of the existing Convent Building. The detailed report of the Conservation Officer recommended further information which was sought under Item No. 2 of the request for further information. A further Conservation Report & Architectural Assessment was carried out and submitted which outlined a number of simplified changes to the Convent Building.
- 7.4.6. These include the use of the existing chapel which connects to the existing Church as a 'quiet room' rather than as a kitchen and will be accessed from the main church only. Other changes include the insertion of 'pod' type ensuite shower rooms in the former parlour rooms at ground floor level and connecting ensuites within existing cellular bedrooms on the first and second floors, ensuring minimum intervention.
- 7.4.7. The applicants response to the further information request provides a rationale behind the need to commence works and occupy the new build element of the scheme prior to the protected structure.
- 7.4.8. This revised approach was acceptable to the Conservation Officer, but only on the basis that works to the Protected Structure were carried out in unison with the new build. The Planning Authority in their response to the appeal, further emphasise the

importance of attaching Condition No. 6 to a grant of permission by the Board in the assessment of such a condition.

- 7.4.9. I have read the revised Conservation Report & Design Statement submitted, and considered the revised proposals and drawings, and am satisfied from my site visit that every effort has been made to minimise the level of intervention and potential damage to the Convent Building. I can also confirm from my site visit that the Convent has been well maintained and is in very good condition.
- 7.4.10. I therefore, do not accept that the requirement of Condition No. 6 is overly restrictive or would unnecessarily delay the opening of the overall development. Nor am I convinced that this would have significant implications to the viability of the project, or that the delay in occupancy would present difficulties from a commercial and funding perspective, as suggested by the applicant.
- 7.4.11. In the interests of minimising disruption to the existing residents of the convent and future occupants of the nursing and retirement home, I am of the view that alternative and appropriate accommodation in the community may need to be sourced to overcome this issue. Such accommodation would only need to cater for the small number of existing residents of the convent on a temporary basis.
- 7.4.12. I am satisfied, therefore, that the grounds of the first party appeal requesting that the Board direct the planning authority to remove condition no. 6 not be upheld.

## **7.5. Impact on Amenities and Adjoining Primary School**

- 7.5.1. It is contended by the appellants that the proposed development will result in the overdevelopment of the site. It is also submitted that it will have a negative impact on residential and visual amenity, and in particular will result in an overbearing impact and overlooking of adjoining residential development and adjoining primary school (Scoil Mhuire).

### *Overdevelopment*

- 7.5.2. I have had regard to the overall scale, design and layout of the development as already described in section 7.3 above. I have also had regard to the revised proposals submitted by way of further information namely the omission of the two

storey retirement home, and consequent reduction in the overall foot print of the development on site.

7.5.3. In the context of the overall area of the appeal site of 1.2ha, which is currently underutilised, and cognisant of site constraints in relation to protected structures and existing mature planting within the large grassed lawn area to the east, I do not consider that the proposed development constitutes overdevelopment of the site, given its urban location and proximity services.

7.5.4. *Residential and Visual Amenity*

7.5.5. Concern has been raised in the third party appeal in relation to the impact of the proposed development on existing residential and visual amenity. I accept that the proposed development will have an impact on existing residential and visual amenity particularly as viewed from Convent Road. I would note however, that there are no residential properties immediately abutting the appeal site. I would also note that the existing boundary walls to the north and west of the appeal visible along Convent Road currently blocks any views into the site.

7.5.6. I have had particular regard to the overall scale, design and layout of the proposed development along the northern and western boundaries as already described in section 7.3 above. I note the stepped layout and set backs of the proposed development from the western boundary which vary from a minimum of approx. 4m at the northern end of the block to a maximum of approx. 12m at southern end of the block.

7.5.7. I note the generous front garden lengths of approx. 18m of adjoining two storey residential properties from Convent Road to the west. I also note the separation distance of approx. 27m from the front elevations of these properties to the western boundary of the appeal site. The separation distances of the proposed development from the front elevations of residential properties along Convent Road will vary from between approx. 31m to 39m, as illustrated on Drawing No. 1728 AI 091. I consider these separation distances to be more than adequate in an urban area.

7.5.8. I am satisfied that the proposed development has been well designed and will animate the street and Church entrance where presently there is an otherwise blank.



7.5.9. On balance therefore, I am satisfied that the proposed residential development will not have a seriously negative impact on existing residential and visual amenity along Convent Road.

*Overbearing*

7.5.10. Concern has been raised in the third party appeal and by the Board of Management of Scoil Mhuire in relation to the proximity of the proposed nursing home to the school. It is noted that the four storey block of the nursing home will be located between 4-9m from the school and will contain several bedrooms facing onto the school. Notwithstanding the changes made to the nursing home at upper level by way of further information, the appellants have concerns in relation to the scale of the proposed development in the context of both the neighbouring school.

7.5.11. The Design Statement prepared by Conroy Crowe Kelly Architects and Urban Designers, and revised proposals submitted by way of further information sets out a rationale for the proposed development. It states that the configuration of the existing amenity spaces of the school and the nature of the orientation, would not negatively impact on the amenity of the school.

7.5.12. I have examined the revised elevations submitted by way of additional information and those particularly along the southern elevation. I refer in particular to the second floor plan Drawing no.1728 AI 113, and southern elevation and section Drawing no.1728 AI 202.

7.5.13. Elevation and section Drawing No. 1728 AI 202 indicates a setback of approx. 1m at second floor level, with the omission of two no. bedrooms, and consequent break in elevation between the proposed development and existing structures on site. In my opinion the sum of these design changes, assists in breaking down the massing at this upper floor level and provides a necessary visual break when viewed from the adjoining school.

7.5.14. I am satisfied, that the revised proposals result in a more appropriate design and relationship between the proposed development and the northern/rear boundary of the adjoining school, and school buildings, and consequently will not have an overbearing impact when viewed from the adjoining primary schools.

### *Overlooking*

- 7.5.15. I have had regard to the layout and orientation of the adjoining primary school, which includes classrooms predominantly located on the south side overlooking the front area and playing grounds. The sections of the school building closest to the southern boundary of the appeal site, comprise a multipurpose room with high level windows, a toilet and corridor with obscure windows, and an office with no windows facing north and staff room, which is dual aspect. I can confirm from my site inspection that the area to the rear of the school and the boundary with the appeal site is a utility area, and not a functional amenity area.
- 7.5.16. I am satisfied, therefore, that the proposed development, located within an urban area, does not constitute overdevelopment of the site, and will not detract from the residential and visual amenities of the area.

## **7.6. Traffic, Access and Parking**

### *Traffic*

- 7.6.1. Objections on the grounds of traffic impact have been raised. It is noted that a detailed Traffic Impact Assessment (TIA) was submitted with the application, and that the Roads Section of the planning authority raised no objection to the proposed development.
- 7.6.2. The traffic flows recorded in the TIA were undertaken on Tues 7<sup>th</sup> December 2017, from five separate junctions in the vicinity of the site. Trip generation was assessed using the TRICS database. It shows that the highest volumes of traffic were recorded between 08:00-09:00 (AM peak hour) and 17:00-18:00 (PM peak hour). The report notes a maximum increase in traffic of 6.3% in the AM peak hour and 10.7% in the PM peak hour at J2 New Road/Scoil Naomh Ide school access. Increases at the other junctions range from 1.9% to 5.0% during the PM peak hour. The trip generation rates set out in the report are considered reasonable having regard to the nature of the development.
- 7.6.3. An operational assessment of the five junctions was undertaken as part of the TIA using TRANSYT and analysed in terms of Degree of Saturation. All five junctions were found to be operating within capacity, and that the proposed development will have a negligible impact/minor impact.

- 7.6.4. A Road Safety Audit and an Accessibility and Walkability Audit were also submitted with the application.
- 7.6.5. Having regard to the detailed assessment undertaken by the applicants, which I consider comprehensive and robust, the report of the Roads Section of the planning authority, and the nature of the development, which will generally not coincide with school traffic, I am satisfied that the development will not give rise to any adverse traffic impacts.

#### *Access*

- 7.6.6. The overall site including the Church and Convent currently have access from both New Road/Laurel Park to the east, and from Convent Road to the west. Access to the appeal site is proposed via a new vehicular entrance from New Road/Laurel Park to the east, which is detailed on CS Consulting Drawings G062-008 dated 14/09/2018.
- 7.6.7. Pedestrian and cyclist access to the development will be accommodated via the main access on New Road. A dedicated pedestrian access gate will be provided adjacent to the vehicular access gate at this location and a segregated pedestrian walkway provided from this access to the main building entrance. An additional pedestrian access is proposed on Convent Road, on the western boundary of the site, as detailed on Drawing No.1728 AI 2105.
- 7.6.8. There are two Primary Schools which bound the appeal site to the south, Scoil Naomh Ide which is accessed from New Road/Laurel Park to the east and Scoil Mhuire which has access from Convent Road to the west. There is pedestrian access through both schools.

#### *Convent Road*

- 7.6.9. The existing Church and car park are accessed from Convent Road and is used by parents dropping and picking up children primarily during school term, and by parishioners at mass times. There is also pedestrian access through the northern part of the overall site between Convent Road and New Road/Laurel Park.
- 7.6.10. Two new pedestrian accesses were originally proposed off Convent Road, to serve the propose development, and this was subsequently amended to one by way of further information.

- 7.6.11. Concern has been raised in the appeal that while the existing church car park will continue to be used by parents, primary school children will now be required to walk along Convent Road to access schools in the vicinity. It is noted by the appellants that the footpath along Convent Road is narrow and not suitable for young pupils, and the proposed development will result in a traffic hazard.
- 7.6.12. On the morning of my site inspection at 8.30am mid-week, during school term, I observed that the church car park was being used for car parking by parents, before taking the short walk along Convent Road to and from the nearby schools. From my observations, there appeared to be adequate room along the existing footpath for pedestrians, and universal access. In my opinion the issue of pedestrian safety along Convent Road has been overstated by the appellants. I am satisfied that the proposed development will not result in a material change for parents and young children accessing the adjoining schools and will therefore not result in a traffic hazard.
- 7.6.13. The appellants assert that at present there is a pedestrian link from the adjoining school Scoil Mhuire to the Convent grounds, which it is proposed to close as part of the proposed development.
- 7.6.14. From my site inspection, I can confirm that there is access from the rear of Scoil Mhuire to the grassed area, but that the main entrance to the school is from the front of the school from Convent Road.
- 7.6.15. I can also confirm that there is a pedestrian gate from the church car park to the grassed area, between the car park and the school. However, I did not observe anyone use this gate as an access route to the school or see any evidence of it being used as a route to the school.
- 7.6.16. On the basis that parents, and children already use the footpath along Convent Road to access Scoil Mhuire, and not through the grounds of the appeal site, I do not consider that the proposed development will discommode parents and children that already use the established access route along Convent Road to the adjoining schools or that the proposed development will result in a traffic hazard.

*New Road*

- 7.6.17. Concern has also been raised in relation to the proximity (approx. 20m) of the existing pedestrian entrance to Scoil Naomh Ide, from the new vehicular entrance to

the proposal off New Road to the north. The existing pedestrian entrance to Scoil Naomh Ide also provides a link to two other schools and is used as a crossing point for pupils at school opening and closing times.

7.6.18. I note sightlines of 2.4m x 49m are provided at the new entrance to the appeal site in accordance with the Design Manual for Urban Roads and Streets. In this regard, I note the report of the Roads Section of the planning authority which deemed the proposal acceptable.

7.6.19. I also noted from my site inspection, that there was significant pedestrian movement along New Road, with parents and primary school and secondary school students, walking to and accessing primary and secondary schools located along New Road. I would also note, given the nature of the proposed nursing /retirement home development, that there is unlikely to be a conflict between traffic accessing the proposed development and the adjoining schools. I do not accept that the proposed development will give rise to a traffic hazard for school children along New Road.

#### *Parking*

7.6.20. A total of 42 no. surface car parking spaces and 60 no. bicycle spaces are proposed to serve the proposed development. A turnabout area is provided within the site for pick up/set down at the main entrance.

7.6.21. Concern has been raised in relation to the adequacy of the parking provision, given the high level of staffing required for the proposed development. There is also a concern that this will result in spill-over car parking into the surrounding streets and have a material impact on the safety of children trying to access the school.

7.6.22. The revised car parking provision of 39 spaces which includes 3 no. accessible spaces, is in accordance with development plan standards and acceptable to the Roads Section of the planning authority. The area is well served by Dublin Bus routes with regular services, and bus stops located proximate to the appeal site along Convent Road. I further note condition no. 19 of the planning authority's Notification to Grant permission which requires a mobility management plan be completed within six months of opening of the proposed development. If the Board are minded to grant permission, this can be addressed by way of an appropriate condition.

#### *Summary*

7.6.23. I am satisfied, therefore, that the proposed development can be supported by the surrounding road network, that the proposed development access junction on New Road will operate within capacity, that appropriate quanta of car and bicycle parking are to be provided, and that the proposed development is acceptable in terms of traffic safety and convenience.

## **7.7. Impact on Sylvan Setting**

7.7.1. Concerns are raised by the appellants regarding the loss of trees across the site. It is noted that the Parks and Landscape Services/Public Realm section of the planning authority initially recommended a refusal but following a further information request and response to the items raised were satisfied with the revised proposals. Initially it was proposed to remove 32 no. of trees and this was significantly reduced by way of further information to 17.

7.7.2. Tree Impacts Plan Drawing Title D2-Clondalkin-AIA-04-19 submitted by way of further information clearly indicates trees to be retained and trees intended for removal. Tree removal appears to be relatively isolated to the location of the proposed entrance from New Road to the south east, and along the southern boundary with the adjoining school, Scoil Naomh Ide.

7.7.3. An Arborist Report has also been prepared which details that a number of trees are to be removed due to their category U status or because they impede construction works. The landscape proposal, however is to reinforce the woodland habitat with significant planting of replacement trees. A secure woodland path will be created through these trees. Mature trees will be retained where feasible, particularly along the northern and eastern boundary.

7.7.4. I have had regard to the Tree Protection Plan submitted and am satisfied that concerns regarding tree protection of existing trees during construction can be addressed by appropriate condition.

7.7.5. A Landscape Masterplan for the site has been prepared. This details the internal courtyards of the existing and proposed development which will include seating, raised planting beds.

7.7.6. Having regard to the extent and quality of the landscape proposals, I am satisfied that the development will have adequate amenity and will be landscaped to a high

standard. It is also noted that the development provides for internal amenities and facilities for the residents including oratory, dining and breakout areas.

## **7.8. Ecology – Impact on Protected Species**

- 7.8.1. Concerns are raised regarding the impact of the proposed development on the swift and bat populations on site. In this regard the application was accompanied by an Ecological Impact Statement, and a Bat Assessment.
- 7.8.2. It is noted that swifts albeit migratory birds, use the cloister on the convent building to nest annually, as described in Section 3.4.2 and Figure 2 of the Ecological Impact Statement. The removal of habitats including the loss of nesting sites for swifts is identified as a potential impact during the construction phase, and the need for mitigation to ensure the continued viability of the site for swift is also recognised.
- 7.8.3. I accept that there will be some disturbance during the construction phase but would also note that the existing protected structures including the convent building are to be retained. I further note condition no. 12 of the planning authority's Notification to Grant permission requires the retention of an ecologist to oversee the implementation of the mitigation measures outlined in the 'Ecological Impact Statement' submitted with the application. If the Board are minded to grant permission, this can be addressed by way of appropriate condition.
- 7.8.4. The appellants submit that the Ecological Impact Statement is based on a bat survey undertaken in October 2017, and so is out of date and was undertaken outside the primary times for undertaking bat surveys to establish the presence of roosting bats. Concern is also raised in relation to the introduction of breaks in the tree lines and removal of trees to the west side of the southern boundary, that could be used by bats for foraging, as well as the introduction of additional artificial lighting which has the potential to have a negative impact on commuting and foraging habitat for bats using the area.
- 7.8.5. I note the content of the Bat Survey report carried out by Brian Keely submitted with the application. I note the bat survey was carried out on 14<sup>th</sup> and 15<sup>th</sup> September. I note the three species of bats found feeding on and immediately adjacent to the subject site during the 2017 Survey. Bat species recorded included Leisler's Bats as well as Common Pipistrelle and Soprano Pipistrelle. There did not appear to be a

high concentration of activity, and no evidence of bats roosting was observed despite the fact that the buildings are considered highly suitable.

7.8.6. Potential impacts arising from the demolition and renovation, disturbance from lighting, and removal of trees between the convent and the school which may result in reduced feeding are noted. Mitigation measures proposed relate to examination of structures for evidence of bats prior to demolition, planting of vegetation attractive to moths and installation of bat boxes.

7.8.7. I would note that the National Parks and Wildlife Service did not comment on the proposed development. I further note condition no. 13 of the planning authority's Notification to Grant permission requires the implementation of the mitigation measures outlined in the 'Bat Assessment' submitted with the application. If the Board are minded to grant permission, this can be addressed by way of appropriate condition.

## 7.9. Other Matters

7.9.1. *Right of Way Issues* - I note the observation to the appeal lodged by Ryan and Ryan Solicitors on behalf of the Board of Management of Scoil Mhuire Primary School. This was accompanied by a map indicating a right of way between Scoil Mhuire and the Church of the Immaculate Conception, and a Statutory Declaration from a long serving teacher in the school in support of this assertion.

The issues raised relate to the current/longstanding and preferred pedestrian route through the grounds of the appeal site to the school on the basis of safety and convenience for pupils and staff and the use of the field immediately adjoining the school to the north by the school for recreation. In this regard I would note that rights of way are normally outside the scope of assessment in a planning application.

I note the response to item No. 3 of the request for further information which sought to clarify this matter, and the response from the applicant that states there is no established right of way for the school. The response was accompanied by a Statutory Declaration from the Presentation Sisters to this effect. In addition, a landholding map was also submitted which indicates that the adjoining school lands to the south of the appeal site are also in the ownership of the applicant/Presentation Sisters.



In my opinion the right of way issue is entirely a matter between the Board of Management of the Scoil Mhuire and the applicants/Presentation Sisters and not a planning consideration.

- 7.9.2. *Archaeology* – I note the DAU of the Department of Culture, Heritage and the Gaeltacht, and An Taisce both commented on the application.

Notwithstanding the brownfield nature particularly of the western part of the site, I do consider it appropriate given the excavation works required to construct the development, to attach standard conditions in relation to archaeological monitoring.

#### 7.10. **Appropriate Assessment**

- 7.10.1. A screening report for appropriate assessment carried out by Openfield Ecological Services is submitted by the applicants. This notes that there are two Natura 2000 sites within 12km of the site – the South Dublin Bay and Tolka Estuary and SPA (site code 004024) and North Bull Island SPA (site code 000206). The report notes that there is a pathway from the site via surface water flows to the Dublin Bay, via the Camac River. The report concludes that there is no likelihood of any significant effects on Natura 2000 sites arising from the development. I would concur with the conclusions of the screening statement.
- 7.10.2. Having regard to the nature and scale of the proposed development, comprising a nursing home within an established urban area on zoned and serviced land, and the distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 8.0 **Recommendation**

I recommend that planning permission be granted for the following reasons and considerations.

## 9.0 Reasons and Considerations

- 9.1. The proposed development is located on lands 'to protect and/or improve residential amenity' in the South Dublin County Development Plan 2016 to 2022. The proposed development comprises nursing home and retirement home accommodation which are permitted in principle on lands so zoned. Having regard to the design, scale and layout of the proposed development, to the pattern of development in the area and subject to compliance with the conditions set out below, it is considered that the proposed development would not detract from the setting or integrity of the Protected Structures on site, would not seriously injure the amenity of adjoining property or the visual amenities of the area, would not give rise to traffic hazard and would, therefore, be in accordance with the provisions of the South Dublin County Development Plan, and the proper planning and sustainable development of the area.
- 9.2. I consider that Condition No. 6 as per the Notification of Decision to grant permission is warranted and should not be omitted.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by further plans and particulars on the 25<sup>th</sup> April 2019 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 in writing 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 carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

In default of such agreement, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed development.

3. The nursing home shall not be occupied until all works are completed to the Protected Structure to the satisfaction of the planning authority and has been agreed in writing. In default of such agreement, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure that works to the protected structure are carried out in full as part of the overall development.

4. A full architectural survey of buildings proposed for demolition shall be carried out and shall be submitted to the planning authority prior to commencement of development. Archive standard drawings and a photographic survey shall be prepared in accordance with the requirements of the planning authority and one copy of these shall be submitted to the planning authority, and a further copy shall be submitted to the Irish Architectural Archive.

**Reason:** In order to facilitate the conservation, preservation and/or recording of the architectural heritage of the site.

5. (a) A conservation architect shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.  
  
(b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior

to removal, catalogued and numbered to allow for authentic instatement.

(c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

**Reason:** To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

6. (a) The proposed plinth wall along Convent Road to the west of the site and along the northern boundary with the existing church car park shall be constructed using stone from the existing western boundary wall along Convent Road.
- (b) The proposed new entrance on New Road and the two vehicle entrances along the southern boundary wall, to the east of the site, shall utilise stone from the existing western boundary wall along Convent Road.

**Reason:** In the interest of architectural conservation and visual amenity.

7. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

8. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

9. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

10. The landscaping scheme submitted to the planning authority on the 25<sup>th</sup> April 2019 shall be carried out within the first planting season following

substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity.

11. Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing. The developer shall engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented.

**Reason:** To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.

12. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.  
  
(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be

carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

13. Bat roosts shall be incorporated into the site and the recommendation of the Bat Survey report shall be carried out on the site to the written satisfaction of the planning authority and in accordance with the details submitted to the planning authority on the 14<sup>th</sup> September 2018.

**Reason:** To ensure the protection of the natural heritage on the site.

14. 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 measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, noise management measures and off-site disposal of construction/demolition waste.

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

15. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 adjoining property in the vicinity.

16. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

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

**Reason:** To protect the visual amenities of the area.

18. Details of signage for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

19. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

20. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Public lighting within the proposed development shall be directed and cowled such as to reduce as far as possible the light scatter to adjacent properties and the public road.

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

21. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for the overall site. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of

transport.

22. 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 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:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

23. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of any archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and



to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

24. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of two years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

26. 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 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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Susan McHugh  
Senior Planning Inspector

24<sup>th</sup> October 2019