

An  
Bord  
Pleanála

## Inspector's Report ABP-304792-19

<b>Development</b>	Demolition of clubhouse building and construction of 2-storey clubhouse and construction of 161 houses.
<b>Location</b>	Dolphin Park (Templeogue Synge Street GAA Club), Crumlin Road, Dublin 12, including a plot of land located between 56 and 58 Rutland Avenue, Dublin 12
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Ref. No.</b>	2724/19
<b>Applicant(s)</b>	Templeogue Synge Street GAA Club
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Templeogue Synge Street GAA Club
<b>Observer(s)</b>	(1) Brid Smith TD (2) Birdwatch Ireland

(3) Conor, Siobhan, Sean & Hannah  
Moloney

(4) Marcus O' Dothery

(6) Kevin's Hurling & Camogie Club.

(7) David O'Sullivan

(8) Barry Carroll

**Date of Site Inspection**

02<sup>nd</sup> October 2019

**Inspector**

Colin McBride

**DECISION QUASHED**

## 1.0 Site Location and Description

- 1.1 The appeal site is an inner suburban area of south west Dublin, within 200m of the canal ring off the Crumlin Road. The area is characterised by a mix of residential, commercial and institutional of various forms, mostly dating from the early to mid 20<sup>th</sup> century. Terraced and semi-detached housing occupies the land to the south and east of the site, with 2no. five-storey apartment blocks located on the corner of the Crumlin Road and Rutland Avenue to its north-east. A resource centre is housed in a recently constructed building just behind those flats beside the site. The land to the north of the site along Crumlin Road is occupied by redbrick terraced houses. Various commercial and small-scale industrial premises occupy backland sites behind the line of the terrace. The adjoining lands to the west of the site are occupied by two educational complexes on extensive lands. The more southerly one is owned by the VEC, the other is associated with the Loreto Convent on Sundrive Road. The site itself has a stated area of 5.5328 ha (0.95ha of which is to be used for the proposed residential development). It is currently occupied by playing fields. Those fields consist of 2 full size pitches oriented north to south, across which 5 junior pitches have been laid out. There is a small single storey building in the north-western corner of the site containing changing rooms. The site boundary is marked by concrete walls between 1m and 2m in height. The wall on the northern boundary is topped by palisade fencing. Access to the site is via a laneway from Crumlin Road which is c7m in width and 55m long. It runs between two end of terrace houses which abut the lane. It is gated at a point slightly behind the front walls of those houses. A former access to the site from Rutland Avenue has been blocked off.

## 2.0 Proposed Development

- 2.1. Permission is sought for a development comprising demolition of an existing single-storey clubhouse building and construction of a new two-storey clubhouse with 80 no. associated surface car parking spaces and 100 no. bicycle parking spaces including new ancillary boundaries, reconfiguration and enhancements to 2 no. existing GAA playing pitches including floodlighting on 12 no. columns (c21.3m high) and associated generator structure, 8 no. 12 m high ball catch retractable netting structures, score board structure and provision of purpose built all weather training

area. Residential development consisting of 161 no. dwellings with 108 no. associated car parking spaces (107 no. spaces for the apartments and townhouses, and 1 no. space for detached house) together with 240 no. bicycle parking spaces and 5 no. motorcycle parking spaces provided at a combination of surface and basement levels. Crèche with associated 4 no. set down surface car parking spaces and 2 no. underground parking spaces. A new ESB substation is also proposed. The residential units consist of 153 no. apartments, 7 no. townhouses and 1 no. detached dwelling. The breakdown in unit types is as follows....

77 no. 1 bed apartments.

73 no. 2 bed apartments.

3 no. 3 bed apartments

Provided in 3 no. buildings each six-storeys in height.

7 no. two-storey townhouses each with three bedrooms.

1 no. two-storey four bed detached dwelling.

Vehicular access to the club grounds and apartment/townhouse development is via the existing access off Crumlin Road, which will be upgraded and will include a footpath. Within the site the access road divides to serve the residential scheme to south and the clubhouse, associated car parking and GAA lands to the east. The detached dwelling proposed is located between no.s 56 and 58 Rutland Avenue and includes the creation of a new vehicular access off Rutland Avenue with associated boundary treatment and entrance gates with a single storey storage shed (c22.2sqm) for club use proposed at the rear garden of the dwelling. The development also includes all ancillary site development and landscape works, including lighting, bin storage, bicycle storage and all boundary treatments.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission refused based on three reasons...



1. The applicant has not adequately demonstrated to the satisfaction of the Planning Authority that development comprising of 161 residential units or 17% of the site area on lands zoned Z9, taken together with associated crèche facility, new clubhouse and associated car parking, would constitute limited once of development. The proposed development by reason of scale and mix of uses proposed at this site, and the loss of the City's green infrastructure, in an area already deficient in green space, would be contrary to development Plan Policy GI1, and would result in an increased amount of hardstanding in Z9 land bank. This by the precedent which it would set for similar Z9 lands around the City would be at variance with the Z9 zoning objective which seeks to preserve, provide and improve recreational amenity and open space and green networks. The proposed development would thereby seriously injure the residential amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development, having regard to the scale and mix of uses on site accessed via a narrow substandard laneway would give rise to serious conflict between vehicles, pedestrian and cyclists. As such the proposed development would endanger public safety by reason of traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

3. The proposed development which makes inadequate parking provision for the scale and mix of uses proposed on site would generate overspill parking onto a heavily trafficked road and adversely impact the operation of the existing bus lane and the future operation of Bus Connects Services and would therefore be contrary to the proper planning and sustainable development of the area.

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

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

Planning Report (29/05/19): Concerns regarding level of development in the context of Z9 zoning and the lack of exceptional circumstances/justification, traffic impact and level of parking proposed. Refusal was recommended based on the reasons outlined above.

### 3.2.2. Other Technical Reports

Drainage Division (23/05/19): Further information required including details of surface water management and a revised flood risk assessment.

Transportation Planning Division (28/05/19): Refusal recommended due to use of a narrow substandard laneway to access the site, inadequate parking provision and adverse impact on operation of existing bus lane and future Bus Connects proposals.

### 3.3. Third Party Observations

3.3.1 A significant number of third party submissions were received by the Planning Authority. The majority were objecting to the proposal with one submission in support of the proposal. The issues raised were as follows...

- Adverse impact on biodiversity/green infrastructure, lack of EIA, contrary the zoning objective, potential adverse impact on Kevin's Hurling and Camogie Club due to reduced area for sports activities, traffic impact, construction impact, conflict of uses, drainage/flooding, excessive bulk/density, out of character with pattern of development, landownership issues.

## 4.0 Planning History

4.1 1834/07: Permission granted to amend part of the previously permitted mixed use scheme (residential, clubhouse, sports grounds, and crèche).

4.2 6255/04 X1: Permission refused to extend length of permission granted under ref no. PL29S.214318.

4.3 PL29S.214318 (6255/04): Permission granted for construction of a new clubhouse, car park, 103 apartment with basement car park, ESB substation, new vehicular access adjacent to Loretto Scholl and all associated site works.

- 4.4 4302/06: Permission grant to upgrade existing boundary treatment.

Other permissions of relevancy:

- 4.5 PL29S.123900 (4286/00): Permission granted for replacement with two-storey pavilion/clubhouse, 1 dwelling unit, new astroturf pitch, flood lighting, 36 apartments Y.M.C.A , Claremont Road, Sandymount, Dublin 4. This is a permission granted on Z9 zoned lands.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant Development Plan is the Dublin City Development Plan 2016-2022.

The appeal site is zoned Z9 with a stated objective to preserve, provide and improve amenity and open space and green networks'.

Club house and associate facilities are 'permissible uses' whereas a crèche use is 'open for consideration'.

Under paragraph 14.8.9 the following is noted in relation to the Z9 zoning.

In highly exceptional circumstances, in order to serve the long term retention and consolidation of the sporting facility in a locality and to secure the primary sporting land use on the site, some limited once off development is open for consideration. Specifically residential development shall not be permitted on public or privately owned open space unless exceptional circumstances are demonstrated.

In certain specific circumstances where it has been demonstrated to the satisfaction of the planning authority that there is a need for ancillary development to take place

in order to consolidate or retain the sporting and amenity nature of the Z9 lands or an existing facility in a local area, some limited degree of (residential/retail) development may be permitted on a once-off basis and subject to the primary use of the site being retained for sporting or amenity uses.

QH1: To have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).

QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

QH18: To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.



QH23: To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

GI1: To develop a green infrastructure network through the city, thereby interconnecting strategic natural and semi-natural areas with other environmental features including green spaces, rivers, canals and other physical features in terrestrial (including coastal) and marine areas.

#### Section 16.4 Residential Density:

The Regional Planning Guidelines settlement hierarchy designates Dublin city centre and the immediate suburbs as a gateway core for international business, high density population, retail and cultural activities. The guidelines indicate that development within the existing urban footprint of the metropolitan area will be consolidated to achieve a more compact urban form, allowing for the accommodation of a greater population than at present.

The Department of Environment, Heritage and Local Government (DEHLG) Guidelines on Sustainable Residential Development in Urban Areas 2009 supercede the 1999 Guidelines for Planning Authorities on Residential Density. In this context, Dublin City Council will promote sustainable residential densities in accordance with the standards and guidance set out in the DEHLG Guidelines on Sustainable Residential Development in Urban Areas and having regard to the policies and targets in the Regional Planning Guidelines 2010 – 2022 or any Regional Spatial and Economic Strategy that replaces the regional planning guidelines.

Sustainable densities promoting the highest quality of urban design and open space will be sought by the City Council in all new developments. The density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future residential amenity. Public transport capacity will also be used to determine the appropriate density allowable.

An urban design and quality-led approach to creating urban densities will be promoted, where the focus will be on creating sustainable urban villages and neighbourhoods. A varied typology of residential units will be promoted within neighbourhoods in order to encourage a diverse choice of housing options in terms of tenure, unit size, building design and to ensure demographic balance in residential communities.

All proposals for higher densities must demonstrate how the proposal contributes to place-making and the identity of an area, as well as the provision of community facilities and/or social infrastructure to facilitate the creation of sustainable neighbourhoods.

## **5.2. National Policy**

Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018)

The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) build on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. It is acknowledged that increasing building heights has a critical role to play in addressing the delivery of more compact growth in urban areas, particularly cities and large towns.

SPPR1:

In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

SPPR3:

It is a specific planning policy requirement that where;

- (A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and
2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme

(C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.

#### Guidelines on Sustainable Residential Development in Urban Areas 2009

Appropriate locations for increase densities

Public Transport Corridors:

Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance<sup>18</sup> of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance

away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities.

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

- 5.3.1 South Dublin Bay and Tolka Estuary SPA (Site Code 004024).  
North Bull Island SPA (Site Code 004006)

### **5.4. EIA Screening**

- 5.4.1 The proposed development is below the thresholds of a mandatory EIAR. It is also considered that a sub threshold EIAR is not required in this instance. The current proposal is an urban development project that would be in the built up area but not in a business district. It is, therefore, within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and an Environmental Impact Assessment would be mandatory if it exceeded the threshold of 500 dwelling units or 10 hectares. The proposal is for 161 residential units and upgraded sports facilities on a site of 5.5326 hectares. The site area is significantly below the stated threshold of 10 hectares and the number of units significantly below the threshold of 500 units.
- 5.4.2 As per section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment. This preliminary examination has been carried out and concludes that, based on the nature, size and location of the development, there is



no real likelihood of significant effects on the environment. The need for EIA is, therefore, precluded and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Stephen Little & Associates on behalf of Templeogue Synge Street GAA Club. The grounds of appeal are as follows.

- It is noted the under section 14.8.9 of the County development Plan in relation to the Z9 zoning there is exceptional circumstances provided for residential development. It is noted that there is justification for the development in that it will allow for sporting use to remain the primary use on site with enhanced facilities aiding retention and long term viability of the existing use on site.
- It is noted that the scale of development is relatively small in the context of the level of residential development envisaged in the city under the core strategy (29,500 residential units).
- It is noted that permission was granted for a similar and comparable development on the appeal site under PL29S.214318.
- An additional Transport Technical Note has been submitted and notes that the proposed vehicular entrance arrangements are acceptable in regards to traffic safety and offer improved safety in terms of pedestrian access to the site. A parking strategy has also been submitted and demonstrates that an appropriate level of parking is provided and that overspill of car parking onto the Crumlin Road is unlikely due to traffic control restrictions along the route.
- Additional information has been submitted in regards to drainage and such demonstrates that compliance with the SUDS principle can be implemented.
- A screening report for Appropriate Assessment has been submitted and a subsequent Natura Impact Statement (NIS). The NIS concludes that the subject specific mitigation measures significant effects on the integrity of the

North Bull SPA, South Dublin Bay and River Tolka Estuary SPA can be ruled out.

## **6.2. Planning Authority Response**

### **6.2.1 Response by Dublin City Council.**

- The Planning Authority are still of the opinion that the proposal is not limited one-off development and notes that the residential development in conjunction with other proposed uses including the club house and associated parking would exceed 17% of the site area.
- The proposal would be contrary Policy GI1 and increase the amount of hard standing within this Z9 landbank.
- The Planning Authority is concerned about conflict of vehicular traffic, pedestrian and cyclists using the proposed access and the inadequate level of parking provided.

## **6.3. Observations**

### **6.3.1 Observations have been submitted by the following....**

Brid Smith TD

Birdwatch Ireland

Conor, Siobhan, Sean & Hannah Moloney, 602 South Circular Road, Kilmainham, Dublin 8.

Marcus O'Doherty, 54 Mount Argus Road, Harolds Cross, Dublin 6.

Kevin's Hurling & Camogie Club.

David O'Sullivan, 59 Crumlin Road, Dublin 12.

Barry Carroll, 61 Crumlin Road, Dublin 12.

The issues raised can be summarised as follows...

- Contrary development plan policy as does not meet requirement for highly exceptional circumstances or limited once of development under the Z9 zoning objective.
- Reduced level of open space would be contrary Development Plan policy.
- Impact on the conservation interests of designated Natura 2000 sites due to use of the appeal site as foraging by Light-bellied Brent Geese. Inadequate appropriate assessment information submitted and mitigation measures proposed.
- The existing facilities could be upgraded without the need for the additional residential development.
- Adverse traffic impact due to lack of adequate sightlines at vehicular entrance, no proposal for a signalised junction and inadequate capacity of the proposed access lane. The Traffic Transportation study is inadequate to assess the traffic impact of the proposal. Level of parking proposed is insufficient with potential for overspill onto to the public road and surrounding area.
- Bulks, scale and density of the proposal excessive and out of character at this location. Detrimental to residential amenities of existing properties and future residents.
- Safety concerns regarding the proximity of the residential development to the playing pitches.
- Outstanding drainage issues with further information sought by the Council.
- Lack of demonstration of adequate control over lands, in particular the access laneway to the site.
- Reduction in level of space available for recreational activities would be detrimental to existing users of the facility (Kevin's Hurling and Camogie Club).
- Lack of submission of an EIAR.

## 6.4. Further Responses

### 6.4.1 Response by Stephen Little & Associates on behalf of the applicant, Templeogue Synge Street GAA.

- The response is to the observation submitted by Barry Carroll.
- The issue of land ownership is not a planning matter with the applicant noting they have demonstrated sufficient legal interest on all parts of the site.
- Despite a reduction in the level of space for sport facilities the improved facilities will allow for increased usage with an all-weather pitch proposed.
- Development plan policy supports the proposed development there is planning precedence for such.
- The assessment of the site as appropriate for higher density residential development is correct.
- The proposed development would be satisfactory in regards to traffic impact with sufficient infrastructural capacity for the level of traffic likely to be generated.
- It is noted that the sufficient appropriate assessment information was submitted with the proposal unlikely to have significant effects on any designated Natura 2000 site on its own or in-combination with other plans and projects.
- The proposal does not require an EIAR.

### 6.4.2 Response by Clerking Lynch Solicitors on behalf of Barry Carry Carrol, 61 Crumlin Road.

- The response disputes the appellants' claim regarding title and landownership concerning the access laneway.
- It is reiterated that high exceptional circumstances do not exist to facilitate the proposed development.
- It is noted that the site is misclassified as an infill or brownfield site on the Planning Appeal Report.



- The response reiterates the fact that an EIAR is required.
- It is noted that inadequate car parking is provided.
- It is noted that significant effects are likely on Natura 2000 sites.
- Adverse impact on air quality.
- The proposal is premature pending revision of the City Development Plan in regards to its Core Strategy and the Regional Spatial and Economic Strategy.
- The presence of high rise adjoining an open field would cause turbulence and wind shear and have an adverse impact upon the light bellied bent geese.
- The response notes that the Board as the competent Authority should carry out the NIS.

## 7.0 **Assessment**

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/development plan/national policy

Density/height

Design, scale, and visual impact

Quality of design/residential amenity/development control objectives

Adjoining amenities

Car parking/traffic

Appropriate assessment

Drainage

Other Issues

- 7.2. Principle of the proposed development/development plan/national policy

- 7.2.1 The appeal site is zoned Z9 with stated objective 'to preserve, provide and improve amenity and open space and green networks'. Club house and associate facilities

are 'permissible uses' whereas a crèche use is 'open for consideration'. Residential is not identified as permissible or open for consideration. Under paragraph 14.8.9 the following is noted in relation to the Z9 zoning.

"In highly exceptional circumstances, in order to serve the long term retention and consolidation of the sporting facility in a locality and to secure the primary sporting land use on the site, some limited once off development is open for consideration. Specifically residential development shall not be permitted on public or privately owned open space unless exceptional circumstances are demonstrated". It is also noted under the same section that...

"In certain specific circumstances where it has been demonstrated to the satisfaction of the planning authority that there is a need for ancillary development to take place in order to consolidate or retain the sporting and amenity nature of the Z9 lands or an existing facility in a local area, some limited degree of (residential/retail) development may be permitted on a once-off basis and subject to the primary use of the site being retained for sporting or amenity uses".

- 7.2.2 The first refusal reason notes that the applicants have not adequately demonstrated to the satisfaction of the Planning Authority that the development would constitute limited once off development. It is noted that loss of open space in an area already deficient in green space, would be contrary to development Plan Policy GI1 and the Z9 zoning objective as well as setting a precedent on Z9 lands.
- 7.2.3 The applicants/appellants note that permission has been permitted previously for residential development on a similar portion of the site under PL PL29S.214318 (6255/04) with 103 apartments permitted on 0.76 hectares. This was permitted under a previous development plan (Dublin City Development Plan 2005-2011) under Section 14.4.9 which stated "that some limited degree of residential development may be permitted under this zoning on land consisting of sports facilities in private ownership where such development is considered to be required to secure, protect and consolidate the sporting and amenity nature of the lands and

retain the facility in the local area. This would be on a one-off basis and subject to the primary use of the site being retained for sporting/amenity use”.

7.2.4 Current policy is similar in spirit albeit with a stronger wording. Current policy notes under “highly exceptional circumstances” that consideration will be given for “limited once off development”. The definition of highly exceptional circumstances and limited once off development is hard to quantify and there is no guidance under Development Plan policy as what would constitute such. The appellants’ note that existing facilities are of a poor standard and that the proposal entails a significant improvement of such, which would secure, protect and consolidate the sporting and amenity nature of the lands and retain the facility in the local area. The appellants’ outline the financial situation of the club including the fact there is a covenant that attached to the use of the land meaning half of the proceeds of the sale of any portion of the lands (residential site) would be split with a third party (CBS, original owners of the lands in question) and that the residential element is required to fund the improvement of existing sports facilities. The detailed financial status of the applicants is not a planning consideration however I do accept the provision of the residential portion of the development facilitates the redevelopment and upgrade of the existing sports facilities.

7.2.5 In assessing the proposal in the context of Development Plan policy I would note that Development Plan policy does facilitate the provision of residential/retail development on Z9 zoned lands. There needs to be a demonstration that there is need for ancillary development to take place in order to consolidate or retain the sporting and amenity nature of the Z9 lands/an existing facility. I would consider that such has been demonstrated and that the residential development proposed would facilitate the works to upgrade the existing sporting facility, which has a very basic standard of facility. It is noted that some limited degree of (residential/retail) development may be permitted on a once-off basis subject to the primary use of the site being retained for sporting or amenity uses. The Planning Authority’s assessment was the development proposed was not limited once-off development. The proposal is for 160 units (an additional unit is proposed on a small strip of land fronting Rutland Avenue) and a crèche on a portion of the site equating of 0.95



hectares of the overall 5.5328 hectare site. This constitutes 17% of the entire site. Development Plan policy notes that such development should be on a one-off basis and is subject to the primary use of the site being retained for sporting/amenity use. The proposal entails the retention of 83% of the existing site for the established sporting activity and therefore the primary use of the site being retained for sporting or amenity uses. In addition the level of facilities proposed does not represent a diminished standard over existing facilities, with much improved clubhouse facilities being provided, two full size floodlit pitches and an all-weather training pitch being provided. I would consider that the overall portion of the site given over to residential development has a limited impact on the primary use, which is community and recreational. On this basis I would consider there is justification for consideration of the residential development as such is on a one off basis and is limited in the degree of impact it has on the primary recreational use by virtue of its site size and configuration relative to the established use. I would note the density, height and scale of the residential development is not a consideration when assessing whether it has a limited impact and such should be purely based on the site area given over to residential use. If residential is permitted on any portion of the site, such should be done in efficient manner that makes maximum use of a serviced site in an inner suburban area accessible to public transport infrastructure, community facilities (schools and recreational facilities). The policy is clearly designed to allow for development that will aid the improvement of existing facilities and retain such facilities in the area. I would consider proposed development is compliant with Development Policy on Land Use set down under Section 14.8.9 of the plan. I am also satisfied that the proposal retains a significant level of open space at this location and would not be contrary Objective GI1 of the City Development Plan.

### 7.3. Density/height:

- 7.3.1 The proposal; has two components, development and enhancement of existing sports facilities and provision of a portion of the site for residential use. The residential portion of the site provides for 160 residential units on a site with an area of 0.95 hectares. This is a density of 178 units per hectare. This represents a significant increase on prevailing residential density in the area. Development Plan policy and national policy permit for increased densities along public transport



corridors. The appeal site is located along a public transport corridor with an existing QBC running along Donnybrook Road as well the route being part of Bus Connects proposals. In addition the appeal site is within 15 minute walking distance from the two Luas stops on the red line (Rialto and Fatima). The location of the appeal site is an appropriate location for increased densities and based on the recommendations of the Guidelines on Sustainable Residential Development in Urban Areas 2009 density should not be below 50 units per hectare, which would be the case of existing residential development in the surrounding area.

7.3.2 The density proposed is well above the minimum that would be permissible. As noted above the proposal for increased density is appropriate and there is no upper limit imposed by policy. Whether the density is appropriate at this location is tied to a number of facts, appropriateness of design and scale, visual impact, overall quality of the development and adjoining amenities. These aspects of the proposal are to be explored in the later sections of this report. Pending assessment of such factors the provision of increased densities on the appeal site is appropriate.

7.3.3 The proposal provides for a residential blocks (three) of up to six-storeys with a ridge height above ground level of approximately 19.2m. Chapter 16 of Development Plan policy relates to Development Standards and Section 16.7 relates to building heights. This section identifies locations where low, mid and taller building would be considered. The appeal site is located in an area that is deemed appropriate to facilitate low rise (outer city) development, which is defined as up to 16m (commercial or residential). The recently adopted national policy in the form of The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) build on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. It is acknowledged that increasing building heights has a critical role to play in addressing the delivery of more compact growth in urban areas, particularly cities and large towns. Although Development Plan policy indicates heights of up to 16m, new national policy on building heights do allow for consideration of increased building heights. I would note that such would be subject to appropriateness of

design and scale, visual impact, overall quality of the development and adjoining amenities. As with density I would note that these factors are to be explored in the following section of this report.

7.3.4 It is noted under SPPR3 of the Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) that where “an applicant for planning permission sets out how a development proposal complies with the criteria above; and the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise”.

7.4. Design, scale and visual impact:

7.4.1 The proposed development is located on a large back land site to rear of existing two-storey dwellings fronting Crumlin Road (northern side) and Rutland Avenue (eastern side). To the east of the site are two school premises and further south of this is a site currently housing allotments. To the south is a housing development of two-storey dwellings off Clonmel Road. The majority of the site is to remain open in nature with two full size GAA pitches and a smaller all weather pitch provided. The new clubhouse is a two-storey structure located to the north of the site. These aspects of proposal would have no significant visual impact.

7.4.2 The residential portion of the site is confined to the north western corner of the site and along the majority of the western boundary. It is proposed to provide a two-storey crèche building and 2 no. two-storey blocks housing the 3 bed townhouses adjoining the western boundary of the site. The proposal also entails the provision of 3 no. two-storey blocks, Block A and B are located approximately between 22-28 metres from the western boundary and Block C has its western gable adjoining the western boundary. Development in the area is predominantly two-storey development with some higher structures including the five-storey residential blocks

located to the north east of the site at the junction of Crumlin Road and Rutland Avenue. The location of the proposed residential development relative to the public roads/public realm would mean that the overall visual impact of the proposed development would not be significant or visually obtrusive. There is existing development in the area similar in height and form (five-storey residential blocks). I would note that photomontages have been submitted to illustrate the visual impact of the proposal in the surrounding area. The photomontages are taken from a number of positions in the surrounding area including along Crumlin Road to the north of the site, Rutland Avenue to the east of the site, Sundrive Road to the west of the site and Clogher Road to the south. I am satisfied that the photomontages submitted accurately reflect the overall visual impact of the proposed development. I would consider that such demonstrate that the overall visual impact of the proposal would be acceptable in the context of the visual amenities of the area.

7.5 Quality of design/residential amenity/development control objectives:

7.5.1 The relevant and most up to date standards for apartment development are the Sustainable Urban House: Design Standard for New Apartments (March 2018). In relation to minimum apartment size the requirement is 45sqm, 73sqm and 90sqm for 1, 2 and 3 bed apartment units respectively (SPPR3). All units proposed exceed the minimum standards and in a lot of cases are well in excess of the minimum standards. It is noted that in order to safeguard higher standards that "the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%". This is the case in regards to the proposed development.

7.5.2 The guidelines note that "it is a policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e. on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design. Where there is a greater freedom in design terms, such as in larger apartment developments on greenfield or standalone



brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments. Ideally, any 3 bedroom apartments should be dual aspect". I would firstly note that the percentage of dual aspect apartments in the proposed/approved development is 63%, which is well in excess of the standards recommended by the guidelines. The guidelines note that "where single aspect apartments are provided, the number of south facing units should be maximised, with west or east facing single aspect units also being acceptable. There are no north facing single aspect units. I am satisfied that the proposal/approved development is compliant with the national guidelines in regards to orientation and quality of units.

7.5.3 Appendix 1 contains minimum standards for private amenity space with a requirement of 5sqm, 6sqm and 9sqm for 1, 2 and 3 bed apartment respectively. A minimum depth of 1.5 metres is required for balconies in one useable length to meet the minimum floor area requirement under these guidelines. These standards are met in all cases. The apartments also meet all relevant standards in relation of internal storage space, ceiling heights, room dimensions outlined in Appendix 1 of the guidelines. The 7 no. townhouses have an open space area of 21sqm at first floor level. Although described as townhouses I am satisfied based on their design that their assessment as apartment units is reasonable and that the level of private open space provided is in accordance with the relevant standards.

7.5.4 The guidelines note that "communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year. Roof gardens may also be provided but must be accessible to residents, subject to requirements such as safe access by children. These facilities offer a satisfactory alternative where climatic and safety factors are fully considered, but children's play is not passively supervised as with courtyards. Regard must also be had to the future maintenance of communal amenity areas in order to ensure that this is commensurate with the scale of the development and does not become a burden on



residents". It is also noted that that "for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality". The City Development Plan (Section 16.10.3) notes in relation to public open space that that "in new residential developments, 10% of the site area shall be reserved as public open space".

7.5.5 The proposal provides two communal/public open space areas, a landscaped area between Block A and B with an area of 564sqm and a larger landscaped area to the south of Block C with an area of 1,372sqm. There is provision for a play area in the larger space to the south of the residential portion of the site. The level of communal/public open space is well in excess the 10% of the site area of the residential portion of the development (20% of site area). The design of communal/public open space is such that it would be accessible to reasonable light levels and is of good size in terms of its usability as well as being highly accessible. Detailed hard and soft landscaping proposals are also provided. I would consider that such is of sufficient quality to service the residential amenity of future residents and taken in conjunction with private amenity space provided, the proposal is satisfactory in terms of the quantity and quality of public and private open space.

7.6 Adjoining amenity:

7.6.1 The design of the proposal is such that the majority of the site is to remain as open space (two full size playing pitches and a smaller all weather training pitch. The proposed structural elements are confined to the northern and western boundary of the site. To the north of the site there are two-storey dwellings fronting onto to Rutland Avenue as well as commercial development located behind the existing dwellings. To the west of the site is a vehicle workshop, two school premises and allotments. To the east are the dwellings along Rutland Avenue that back onto the site and to the south of the site are two-storey dwellings in a housing development off Clogher Road. Impact on the residential properties to the east and south will be negligible as there are limited structural elements proposed adjoining these boundaries. There are proposals for ball stopping nets and floodlighting, however

the physical impact of such would be acceptable. I would also note that an appropriate condition regarding cowl lighting should be sufficient to deal with any potential issues of light overspill.

- 7.6.2 It is proposed to construct a two-storey dwelling in the space between no. 56 and 58 Rutland Avenue. The proposed dwelling is in keeping with the design, scale and pattern of development at this location and would have no adverse impact on the amenities of adjoining properties.
- 7.6.3 The two-storey clubhouse is well separated from the northern boundary with a car parking area located adjoining the boundary. Development located adjoining the western boundary is two-storeys in height and consist of a crèche building and 2 no. residential blocks. The scale of such relative to adjoining uses, which include commercial and school uses would be acceptable in the context of adjoining amenities. The scale and orientation of such have adequate regard to the amenities of such properties. Block A and Block B are six-storey blocks with the fifth floor setback. Both blocks are well separated from existing adjoining uses with an adequate degree of separation from existing dwellings/businesses to the north and west with existing open space being maintained to the east. Block C is located closest to the western boundary, however its western gable has a blank elevation and is located adjacent an open space area serving the school premises that it adjoins.
- 7.6.4 I am satisfied that the design, scale and layout of the proposed development has adequate regard to the amenities of adjoining properties. The scale of development and its level of separation from existing adjoining properties/uses is such that the proposed development would have no adverse physical impact on light levels or privacy for adjoining properties and uses. The proposed development would be satisfactory in the context of adjoining amenity.

- 7.7 Car parking/traffic safety:
- 7.7.1 Access to the site is to use the existing vehicular access and laneway off Crumlin Road (between 57 and 59 Crumlin Road). The existing access and laneway is approximately 7m wide. It is proposed to upgrade the existing laneway to provide a 5.2m wide carriageway and a 2-2.2m wide footpath. The site is being divided into two distinct uses, the residential development and a sports facility. The sports element is to be provided with 80 car parking spaces. The crèche located at the north western corner is to have 6 car parking spaces while the residential development is to have 107 car parking spaces, 240 bicycle spaces and 5 motorcycle parking spaces. The internal access road for residential development is a 6m wide shared surface.
- 7.7.2 Two of the refusal reasons relate to traffic impact and car parking. The access laneway to the site was considered to be substandard and to give rise to serious conflict between vehicles, pedestrian and cyclists and constitute a traffic hazard. It was also considered that there is inadequate parking provision for the scale and mix of uses proposed on site would generate overspill parking onto a heavily trafficked road and adversely impact the operation of the existing bus lane and the future operation of Bus Connects Services.
- 7.7.3 Parking requirement for various types of development is under Table 16.1 of the County Development Plan. This table provides the maximum parking standards for various developments. In relation to the sports element of the proposal the requirement for Other Cultural and Recreational and Leisure Uses is 'dependent on the nature and location of the use'. The proposal provides for 80 spaces to serve this use. This relates to an established use and is an improvement in the level of parking available on site. I would consider that an appropriate level of parking is proposed for this element. The residential element includes a crèche and 161 residential units (one unit is located off Rutland Avenue and not accessed from Crumlin Road). The crèche is provided with 6 no. spaces and the residential development is provided with 107 car parking spaces, 240 cycling spaces and 5 motorcycle spaces. The maximum parking requirement for the 160 units provided off Crumlin Road is 160 spaces. As noted this is a maximum requirement and not a



minimum requirement. The Traffic and Transport Assessment indicates that the level of parking provided is justified based assessment of car ownership/usage, the location of the site in an inner suburban area and the accessibility to existing public transport facilities.

7.7.4 The maximum requirement for the residential units off Crumlin Road is 160 spaces or 1 space per unit. In this case 107 car parking spaces are provided. This equates to 67% of the maximum standard being provided. As noted parking standards are maximum standards and not minimum standards and the appropriate level should be assessed on the basis of the context of the site and its accessibility to local services and public transport. The appeal site is an inner suburban area and is in close proximity to existing businesses, retail, school facilities, and sporting/recreational facilities at this location. In addition the site is serviced by a QBC located adjoining the site on Crumlin Road and such is part of the Bus Connects plans. In addition the site is within 15 minutes walking distance of two Luas stops on the red line (Rialto and Fatima). The applicants/appellants also note car ownership statistics within the city as well noting that car sharing facilities are available within the city (two car sharing locations within 10min walk of the site). Give the location of the site, I would consider that less than maximum standard of car parking being provided is acceptable. I would note that that level of car parking provided on site is still of a reasonable level and that there is also provision for motorcycle and bicycle parking on site. The location of the site is such that it is not dependent on car traffic. In relation to fears of overspill of car parking outside the site, I would note that Crumlin Road, which features a two way carriageway with bus lanes does not facilitate on street car parking.

7.7.5 The access laneway is noted as being substandard in the refusal reason. The proposal upgrades the existing laneway to provide a two-way carriageway of 5-5.2m wide and a 2-2.2m wide footpath along the eastern side of the carriageway. The Design Manual for Urban Streets and Roads (DMURS) sets down standards for carriageway widths and footpath widths. Under Section 4.3.1 (Footways, verges and strips) it is indicated that the minimum footway widths should be 1.8m wide. The proposal is compliant with this standard. In relation to carriageway width under



Section 4.4.1 the standard carriageway width on Local streets should be between 5-5.5m (i.e. with lane widths of 2.5-2.75m). The proposal is also compliant with this standard and in this regard I would consider that the proposal is not substandard in width to cater for pedestrians/vehicular traffic. In relation to vehicular access, the proposal entails improvement of an existing vehicular access that currently serves the sporting facility on site. Sightlines at the vehicular entrance would be compliant with the requirements of DMURS (Table 4.2), with forward visibility of 49m required in each direction on route with a bus lane. In the appeal submission there is an additional proposal for a table area/crossing at the vehicular entrance. The proposal represents an improvement in the layout of the access laneway currently serving the site and is of a sufficient standard to serve the additional development proposed as part of the proposed development.

- 7.7.6 The proposal has two aspects, upgrading of the established sporting facility and provision of a residential development. The established sporting activity on site currently generates traffic movements through the existing vehicular access off Crumlin Road. The current proposal would provide an improved standard of access including the layout of the vehicular entrance, road markings and the provision of additional pedestrian facilities. The upgrading of the sporting facilities may result in increased traffic level to the sporting facility due to improved clubhouse facilities, however such is an established use and the existing vehicular access and laneway have been in place and in use for a significant period of time. Traffic generated by the sports facilities is likely to be concentrated to certain times when the facility is open. The residential development and crèche would result in increased traffic generation at this location. The Traffic and Transport Assessment includes an assessment of trip generation based on traffic surveys, trip analysis and junction modelling. The assessment includes an assessment of traffic generation during peak use of the sporting facilities. The results of the assessment indicate that the vehicular access will operate within capacity for the opening year (2020) and the design year (2035). The proposal is located in a built up area and uses an existing long established access point, which is to be upgraded and meets the relevant standards in terms of DMURs for visibility. There is precedent for permitted residential development of a scale not unrelated to the current proposal using the

same access point proposed. Permission was granted by the Planning Authority and upheld on appeal under ref no. PL29S. 214318 for a development upgrading existing sporting facilities and providing for 103 apartment units with 127 car parking spaces. I do not consider that circumstances have changed to merit a different conclusion on traffic grounds.

7.7.7 I am satisfied that the Traffic and Transport Assessment submitted demonstrated that the traffic impact of the proposal would be satisfactory and I would note that the location of the site in close proximity to adjoining social services, recreational facilities, retail and commercial development taken in conjunction with its proximity to high level public transport infrastructure mean the development is not dependent on car transportation. In addition I would note that the proposal would have no adverse impact on the Bus Connects proposal with existing established development located along the Crumlin Road and the site having limited road frontage and no significant structural elements along the public road. I am satisfied based on the information submitted and the assessment above that the proposed development would be satisfactory in the context of traffic safety and convenience.

7.8 Appropriate Assessment:

7.8.1 Appropriate Assessment (AA) considers whether the plan or project in combination with other projects and plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures necessary to avoid, reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed development alone or in combination with other plans and projects would not adversely affect the integrity of a European site in view of the site's conservation objectives.

7.8.2 Guidance on appropriate assessment is set out in the European Commission's Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats

Directive 92/43/EEC (European Commission 2002) and in the Department of the Environments' Appropriate Assessment of Plans and Projects Ireland, Guidance for Planning Authorities (December 2009, revised February 2010).

7.8.3 I consider that development as proposed, comprising of the construction of clubhouse, playing pitches, 161 residential units, crèche and associated site works, is not directly connected or necessary to the management of a European Site. The following assessment sets out to:

- Identify European Sites which could be potentially affected using the Source Pathway Receptor Model.
- Identify Conservation Objectives for these sites.
- Examine Predicted Impacts on sites and assess whether these impacts would likely to be significant.
- Assess likely significant impacts against the conservation objectives. Assess whether these impacts would likely to be significant.
- Consider cumulative and in-combination effects.
- Consider Mitigation.
- Appropriate Assessment Conclusion.

7.8.4 The NIS submitted in support of the proposed development, examined the potential impacts on 5 European Sites within the zone of influence of the project. The European Sites considered for Stage 1 screening include:

South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), approximately 4.3km from the site.

South Dublin Bay SAC (Site Code 000210), approximately 4.3km from the site.

North Dublin Bay SAC (Site Code 000206), approximately 4.3km from the site.

North Bull Island SPA (Site Code 004006), approximately 4.3km from the site.

Poulaphuca Reservoir SPA (site Code 004063), approximately 23km from the site.

7.8.5 The submitted NIS concluded, having regard to information and submissions available, nature, size and location of the proposed development and its likely direct,



indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, two European Sites were considered relevant to include for the purposes of screening for Stage 2 Appropriate Assessment on the basis of likely significant effects, that being the North Bull Island SPA (site code 004006) and South Dublin Bay and River Tolka Estuary SPA (site code 004024)

7.8.6 Based on my examination of the NIS report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European site, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would concur with the conclusion of the applicants NIS, that a Stage 2 Appropriate Assessment is required for only two of the European Sites referred to above, that being the that being the North Bull Island SPA (site code 004006) and South Dublin Bay and River Tolka Estuary SPA (site code 004024). This is on the basis that one of qualifying interest of both areas is wintering birds including the Light-Bellied Brent Goose with conservation objectives to maintain the favourable conservation status of such. The appeal site is identified as an area used for foraging by said species and is identified as being of significant value in this regard.

7.8.7 The remaining sites can be screened out from further assessment because of the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and the lack of substantive hydrological and ecological pathways between the proposed works and the European Sites. It is therefore reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on remaining European Sites within the zone of influence of the subject site. In view of these sites conservation objectives a Stage 2 Appropriate Assessment is not required for these sites.



7.8.8 Relevant European Site:

North Bull Island SPA (site code 004006)

Qualifying interests...

Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]

Shelduck (*Tadorna tadorna*) [A048]

Teal (*Anas crecca*) [A052]

Pintail (*Anas acuta*) [A054]

Shoveler (*Anas clypeata*) [A056]

Oystercatcher (*Haematopus ostralegus*) [A130]

Golden Plover (*Pluvialis apricaria*) [A140]

Grey Plover (*Pluvialis squatarola*) [A141]

Knot (*Calidris canutus*) [A143]

Sanderling (*Calidris alba*) [A144]

Dunlin (*Calidris alpina*) [A149]

Black-tailed Godwit (*Limosa limosa*) [A156]

Bar-tailed Godwit (*Limosa lapponica*) [A157]

Curlew (*Numenius arquata*) [A160]

Redshank (*Tringa totanus*) [A162]

Turnstone (*Arenaria interpres*) [A169]

Black-headed Gull (*Chroicocephalus ridibundus*) [A179]

Wetland and Waterbirds [A999]

The conservation objective for all of the above interest is "to maintain favorable conservation condition of each.

Qualifying interests

South Dublin Bay and River Tolka Estuary SPA (site code 004024).

Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]

Oystercatcher (*Haematopus ostralegus*) [A130]

Ringed Plover (*Charadrius hiaticula*) [A137]  
Grey Plover (*Pluvialis squatarola*) [A141]  
Knot (*Calidris canutus*) [A143]  
Sanderling (*Calidris alba*) [A144]  
Dunlin (*Calidris alpina*) [A149]  
Bar-tailed Godwit (*Limosa lapponica*) [A157]  
Redshank (*Tringa totanus*) [A162]  
Black-headed Gull (*Chroicocephalus ridibundus*) [A179]  
Roseate Tern (*Sterna dougallii*) [A192]  
Common Tern (*Sterna hirundo*) [A193]  
Arctic Tern (*Sterna paradisaea*) [A194]  
Wetland and Waterbirds [A999]

The conservation objective for all of the above interest is "to maintain favorable conservation condition of each."

- 7.8.9 The site is identified as significant value for Pale-bellied Brent Geese (foraging area), which is qualifying interest for both designated sites.

Potential direct and indirect effects:

The submitted NIS predicts the following potential effects arising from the proposed development.

The assessment of potentially significant effects include...

Ex-situ habitat loss:

The proposal results in a reduction in areas of amenity grass land from 48,078sqm to 36,101sqm (21%). An ornithology report notes that up to 39,190sqm are used by the Light Bellied Brent Geese for foraging (mid-winter to April). It is noted that the proposal would lead to a loss in available feeding area that may result in a lower number of birds using the site. It is noted that in light of the continued availability of over 3.6 hectares of grassland on site and the existing conservation status of the

Light Bellied Brent Geese as good (likely increasing population) any negative impact is assessed as not likely to be significant.

**Habitat disturbance during construction:**

Construction activity is likely to disturb foraging birds including the Light-Bellied Brent Geese and to a less extent, Black Headed Gulls both of which are qualifying interests of both designated sites. It is noted that significant effects cannot be ruled out.

**Pollution/surface water discharge:**

It is noted that the proposal will be connected to existing municipal wastewater treatment and surface water drainage systems. No potential significant effects are anticipated to any designated European Sites.

**Disturbance during operation:**

It is not anticipated that the operational phase would have any significant effects.

**Potential in-combination effect:**

It is noted that development in combination with other plans and projects would not adversely affect the integrity of the European Site, North Bull Island SPA (site code 004006) and South Dublin Bay and River Tolka Estuary SPA (site code 004024), or any other European site, in view of site's Conservation Objectives.

**Mitigation measures:**

In terms of mitigation a number of such measures are identified.

1. Construction works will not start during the wintering bird season. The area of amenity grassland to be retained will be screened with hoarding to height of 2m to buffer from construction works. Scaffolding will be screened with opaque netting.
2. During the operational phase the ground when not in use will be locked up and inaccessible to the public. Use of artificial lighting is to be confined to period when

the pitches are in use and are only needed after the geese have left for their feeding grounds. Netting will be retractable and only used when a pitch is in use.

#### 7.8.10 Appropriate Assessment Conclusions:

I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the South Dublin Bay and Tolka Estuary SPA (Site Code 004024) and North Bull Island SPA (Site Code 000306), or any other European site, in view of sites Conservation Objectives.

A Construction Environmental Management Plan, which incorporates all mitigation measures indicated in the Natura Impact Statement, should be agreed between the Council and the relevant statutory authorities prior to the commencement of development.

#### 7.9 Drainage:

7.9.1 The Council's Drainage Division recommended a request for further information including a requirement for details of surface water management and a revised flood risk assessment. In regards to drainage the applicant has submitted details regarding drainage with the appeal. I would note that the Council's assessment does not indicate that drainage issues cannot be resolved and there is precedent for development of this type permitted under PL29S.214318.

7.9.2 A site specific flood risk assessment was submitted. It is indicated that the site has not been impacted by historic flood events. It is noted there is no risk of flooding from groundwater, a low risk of fluvial flooding and a moderate risk of pluvial flooding in the event of blockages to surface water drainage. The site levels and finished floor and ground levels of the proposed development are such that the risk of flooding is low and the proposal would not exacerbate flood risk at other locations. The proposed development would be satisfactory in regards to overall flood risk.



#### 7.10 Other Issues:

7.10.1 The issue of land ownership has been raised in the observations concerning the access laneway to the site. This is not a planning issue with the onus on the applicant to ensure adequate control to carry out any development in the event of grant of permission.

7.10.2 The impact of construction management is temporary in nature and can be dealt with an adequate Construction Management Plan. I would recommend a condition requiring the provision and implementation of such as well a condition controlling construction hours.

### 8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

### 9.0 Reasons and Considerations

Having regard to:

- (a) The provision of the Dublin City Council Development Plan 2016-2022,
- (b) Sustainable Urban Housing Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018),
- (c) The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018),
- (d) The existing pattern of development at this location,
- (e) The design, scale and layout of the proposed development, and
- (f) The submissions and observations on file,

It is considered that, subject to the compliance with the conditions set out below, the proposed development would be in accordance Development Plan policy, would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties and be satisfactory in the context of traffic safety and convenience. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

#### Appropriate Assessment:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the South Dublin Bay and Tolka Estuary SPA (Site Code 004024) and the North Bull Island SPA (Site Code 004006) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura impact statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely South Dublin Bay and Tolka Estuary SPA (Site Code 004024) and the North Bull Island SPA (Site Code 004006), in view of the site's conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) the mitigation measures which are included as part of the current proposal, and
- iii) the conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

## 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 the further plans and particulars lodged with the application on the 28<sup>th</sup> June 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 interests of clarity.

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

Reason: In the interests of visual amenity.

3. The streets and footpaths within the development shall comply with the requirement and specifications of the Design Manual for Urban Roads and Streets (DMURS) issued in 2013.

Reason: In order to comply with the guidance given in the Design Manual for Urban Road and Streets.

4. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenities of property in the vicinity.

5. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

Reason: In the interest of visual amenity.

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

7. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound



insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

8. Drainage requirements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development and to prevent pollution.

9. 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 traffic management, noise management measures and on-site disposal of construction/demolition waste.

Reason: In the interest of public safety and the amenities of the area.

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the

methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

11. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of residential amenity and orderly development.

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

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

13. Floodlighting levels and arrangements shall not be such as to cause excessive glare or distraction to road users or adjoining property owners. Measures to avoid glare and light spill to adjoining residential properties and onto the road network in the vicinity shall include the use of diffusers, cowls, canopies and protective baffles where appropriate. The extent and level of illumination and details of proposed floodlighting shall be submitted to and agreed in writing with the planning authority prior to commencement of the development. Compliance testing shall be carried out following installation and a report on this testing shall be submitted to and agreed in writing with the planning authority prior to full operation of the floodlights.

Reason: In the interest of traffic safety and to protect the amenities of the area.


14. The floodlighting shall be used only during periods when training or matches are taking place, and at all other times the floodlighting shall remain off. The operational hours of the floodlighting shall not extend beyond 2200 hours.

Reason: To protect the amenity of properties in the vicinity.

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

referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

  
Colin McBride  
Planning Inspector

08<sup>th</sup> October 2019

**DECISION QUASHED**