



An  
Bord  
Pleanála

## Inspector's Report ABP-309366-21

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<b>Development</b>	Demolition of existing structures and the construction of 69 apartments split over two blocks with social and community centre at basement level.
<b>Location</b>	76, 76G & 280 Bannow Road, Cabra, Dublin 7.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3308/20
<b>Applicant(s)</b>	Colin Daly, Nicola Daly and Andrew Haydon
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First Party vs. Conditions
<b>Appellant(s)</b>	Colin Daly, Nicola Daly and Andrew Haydon
<b>Observer(s)</b>	Henry O'Brien & Others Transport Infrastructure Ireland
<b>Date of Site Inspection</b>	26 <sup>th</sup> April 2021
<b>Inspector</b>	Stephen Ward

## 1.0 Site Location and Description

- 1.1. The site is located to the immediate south of the Broombridge Luas Depot and the adjoining tram/train lines, at a distance of c. 3km northwest of the city centre. Further south of the site is a large mature residential area which forms the northern environs of Cabra. Between the rail lines to the north and Bannow Road to the south, the site forms part of a long linear strip with a variety of uses including warehousing, offices, educational, recreational and residential.
- 1.2. To the immediate west of the site is a narrow strip of land containing two buildings. The single storey building to the front is an ESB substation, while the 2-storey building to the rear would appear to be in residential use. Further west of this is a small residential development that was completed in recent years. To the east of the site is a gated access lane serving Cabra Racing Pigeon Club. Further east of this is a Dublin City Council maintenance depot. To the south, on the opposite side of Bannow Road, there is a series of terraces containing 2-storey dwellings.
- 1.3. The site itself has a stated area of 0.3027 hectares and contains two large buildings with vehicular access and parking facilities to the front. The buildings appear to cater for a variety of uses including recreational, warehousing and retail. The natural ground levels in the area would appear to fall northwards from the front of the site to the rear.

## 2.0 Proposed Development

- 2.1. The proposal comprises a 'Build to Rent' (BTR) residential development of 69 apartments in 2 blocks. The development would be provided as follows:
  - Demolition of the existing two-storey building at 280 Bannow Road (known as the Alma Hygiene building together with a kickboxing club), demolition of the existing single storey warehouse unit and racing pigeon club unit at 76G Bannow Road, and the demolition of other associated structures on site.
  - Block A – a four storey building containing a total of 20 no. apartments comprising of 3 no. 1 beds, 17 no. 2 beds and ancillary facilities including concierge and residential lounge at ground level.
  - Block B – a five storey building containing a total of 49 no. apartments comprising of 48 no. 1 beds and 1 no. 2 bed.

- A single level basement comprising a total of 33 no car parking spaces, 6 no. motorcycle spaces, 112 no. bicycle parking spaces (an additional 20 no. spaces will be provided at ground floor level), ancillary plant room and refuse storage areas; along with a play/activity room, gym facility.
- Vehicular and pedestrian access onto Bannow Road.
- Construction of a basement level social and community centre/non-residential club (Class 10) unit for the relocation of the Cabra Pigeon Racing Club which will maintain its separate access from the eastern boundary of application site.
- The existing retail unit at 76 Bannow Road will be modified with a new roof structure, extension and modifications to elevations and signage.
- Landscaping, boundary treatment, drainage, signage, green roofs and solar pv panels to roof level of Blocks A and B, and all associated site works.

2.2 It is proposed to discharge foul water via a new pipe connection into the existing foul sewer network on the opposite side of Bannow Road. Storm water from the roof areas of the proposed buildings will be directed into an on-site reticulation system that will connect into the surface water drainage system and discharge to an attenuation tank below the basement floor level. Pumped surface water will then discharge to the existing surface water line on Bannow Road. Water supply will be accessed via the existing mains in the adjoining footpath to the south.

### 3.0 Planning Authority Decision

#### 3.1. Decision

By order dated 8<sup>th</sup> January 2021, Dublin City Council issued notification of the decision to grant planning permission subject to 29 conditions. Condition no. 6 would require significant revisions to the development as is set out below.

*The development shall be revised as follows:*

*a) Apartments B01, B09, B10, B19, B20, B29, B30, B39, B40, and B49 shall be omitted. The staircase to block B shall be relocated to within the block. The block*

*shall be set 3.8 metres further north, and the fenestration amended to address the canal in an appropriate and visually attractive manner.*

*b) The racing pigeon club shall be omitted from the scheme and the resultant space at basement level shall be omitted.*

*Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.*

*Reason: In the interests of orderly development and visual amenity.*

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

#### Planning Reports

3.2.1. The Planner's Reports form the basis for the Planning Authority decision. The initial report (28<sup>th</sup> October 2020) can be summarised as follows:

- The redevelopment of the site for residential use is in accordance with the Z1 zoning objective for the site, as well as national and council policy.
- The proposed building height is not excessive, but design concerns are raised relating to blank gables, the storage unit, materials, and the northern façade.
- The proposed density is 230 units per hectare and it is recognised that increased density is an efficient use of infill / brownfield land that is well-serviced and zoned. There is no upper limit on densities, but the proposal must comply with other development plan criteria, including qualitative criteria.
- The plot ratio (1:1.69) is at the higher end of development plan limits (0.5 - 2.0), while site coverage (39%) is lower than indicative standards (45 – 60%).
- The apartment unit sizes, internal space areas, and mix of units comply with requirements.
- Concerns are raised about the characterisation and proportion of dual-aspect units, as well as overshadowing of the central courtyard.

- Private open space proposals meet the area requirements for balconies. However, there are concerns regarding the availability of light and the amenity standard afforded to the north-facing balconies.
- Safety and security concerns are raised relating to the pedestrian access and the gates to the basement entrance.
- Concerns are raised about noise impacts associated with the Racing Pigeon Club and its compatibility with the proposed apartments.
- There would be no unacceptable overlooking or overbearing impacts on neighbouring properties. However, concerns are raised about overshadowing of neighbouring garden areas.
- Concerns are raised about overspill parking and further information is required in relation to the management of parking and mobility.
- Further information is required on public open space proposals.
- It was recommended that further information be requested in relation to the concerns and issues outlined above, as well as other issues raised by the transport planning section of DCC.

3.2.2. A Further Information Request was issued on 29<sup>th</sup> October 2020 which addressed the above issues. Following the applicant's response on 3<sup>rd</sup> December 2020, the planner's subsequent report (8<sup>th</sup> January 2021) outlines a general satisfaction with the proposal. However, concerns were outstanding in relation to:

- The aspect, sunlight and daylight afforded to the north-facing units in Block B at ground, first and second floor levels.
- The internal overlooking and excessive overshadowing of the central courtyard has not been satisfactorily addressed.
- The location of car club parking and the loading bay.
- It has not been established that the pigeon club use is compatible with an apartment block.

3.2.3. Notwithstanding those remaining concerns, a grant of permission was recommended, subject to conditions, including condition no. 6 as previously outlined. The planner's recommendation forms the basis of the DCC notification of decision.

### Other Technical Reports

- 3.2.4. The Transportation Planning Division report (16<sup>th</sup> Oct 2020) requested further information in relation parking and mobility plans, servicing operations, vehicular movements, and cycle parking. The subsequent report (14<sup>th</sup> Dec 2020) outlined conditions to be applied in the event of a grant of permission.
- 3.2.5. The Engineering Department – Drainage Division reports (dated 5<sup>th</sup> Oct and 4<sup>th</sup> Dec 2020) stated that there was no objection subject to conditions.

### 3.3. **Prescribed Bodies**

**Irish Rail:** Highlights the need to ensure that the proposed works do not increase risk to the railway. The potential noise and vibration impacts on the proposed units are also highlighted.

**TII:** Highlights the need to ensure that the proposed works do not impact on Luas infrastructure. A Section 49 contribution may also be applicable for the Luas Cross City project.

### 3.4. **Third-Party Observations**

Twenty-eight submissions were received in relation to the application. The issues raised can be summarised as follows:

- Adverse impacts on the residential amenity of existing properties.
- Substandard level of amenity for the prospective occupants.
- Traffic and parking problems.
- The loss of a sporting facility (Kickboxing club).
- Concerns about servicing and construction arrangements.
- Concerns about the occupancy and tenancy of the units.

## 4.0 **Planning History**

**ABP Ref. PL304945-19:** On the western portion of the site (i.e. 280 Bannow Road only), the Board upheld the decision of DCC to refuse permission for the demolition

of the existing two-storey building and the construction of 32 apartments in 2 blocks. The reasons for refusal were as follows:

1. *Having regard to the size, disposition and poor quality of open space, and to the proximity of the apartment blocks to each other, and the consequential impact on daylight within the proposed development, it is considered that the proposed development would be overshadowing and overbearing, would seriously injure the residential amenity of future occupants and would, therefore, constitute overdevelopment of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *It is considered that the proposed separation distances between windows serving living and bedroom areas in opposing units would create a lack of privacy for future occupants. Furthermore, the layout and configuration of a number of the proposed apartments, particularly those with undersized ensuite bedrooms, do not meet the standards set out in the Ministerial Guidelines ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, March, 2018. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

## 5.0 Policy and Context

### 5.1. National Policy / Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards ‘compact growth’, which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;

- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location

5.1.2 Following the theme of ‘compact urban growth’ and NPO 13, **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)** outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)** sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

5.1.4 **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)**, hereafter referred to as the ‘Apartment Guidelines’, sets out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking.

## 5.2. Development Plan

5.2.1 The site is zoned ‘Z1 Sustainable Residential Neighbourhoods’ in the Dublin City Development Plan 2016-2022, the objective for which is ‘*To protect, provide and improve residential amenities.*’ Residential use is a ‘Permissible Use’ within this zoning objective.

5.2.2 Section 4.5.3.1 relates to urban density and promotes sustainable density, compact development, and the efficient use of urban land. Chapter 5 outlines the Council’s approach to the provision of quality housing and encourages a good mix of house types and sizes with a satisfactory level of residential amenity.



5.2.3 Chapter 16 sets out detailed policies and standards in respect of development proposals within the city. Section 16.2 “Design, Principles & Standards” provides design principles outlining that development should respect and enhance its context.

5.2.4 Section 16.2.2.2 discusses ‘Infill Development’ i.e. gap sites within existing areas of established urban form. It is particularly important that such development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

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

At a distance of c. 5km to the east of the appeal site, the South Dublin Bay and River Tolka Estuary SPA (site code 004024) is the nearest Natura 2000 site. The Royal Canal (c. 60m to the north) is designated as a Proposed Natural Heritage Area.

### 5.4. **Environmental Impact Assessment - Preliminary Examination**

Having regard to the nature and scale of the proposed development, the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination.

## 6.0 **The Appeal**

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

6.1.1. The applicant has appealed conditions 6(a) and 6(b) of the DCC decision to grant permission. The appeal asserts that the conditions are unnecessary and requests that they be omitted.

#### Condition 6 (a)

6.1.2. This condition relates to Block B and requires the omission of 10 apartments (B01, B09, B10, B19, B20, B29, B30, B39, B40 and B49); the relocation of the staircase to within the block; relocation of the block 3.8m to the north; and amended fenestration to appropriately address the canal. The reason for the condition is stated to be ‘*In the*

*interests of orderly development and visual amenity*'. The applicant's grounds of appeal can be summarised as follows:

- The applicant has addressed concerns about the distance between Blocks A & B and sunlight availability to the communal space by moving Block B 1.5m to the north. It has been designed as a high-quality useable open space which will receive a significant quantum of natural daylight and sunlight.
- In addition, the applicant proposes a 425m<sup>2</sup> roof terrace to Block B, which would be fully accessible as part of the wider communal open space areas.
- On the basis of the Apartment Guidelines, the proposed total outdoor communal amenity space (1,248m<sup>2</sup>) exceeds the minimum requirements (381m<sup>2</sup>). A total of 230m<sup>2</sup> is also proposed to accommodate a range of indoor communal facilities.
- The omission of 10 apartments would result in a lower density (c.197 units per ha.), which would not represent the optimum development of the site. Having regard to the location of the site in close proximity to transport links, higher densities would be appropriate in accordance with local and national policy.
- The units to the north of Block B are triple aspect and were designed in accordance with the Apartment Guidelines. Furthermore, section 3.18 of the Guidelines gives discretion to apply north-facing single aspect apartments in areas where units are overlooking a significant amenity. The appeal asserts that the units will overlook sections of the Royal Canal, which is a high-quality amenity area.
- As part of the appeal, a Daylight and Sunlight Assessment has been carried out in accordance with BRE Guidelines. Just 6 of the 69 apartments marginally fall below the target values for Annual Probable Sunlight Hours (APSH) and these rooms are dual aspect with good average daylight factors (ADF). Considering the constrained nature of the site, this is a positive outcome which meets the recommendations of the BRE Guidelines.
- The private open space (balconies) for the units to be omitted meet the area requirements of the Apartment Guidelines and are suitably accessed directly from the main living areas. The applicant acknowledges the planning

authority's concerns about access to sunlight for these spaces but again refers to provisions for discretion as per section 3.18 of the Guidelines.

- The Apartment Guidelines allow for the relaxation of private open space provisions in schemes along Public Transport Corridors.
- SPPR 8 (ii) of the Apartment Guidelines allows discretion to apply flexibility in the proportion of private amenity space to be supplied for individual units, subject to the provision of alternative, compensatory communal facilities / amenities. While the applicant stresses that the private open space associated with the subject 10 units meets requirements, it will be supported by an excess of communal open space and ancillary facilities.

#### Condition 6 (b)

6.1.3. This condition requires the omission of the proposed racing pigeon club space at basement level below Block B. The reason for the condition is stated to be '*In the interests of orderly development and visual amenity*'. The applicant's grounds of appeal can be summarised as follows:

- A community facility is a common land use that in accordance with the 'Z1' zoning objective and is included as a 'permissible use'.
- The proposed community facility is acceptable in a residential having regard to section 16.14 of the Development Plan and on the basis that it will:
  - Replace and upgrade an existing facility
  - Provide a high-quality space and will be available to other groups
  - Provide improved and dedicated access
  - Be accessible to all, including people with disabilities.
- The space provides an important community facility for its members. No pigeons are stored, flown or raced in or around the facility, which is primarily used for administrative purposes.
- The lower ground level location and separate access arrangements for the facility will ensure that residential amenity is protected.
- Community facilities are actively encouraged as part of BTR developments and its omission will negatively impact on residents and the local community.

The club is an integral part of the community and has been operating at this location for over 40 years.

- The club is not generally used outside of the season. Noise and nuisance will not be an issue as the facility will be appropriately insulated in accordance with Building Regulations.
- The club has no other available facility to use. The omission of the facility will effectively leave the club homeless or will prevent the development from proceeding, which would be a lost opportunity to redevelop the site.

## 6.2. Planning Authority Response

The Planning Authority's response to the grounds of appeal can be summarised as follows:

### Condition No. 6 (a)

- The Daylight & Sunlight Assessment submitted with the appeal confirms that, in 6 of the 10 north-facing apartments, the west-facing living room windows would fail to meet the targets to appear reasonably sunlit. The assertion in the report that the north-facing windows in these rooms achieve good levels of sunshine may be a misprint as it does not appear credible.
- No assessment has been carried out for sunlight levels to balconies. Those for units B01, B10, B20, B30 and B40 do not appear to get any sunlight. The bedrooms to these units would also have modest levels of sunlight, resulting in the combined effect of inadequate residential amenity.
- The relocation of Block B to the north would improve sunlight and daylight to the modestly lit ground floor south-facing units to Block B; provide a more adequate level of sunlight to the internal courtyard; and address internal overlooking. It is a proportionate measure to significantly improve residential amenity.

### Condition No. 6 (b)

- Concerns are raised about the intensity of use of the proposed pigeon club and the range of associated activities. While this is unproblematic in its

current context, it is not compatible with a high-density residential development.

### 6.3. Observations

6.3.1. An observation has been submitted on behalf of Henry O'Brien and others. The submission welcomes the redevelopment of the site and the DCC decision to reduce the number of apartments. However, a range of fundamental concerns are highlighted, which can be summarised as follows:

- The development is of excessive height and density and the observers share the DCC concerns about the quality of the development.
- Balconies will overlook the existing houses.
- An excessive concentration of one-bed units will attract a transient tenant and will not encourage integration with the existing community.
- Insufficient parking has been provided and will add to current problems.
- There is no public space or community gain for local residents.
- An adequate examination of the drainage system has not been carried out.
- A condition should require liaison with local residents at construction stage.
- A condition should require the sourcing of an alternative location for the existing martial arts facility on site.

6.3.2. Specifically, regarding the appeal of condition no. 6(a), the submission questions the quality of the proposed materials and the applicant's description of private spaces and separation distances as 'generous'. Concerns are raised about the high proportion of one-bed units and the submission strongly disputes the claim that the development will add to the sense of community and act as a catalyst for the regeneration of the area.

6.3.3. With regard to the appeal of condition no. 6(b), the submission contends that the Racing Pigeon Club cannot be described as a 'community facility' as it only caters for the small club membership. It also states that the club is used to record flight times and that pigeons are required to be present on site for this process.

## 6.4 Prescribed Bodies

TII refers to their original submission to DCC and attaches a copy of same.

## 7.0 Assessment

7.1. This first-party appeal relates only to condition no.'s 6 (a) and (b) and requests their omission from the DCC decision to grant permission. I acknowledge that the third-party observation has raised other fundamental concerns about the nature and scale of the proposed development. However, I am satisfied that these issues have been adequately addressed by the Planning Authority. Accordingly, subject to the further consideration of condition no. 6, I am satisfied that the development would otherwise be in accordance with the proper planning and sustainable development of the area, and that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. My assessment will therefore be limited to the matters raised in relation to the terms of the conditions, pursuant to the provisions of section 139 of the Planning and Development Act 2000 (as amended).

7.2. Having inspected the site and examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having regard to relevant local/national policies and guidance, I consider that the main issues raised in the appeal of each condition are as follows:

### Condition 6 (a)

- Residential amenity standards for the 10 units to be omitted
- Communal Open Space standards

### Condition 6 (b)

- The compatibility of the racing pigeon club with the residential units

## 7.2 Residential amenity standards

7.2.1. While no issues were raised with the floor areas or internal layout of the 10 units on the northern side of Block B *per se*, the Planning Authority's rationale for their omission cites concerns about the aspect of these units and the levels of sunlight / daylight afforded to their internal and external spaces.

- 7.2.2. With regard to aspect, I note that all living spaces within these units face both north and east. I also note that high-level west-facing windows are provided for the bedrooms. Accordingly, I would concur with the general thrust of the applicant's argument, i.e. that these units are not single aspect units, and I do not consider that the inclusion of the units would conflict with the quantitative requirements of the Apartment Guidelines relating to aspect ratios. However, the particular design and site context requires a more detailed quantitative and qualitative assessment of residential amenity standards, particularly with regard to daylight and sunlight.
- 7.2.3. The Daylight and Sunlight Assessment submitted with the appeal has regard to the BRE Guidance and BS 8206-2: 2008, as is recommended in the Apartment Guidelines. However, it highlights that these documents are not suitable for rigid application in all contexts.
- 7.2.4. Daylight availability within the proposed apartments is assessed using a calculated Average Daylight Factor (ADF) in accordance with BRE guidance. All ground floor habitable rooms were assessed on the assumption that the upper floors would have an increased ADF. Of the 10 apartments affected by condition no. 6 (a), unit no.'s B01 and B09 were included in this assessment and the results significantly exceeded the minimum recommended ADF. Indeed, it is noteworthy that these 2 units would achieve higher daylight factors than all the other ground floor units assessed in Block B.
- 7.2.5. Sunlight availability to internal living spaces was assessed using predicted Annual Probable Sunlight Hours (APSH) in accordance with BRE Guidelines. The assessment confirms that all living spaces have a window facing within 90° of due south and these windows have been assessed against the relevant APSH targets i.e. the centre of the window should receive 25% of APSH, including at least 5% of PSH in the winter months.
- 7.2.6. With regard to the 10 subject units, I acknowledge that there is a discrepancy in the numbering used in Figure 14 of the report (i.e. 62-71) compared to the accompanying Table 3 (i.e. 62-80). However, I am satisfied that this is a typographical error and that numbers 63, 65, 67, 69 & 71 should simply replace numbers 72, 74, 76, 78 & 80 in Table 3. I will, therefore, refer to the numbering system used in Figure 14 of the report.

- 7.2.7. For sunlight results, the 10 units are best considered in 2 separate sub-blocks, i.e. the eastern sub-block containing windows 62, 64, 66, 68 & 70, and the western sub-block containing windows 63, 65, 67, 69 & 71. In the eastern sub-block, apart from a marginal shortcoming in the ground floor unit (i.e. window 62), all other windows assessed meet the target criteria for APSH. I consider that the deficiencies in window 62 are marginal (i.e. 21.2% APSH and 4% PSH during winter) and I would not have serious concerns in that case given the inherent flexibility in these standards. The 5 units in the eastern sub-block are therefore considered acceptable in terms of sunlight availability.
- 7.2.8. In the western sub-block, I note that the windows generally fall well short of the APSH target criteria and would achieve 0% of PSH during the winter months. However, it must be acknowledged that the predicted daylight levels for these dual aspect living spaces (i.e. 3.13% for unit B01 at ground floor) significantly exceed the minimum BRE recommendations (1.5%) and are likely to significantly improve above ground floor level (i.e. for units B10, B20, B30 and B40). I acknowledge that the Apartment Guidelines recommend that living spaces in apartments should provide for direct sunlight for some part of the day. However, this is not a mandatory requirement, as is evidenced by an allowance in the Guidelines for north-facing single aspect apartments (subject to suitable amenity provisions). And while this is not a case of north-facing single aspect units, I consider that similar allowances should be made for a more holistic assessment of standards, an approach which is generally supported throughout the Guidelines. On that basis and taking into account the nature and size of the subject units, I consider that the elevated levels of daylight available to the dual aspect living spaces of these one-bedroom BTR units will suitably mitigate the limited levels of available sunlight.
- 7.2.9. As highlighted by the Planning Authority, no sunlight assessment has been carried out for the private amenity spaces (i.e. the balconies). However, given the close relationship between the balconies and their access doors (i.e. 'window' no.'s 62-71, as discussed above), it is reasonable to assume that similar results apply. Therefore, I have assumed that sunlight levels to the balconies associated with the 5 units in the eastern sub-block (units B09, B19, B29, B39 and B49) would be satisfactory, while those to the western sub-block (i.e. units B01, B10, B20, B30 and B40) would not meet recommended targets.



- 7.2.10. I acknowledge that SPPR8 (ii) of the Apartment Guidelines allows flexibility in the provision of a proportion of private amenity space on the basis of the provision of alternative, compensatory communal facilities / amenities. And while the Planning Authority contends that this applies only to the quantum of space and does not justify the sub-standard quality of north-facing balconies, I consider that the Guidelines encourage an emphasis the overall quality of the facilities and standards of amenity.
- 7.2.11. Of particular importance in this regard is the applicant's inclusion of a roof terrace of 425m<sup>2</sup> to Block B. This communal amenity space has been provided in excess of the minimum requirements of the Guidelines and would obviously achieve excellent levels of sunlight (97%). It is easily accessible from the subject 5 units and is likely to be used by the residents of Block B only. Accordingly, I consider this to be an appropriate compensatory amenity that would satisfactorily mitigate the limitations in sunlight levels to the balconies of units B01, B10, B20, B30 and B40.
- 7.2.12. In conclusion, I consider that sunlight and daylight levels available to the internal and external spaces of the 5 units in the eastern sub-clock (units B09, B19, B29, B39 and B49) would satisfactorily comply with standards. While sunlight levels for those in the western sub-block (i.e. units B01, B10, B20, B30 and B40) do not meet recommended targets, I consider that, taking into account the nature and size of the units, the quality of the internal spaces would be satisfactorily mitigated by the elevated levels of daylight available to these dual aspect living spaces. Furthermore, I consider that the limitations in sunlight levels for the balconies serving these units would be satisfactorily compensated by the availability of the communal roof terrace space. Accordingly, I do not consider that the omission of the units is warranted on grounds of a substandard level of residential amenity.

### **7.3 Communal Open Space standards**

- 7.3.1. The Planning Authority also contends that the omission of the 10 apartments would facilitate the relocation of Block B a distance of 3.8m to the north. As well as increasing the area of the central open space, DCC contends that sunlight levels would be increased, and that internal overlooking would be addressed.
- 7.3.2. The appeal contends that the proposed central courtyard (823m<sup>2</sup>) and roof terrace (425m<sup>2</sup>) amount to a total outdoor communal amenity space of 1,248m<sup>2</sup>. While I would question the figure provided for the central courtyard, which appears to be in

the region of 700m<sup>2</sup> by my estimation, I am satisfied that the total space significantly exceeds the minimum requirements of the Apartment Guidelines (381m<sup>2</sup>). I note that the Guidelines also highlight the need for quality design of these spaces and, with particular relevance to this appeal, to permit adequate levels of sunlight to reach communal amenity space throughout the year.

- 7.3.3. The Daylight and Sunlight Assessment submitted with the appeal examines sunlight levels to the proposed communal areas with reference to BRE standards, i.e. that 50% of the area should receive at least 2 hours sunlight on the 21<sup>st</sup> March. It acknowledges that only 29.5% of the central courtyard space would comply with this standard and proposes that landscaping will be optimised to take advantage of the areas that receive the most sunshine. It also highlights the overall quantum of communal space proposed and the amenity space in the surrounding area.
- 7.3.4. While acknowledging the limited sunlight levels for the central open space, I consider that this is largely influenced by the site context. The redevelopment of the site requires the creation of a strong streetscape along Bannow Road and an appropriate response to the emerging pattern of development, as evidenced by the recently completed residential development to the west. And to achieve an appropriate density for an accessible location like this, increased building height will inevitably cause significant overshadowing of the central open space.
- 7.3.5. In mitigation, I would acknowledge that the limited sunlight levels for the central open space are partially compensated simply by its generous size. At c. 700m<sup>2</sup>, this space alone is almost double the minimum requirement for communal amenity space (381m<sup>2</sup>). The space also provides significant separation distances between opposing apartment windows in Blocks A and B. While the occurrence of such instances is very limited, the separation distance is generally in excess of 18 metres. I am conscious that these issues were raised in the Board's previous reasons for refusal for the previous proposal on this site (ABP Ref. 304945-19). However, it should be noted that the communal space in that proposal amounted to just 300m<sup>2</sup> for the entire development, and that the separation distanced between blocks was just 13.75m. Therefore, the current proposal would be a significant improvement in this regard.

- 7.3.6. The roof terrace to Block B is also a significant amenity which, in itself (at 425m<sup>2</sup>), also exceeds the minimum requirement for the entire development. While I would acknowledge that it is not easily accessible to the residents of Block A, it should be noted that 49 of the 69 proposed units (or 71%) are within Block B. Finally, it is also relevant that the development contains a residential lounge, gym, and playroom, which add another 213m<sup>2</sup> of internal communal amenity space.
- 7.3.7. Having regard to the above, I consider that the limitations in sunlight levels to the central open space is largely driven by the site context and the emerging pattern of development, and that this limitation has been satisfactorily mitigated by the overall quantity and quality of communal amenities and facilities proposed within the development. And while the relocation of Block B would increase sunlight levels on the northern periphery of this central space, I consider that the space would still inevitably be largely overshadowed. Accordingly, I do not consider that the relocation of the block and the subsequent loss of 10 apartments is warranted.

#### 7.4. **The Racing Pigeon Club**

- 7.4.1. The Planning Authority contends that the nature and intensity of the proposed club facility is incompatible with this high-density residential development. The reasons for this contention are based on impacts on residential amenity, particularly the useability of directly adjacent private open spaces and living spaces overhead.
- 7.4.2. At the outset, I note that the observers' submission questions the classification of the club as a 'community facility' on the basis that it is restricted to membership. In this regard, Appendix 21 (Land-use definitions) of the Development Plan defines a 'community facility' as *'A building or part thereof used for (community) activities organised primarily by the local community and to which the public may be admitted on payment of a charge or free of charge'*. Accordingly, I am satisfied that the requirement for the payment of an admission or membership charge does not preclude its classification as a 'community facility' and I am satisfied that the club is accurately described as such.
- 7.4.3. It is not disputed by any of the parties that a 'community facility' is a 'permissible use' within the 'Z1' zoning objective. And while accepting that the club does not constitute a 'pigeon loft', it is notable that such uses are 'open for consideration' in the 'Z1' zones, and as such, is one which may be permitted where it would be compatible

with the overall policies and objectives for the zone; would not have undesirable effects on the permitted uses; and would otherwise be consistent with the proper planning and sustainable development of the area.

7.4.4. Section 16.14 of the Development Plan sets out further guidance on proposals for community facilities within residential areas. It states that they will be treated sympathetically having regard to a number of factors, which I have assessed as follows:

- Overall need – I consider that the long-established existence of the club at this location satisfactorily asserts a need for the facility.
- Multi-functional use – I consider that the facility is designed in a way that would facilitate other community groups and I note that the applicants have expressed a willingness towards sharing.
- Location – The retention of the facility at this location largely maintains the existing long-established access arrangements for the community. Access arrangements will be completely separated from the residential units.
- Pre-existing community use – I am satisfied that the redevelopment of the site will result in an improvement on the quality of the existing facility.
- Accessibility – I am satisfied that the facility has been designed to be accessible to all members of society.

7.4.5. Having reviewed the nature of pigeon racing and the activity of associated clubs, I consider that the applicant has accurately described the expected nature and intensity of activity associated with the club. I am satisfied that pigeons will not be stored or flown in or around the site and that the primary use of the facility will be for administrative purposes. It would appear to be normal practice to have birds tagged at clubs before being transported to the race starting points, which vary around the country and overseas. The applicant confirmed in the 'Supporting Planning Statement' that members meet once a week to tag birds on a Friday evening during the racing season (May to September). While I would accept the proximity of some of the units in Block B to the proposed facility, and that the facility may be subject to reasonably intense activity during the tagging process, I consider that these activities are likely to be of a very limited frequency and duration.

7.4.6. In conclusion, I consider that Development Plan policy supports the integration of community facilities and residential development, including sites where community facilities are already established. Having established the nature and likely intensity of the proposed facility, I consider that any disturbance or nuisance impacts are likely to be of a limited frequency and duration and would not seriously detract from the residential amenities of the development. Accordingly, I do not consider that the omission of the facility is warranted on these grounds.

## **8.0 Appropriate Assessment**

8.1 A Natura 2000 Screening Report has been submitted with the application. The report identifies all the Natura 2000 sites within a 15km radius of the appeal site. At a distance of c. 5km to the east, the South Dublin Bay and River Tolka Estuary SPA (site code 004024) is the nearest Natura 2000 site.

8.2 In summary, the report outlines that:

- While there is some potential for contaminated surface water run off to enter the network, this can be prevented through construction management.
- There will be no land-take of Natura 2000 sites.
- There is no watercourse on site that would provide a direct link to any Natura 2000 sites.
- There will be minimal emissions from the development, which will connect to existing utilities and services.
- Best practice construction methods will be employed.
- Access arrangements will be largely unchanged and there are excellent public transport facilities in the area.
- Construction duration is likely to be 18-24 months and will be managed to avoid significant effects on Natura 2000 sites.
- There will be no likely changes to or impacts on Natura 2000 sites as a result of the development.
- There are no other plans or projects proposed within the vicinity of the site that could affect Natura 2000 sites.

- 8.3 The applicant's Screening Report concludes that the project will have no direct or measurable indirect impacts on any Natura 2000 sites and that no significant impacts on the qualifying interests of the sites are likely.
- 8.4 Having regard to the nature and scale of the proposed development, and to the location of this brownfield site in a serviced urban area and the separation distance to the nearest European site, I conclude that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required

## 9.0 Recommendation

I recommend that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted; that assessment should be limited to the matters raised in relation to the terms of the conditions, pursuant to the provisions of section 139 of the Planning and Development Act 2000 (as amended); and that the Planning Authority be directed to REMOVE Condition no. 6 for the reasons and considerations set out hereunder.

## 10.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed development and the location and characteristics of the site, it is considered that the limitations in the availability of sunlight to the relevant apartments and the central communal open space would be adequately compensated by the elevated levels of daylight available within the apartments and by the overall quantum and quality of communal open space proposed for the development. Furthermore, it is considered that any adverse impacts associated with the retention of the existing community facility on site would be limited in frequency and duration and would not seriously detract from the residential amenity of the proposed apartments. Accordingly, it is considered that the proposed development would provide an adequate standard of residential amenity

for the prospective occupants of the apartments, and that the Planning Authority's condition no.'s 6(a) and 6(b), requiring the omission of 10 apartments and the racing pigeon club, are not warranted.

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Stephen Ward  
Senior Planning Inspector  
6<sup>th</sup> May 2021