



An
Bord
Pleanála

Inspector's Report ABP-310924-21

Development

Planning permission is sought for a development consisting of general improvements to tennis courts/layout, including removal of outdoor court lighting to 4 courts. Reorganisation of the car parking on site, including new landscaping. Construction of proprietary fixed cover structure/membrane system with removable sides (for Summer) to permanently cover 4 tennis courts for indoor play and all additional site works.

Location

No. 176 Howth Road, Sutton, Dublin 13.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F20A/0497.

Applicant(s)

The Trustees of Sutton LTC.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal	Planning Permission.
Appellant(s)	<ol style="list-style-type: none"> 1. Trustees of Sutton LTC (First Party). 2. Ray & Elizabeth Collier (Third Party).
Observer(s)	<ol style="list-style-type: none"> 1. Brendan O’Sullivan & Dorothy Lee. 2. Michael A. O’Niell. 3. Dan & Ciara O’Callaghan. 4. Gareth and Fiona Dunne. 5. Shane and Tonja Maguire. 6. Sally O’Shea. 7. Dan O’Callaghan & Ciara Cuddihy.
Date of Site Inspection	31 st day of January, 2022.
Inspector	Patricia-Marie Young.

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1.0 Introduction

- 1.1. This appeal case relates to a 1st Party appeal which seeks that the Board omit Condition No. 2 from the Planning Authority's decision notification to grant planning permission and a 3rd Party appeal which seeks that the Board overturn the decision of the Planning Authority on the basis of the potential of the proposed development, if permitted, to give rise to serious residential and visual amenity impacts. In addition, the Board received several 3rd Party Observations all seeking that the Planning Authority's decision to grant planning permission be overturned for similar reasons.

2.0 Site Location and Description

- 2.1. No. 176 Howth Road, the appeal site has a stated site area of 1.486ha and it is the home of Sutton Lawn Tennis Club. The irregular triangular shaped appeal site is accessed off an entrance located on the southern side of the Howth Road (R105) via a narrow lane c450m to the east of Sutton Cross.
- 2.2. The main area of the site is situated on what could be described as a backland site situated to the rear of varying in built form and height dwellings whose principal façades address Howth Road, Greenfield Road and Church Road. The adjoining residential development which front Howth Road, Greenfield Road and Church Road are characterised by their low-density character.
- 2.3. The Sutton Lawn Tennis Clubhouse, which includes function capabilities and associated buildings are located on the western side of the site to the immediate east of where the access lane terminates. To the front of them the area is hard surfaced accommodating car parking. The sporting facilities include 11 LED floodlit tennis courts, 2 seasonal indoor tennis courts, 2 tennis mini-courts, 2 practice walls for juniors, 5 squash courts with viewing facilities and gym.
- 2.4. The boundary treatment around the rear of the boundary consists of a mix of high block wall with chain link fencing above and mature planting.

3.0 Proposed Development

- 3.1. Planning permission is sought for the following proposed development:

- General improvements to existing tennis courts and layout including the removal of outdoor court lighting to 4 no. existing courts.
- Reorganisation of the existing car parking on site including new landscaping.
- Construction of proprietary fixed cover structure/membrane system with removable sides (for summer) to permanently cover 4 no. existing tennis courts for indoor play. The accompanying documentation indicates that this gabled built form structure would have a maximum height of 10.128m with this height tapering down to 4.482m and a gross floor area of works is 2,188.96m².
- All associated site works.

Section 12 of the Planning Application form indicates that the gross floor space of existing buildings is: Clubhouse - 694.41m², Squash Courts - 185.95m²; Gym - 340.06m² and Old Pavilion- 102.87m².

3.1.1. On the 8th day of June, 2021, the Planning Authority received the applicant's further information response. This response included revised drawings based on an updated survey of the site, and the removal of the seating area to the southern side of Courts 5, 6 and 7. It also included but was not limited to the following documentation:

- A letter and accompanying documentation from European Future Structures which sets out that the green PVC membrane to be installed in the tennis halls blocks the light (both inside and outside) and therefore does not allow light to pass through. This letter is dated the 17th day of May, 2021.
- A Covering Letter from the Applicants Agents.
- A Visual Impact Assessment.
- Arboricultural Impact Statement.
- A Tree Constraint Plan.
- A Tree Protection Plan.
- Arboricultural Method Statement.
- A Shadow Survey.
- An Acoustic Assessment.
- A Light Spill Survey.

- Photomontages.
- Revised Landscape Plan.

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. On the 2nd day of July, 2021, the Planning Authority decided to grant planning permission subject to ten conditions including but not limited to:

Condition No. 2 which is of relevance to this appeal case which reads:

“Prior to the commencement of the development, the developer shall submit for the written agreement of the Planning Authority, revised plans and elevations at scale of 1:100 and site layout plan at scale 1:200 to demonstrate the following amendments:

(a) Reduction in the scale of the development to cover 3 courts only (excluding most eastern court).

(b) Ensure a minimum set-back of 15m to the eastern boundary.

(c) Details of all external finishes, including manufacturers brochures, pictures etc.

Reason: *In the interest of residential amenity and the proper planning and sustainable development of the area.”*

Condition No. 3: Requires a plan detailing acceptable lux levels on the site.

Condition No. 5: Restricts music and amplified sound.

Condition No. 6: Deals with noise nuisance.

Condition No. 8: Deals with Trees/Landscaping.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The **final Planning Officer’s report**, dated the 29th day of June, 2021, is the basis of the Planning Authority’s decision. It includes the following comments:

- The revised plans have been updated to reflect the current situation and that the initial application submitted drawings were based on an aged survey. It is therefore

considered that these revised drawings are sufficient to assess the issues arising from the proposed development.

- It is still the Planning Authority's opinion that the provision of 4 no. courts with limited separation distance to the mutual residential boundary is not acceptable and would cause serious injury to the adjoining residential amenities when the impacts of overbearance and overshadowing are considered cumulatively.
- The air hall when *in situ* would be readily visible from Greenfield Road and Church Road though it is noted that it would be setback c75m from Greenfield Road and c95m from Howth Road which would help mitigate its visual impact on its setting.
- The reduction in scale of this structure would alleviate overbearance and visual dominance when viewed by the adjoining residential properties. It would also increase the separation distance off Church Road which would also ameliorate its visual impact as well as intrusion on the skyline.
- A balance needs to be reached between residential amenities and social element that sports facilities bring to the community.
- It is recommended that the number of courts proposed to be covered be reduced to 3 with the provision of a 15m buffer zone to the eastern boundary. This could be achieved by way of a condition.
- Concern is raised that the in relation to noise nuisance.
- The Light Spill Survey is considered to be ambiguous.
- The applicant's response to Item 4(a) of the Planning Authority's further information request was considered to give rise to a negligible improvement.
- The applicant's proposal to omit the seated area is an acceptable response to Item 4(b) of the Planning Authority's further information request.
- This report concludes with a grant of planning permission subject to the reduction in sale of the structure to mitigate undue residential and visual amenity impacts.

The initial Planning Officers report, dated that 27th day of November, 2020, concluded with a request for additional information on the following items:

Item No. 1: Raises concerns with the adequacy and accuracy of the drawings provided with this application.

- Item No. 2(a): It seeks that the structure be reduced to only enclose 3 courts and to provide a 15m buffer to the eastern boundary.
- Item No. 2(b): Requires the provision of an updated shadow survey.
- Item No. 2(c): Requires the provision of a Visual Impact Assessment as viewed from Howth Road, Greenfield Road and at a point at St. Fintan's Church looking north west towards the site.
- Item No. 3(a): Requires the provision of an assessment of the acoustics of the proposed tennis enclosure as it would relate to the surrounding noise receptors.
- Item No. 3(b): Requires the provision of a light spill survey to determine potential impacts from the inclusion of lighting beneath the enclosure.
- Item No. 4(a): Clarification of the removal of outdoor lighting to court 4 is sought and the site layout plan which indicates that existing floodlights located between 3 & 4 to be turned around.
- Item No. 4(b): Clarification of a more appropriate location for the seating for courts 5, 6 and 7 is sought and it is recommended that it should be located away from proximity to the rear of adjacent private amenity spaces.
- Item No. 5(a): Requires the applicant to address issues raised by the Water Services Planning Section.
- Item No. 5(b): Clarification is sought on the use of permeable paving within the proposed car park alterations.
- Item No. 6(a)&(b): Requires the applicant to address the issues raised by the Parks and Green Infrastructure Division.

The further information request was issued on the 1st day of December, 2020.

4.2.2. Other Technical Reports

- **Parks Division:** No objection subject to safeguards.
- **Water Services Department:** No objection subject to safeguards.
- **Transportation Planning Section:** No objection.

4.3. Prescribed Bodies

- 4.3.1. **Irish Water:** No objection subject to a condition requiring the applicant to sign a connection agreement prior to the commencement of the development sought and that the development shall be carried out in compliance with Irish Water Standards codes and practices.

4.4. Third Party Observations

- 4.4.1. Several Third-Party observations were received by the Planning Authority during the course of its determination of this application. These submissions are attached to file, and I note that the substantive planning concerns raised correlate with those raised by the Third-Party Appellant and the Observers submissions to the Board.

5.0 Planning History

5.1. Site

- **P.A. Ref. No. F18A/0695:** Planning permission was **granted** subject to conditions for a development consisting of the upgrading of the floodlighting to tennis courts 1, 4, 5, 6, 8 & 9. In addition, the raising of height of existing light poles and luminaries from 8.5m to 10m; the relocation of courts 1 to 2 and 3 to 4; the provision of ancillary fencing and light poles of c.2.2m to 18m height respectively to the south; floodlighting of court 7 including 2 new 10m high light poles and luminaries together with the use of 2 light poles on courts 6. Of note are the requirements of the following conditions:

Condition No. 2 states: *“The gym facility shall be used only between the hours of 07.00 hours and 23.00 hours each day (including Bank Holidays) and shall be restricted to members of the Sutton Lawn Tennis Club”.*

Condition No. 5 states: *“The noise level arising from the proposed development shall not exceed 55dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at any point along the northern boundary of the site between 0800 hours and 2000 hours, Monday to Friday inclusive and shall not exceed 45dB(A) at any other time”.*

Condition No. 6 states: *“The development shall be so operated that there will be no noise emissions or noise vibrations on site as would give rise to reasonable cause for annoyance to any person in any residence, adjoining unit or public place in the vicinity”.*

Condition No. 7 states: *“The terms and conditions grant of permission P.A. Ref. No. F13A/0432 shall be complied with in full”.*

Decision date: 29th day of March, 2018.

- **P.A. Ref. No. F18A/0047:** Planning permission was **granted** subject to conditions for the change of use of changing rooms approved under P.A. Ref. No. F13A/0432 to an extended gym area. In addition, planning permission was sought for two identification signs (A1 Size) at the vehicle entrance, extension of approved opening hours of the gym to 06.00am to 11.00pm each day and of the tennis air hall to 7.00am to 11.00 each day. **Decision date:** 28th day of March, 2018.

- **P.A. Ref. No. F16A/0117:** Retention permission was **refused** for two number signs at the road entrance for visual and residential amenity reasons.

- **ABP Ref. No. PL06F.244867 (P.A. Ref. No. 15A/0064):** On appeal to the Board planning permission was **granted** for the variation of the hours of opening at the proposed new changing facility as permitted under P.A. Ref. F13A/0432 and PL 06F.243338 from between 0700 hours and 2100 hours on Mondays to Fridays inclusive (excluding Public Holidays) and between 0800 hours and 2000 hours on Saturdays, Sundays and Public Holidays, to between 0630 hours and 2330 hours on Mondays to Fridays inclusive (excluding Public Holidays) and between 0730 hours and 2300 hours on Saturdays, Sundays and Public Holidays to reflect the existing opening hours of the tennis and squash courts. For the purposes of clarification, it is confirmed that these revised opening hours will not apply to the proposed new permitted indoor sports hall/gymnasium which will operate between the hours permitted by An Bord Pleanála.

- **F15A/0366:** Planning permission was **granted** subject to conditions for the construction of a new external concrete fire escape stairs with balustrades and a new fire escape door on the south east elevation of the clubhouse.
- **ABP Ref. No. PL06F.243338 (P.A. Ref. No. F13A/0432):** On appeal to the Board planning permission **granted** for the construction of a single storey indoor sports hall/gymnasium, store and changing facility (344m²), to the north and the east of the existing clubhouse and demolition of part (18m²) of the west section of the Old Pavilion single storey building, east of the existing clubhouse.
- **P.A. Ref. No. F13A-0431:** Planning permission **granted** to construct two number squash courts (187.5sq.m. 2 storey in height), attached to the west of the existing clubhouse and the extension of the existing car park to provide an additional 26 spaces to the south east, bringing the total car parking spaces to 81.
- **ABP PL06F.235880 (P.A. Ref. No. F09/0508):** On appeal to the Board planning permission was **granted** for the creation of new courts, erection of flood lights, an air hall, shed all associated site development works and alterations to existing practise areas.
- **PL06F.230379 (P.A. Ref. No. F07A/1501):** Planning permission was granted by the Planning Authority and refused on appeal for the erection of four poles with three luminaries per pole, an air hall, shed, and all associated works for the following stated reason:

“The Sutton Lawn Tennis Club is situated within a predominantly residential area, at the rear of and in close proximity to dwellings fronting Greenfield Road, Church Road and Howth Road. It is considered that, in the absence of satisfactory mitigation or screening, light spillage emanating from the proposed floodlighting system would be significantly intrusive within nearby dwellings fronting Greenfield Road and Church Road and would, therefore, seriously injure the residential amenities of nearby properties. Furthermore, it is considered that the proposed air hall would, by reason of

its scale and proximity, have an unacceptable overbearing effect on nearby dwellings fronting Greenfield Road and, therefore, seriously injure the residential amenities of the occupiers of these dwellings. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”

6.0 Policy & Context

6.1. Development Plan

- 6.1.1. The Fingal Development Plan, 2017 to 2023, is the operative plan for the site and its setting. Under this plan the site is zoned ‘OS – Open Space’ which has a stated land use objective to: *“preserve and provide for open space and recreational amenities”*.
- 6.1.2. The Development Plan includes a Specific Objective to: *“protect and preserve trees, woodlands and hedgerows”* relating to the site.
- 6.1.3. Section 12.8 of the Development Plan relates to community infrastructure, facilities and services.
- 6.1.4. Objective DMS93 of the Development Plan is relevant. It states: *“any application for community facilities such as leisure facilities, sports grounds, playing fields, play areas, community halls, organisational meeting facilities, medical facilities, childcare facilities, new school provision and other community orientated developments, shall have regard to the following:*
- *Overall need in terms of necessity, deficiency, and opportunity to enhance or develop local or County facilities.*
 - *Practicalities of site in terms of site location relating to uses, impact on local amenities, desirability, and accessibility.*
 - *Conformity with the requirements of appropriate legislative guidelines.”*

6.2. Natural Heritage Designations

- 6.2.1. The following Natura 2000 sites are located in close proximity to the site:
- North Bull Island SPA (Site code: 004006) is situated c92.5m to the south of the site at its nearest point.

- North Dublin Bay SAC (Site Code: 000206) is situated c100m to the south of the site at its nearest point.
- Baldoyle Bay SAC & SPA (Site code: 000199 and 004016 respectively) are situated c360m to the north of the site at their nearest point.

6.3. EIA Screening

- 6.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, the absence of any connectivity to any sensitive location, the serviced nature of the site and its setting, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. The Board received the 1st Party appeal on the 29th day of July, 2021. While welcoming the decision of the Planning Authority to grant planning permission by way of this appeal they seek that the Board omit Condition No. 2 from the decision notification. Their appeal submission can be summarised as follows:
- Condition No. 2 is unjustified, and it would potentially threaten the viability of the entire proposal.
 - The proposed development would not create an overburden incompatible with the Development Plan.
 - To alleviate the concerns of the Planning Authority and as part of this appeal a revised drawing demonstrating a revised alternative eastern elevation is proposed. In addition, it is also proposed to add two further trees along the eastern boundary of the site.

- There is substantial separation distance between the proposed development and residential developments bounding the site. The separation distance between the structure proposed is not out of context with this locality.
- The 10.128m height of the proposed structure is to facilitate the minimum regulation height for play under Tennis Ireland Rules and under the rules set down by the International Tennis Federation.
- The eastern elevation of the building is a 'gabled elevation' so only a small portion of the building goes to the maximum height.
- If an arbitrary separation distance of 15m as set out in Condition No. 2 is required for buildings of this height this would have serious implications for normal development in the area.
- The four tennis courts have been in place for many years and cannot be moved as there isn't any available space to move them to.
- There are other tennis courts to the north, west and south. The existing space is fully utilised already.
- The reduction of the covered structure would seriously reduce the viability of the proposed development.
- The difference between a 3-court covered system/structure and a 4-court covered system/structure is not significant in planning terms.
- The Planning Authority placed too much emphasis on the submissions from third parties it received.
- The proposed development will provide an improved recreational facility for the club and the surrounding community.

7.1.2. On the 23rd day of July, 2021, the Board received a Third-Party appeal from Ray and Elizabeth Collier with an address on Church Road that bounds the eastern perimeter of the appeal site. This appeal submission can be summarised as follows:

- Reference is made to their submission to the Planning Authority in relation to the proposed development.
- Despite offering access to their property on several occasions the drawings provided by the applicant are inaccurate.

- Rear gardens of the homes on Church Road bounding the eastern boundary of the appeal site are on average 18m long with some adjoining properties consisting of single storey cottages.
- The applicant contends that the structure is centrally located but the properties on the northern boundary (Howth Road) have a 'buffer zone' of 37m from the proposed structure to their boundary wall. The Howth Road properties have rear gardens on average that are 30m long so that provides a separation distance of c67m. It is contended that the separation distance is similar for properties on Greenfield Road.
- Condition No. 2 only allows for a buffer zone of 15m. Thus, an average of 33m from the rear of Church Road homes.
- They already have to contend with an air hall structure from September to April on the eastern boundary and the addition of another such structure covering a now reduced 3 courts is overdevelopment of the site. Particularly in relation to the eastern boundary.
- The 15m buffer zone is inadequate and a permanent structure is unsuitable.
- The Board is requested to overturn the Planning Authority's decision to grant permission. Should the Board be minded to grant planning permission it is requested that it substantially increase the 15m separation distance to mitigate the worst effects of overshadowing and overbearance on adjoining homes.

7.2. Planning Authority Response

7.2.1. On the 13th day of August, 2021, the Board received the Planning Authority's response. It includes the following comments:

- Having reviewed the grounds of the 1st Party and 3rd Party appeal submissions, they are of the opinion that the proposed development subject to compliance with the conditions set out in their Managers Order would not unduly detract from the character of the area or would it give rise to any serious visual or residential amenity impact.
- The amended details provided are noted but it is considered that these additional features would likely emphasise the overall scale of the structure.

- In relation to the concerns raised by the 1st Party with regards to the availability of space and the existing space being fully utilised the Chief Executives report sets out the suggestion that where this level of development is required that the site might benefit from a comprehensive redevelopment.
- The Board is sought to uphold its decision and that any grant of permission include the requirements of Condition No. 2, 8 and 8b.

7.3. Observations

7.3.1. The Board received Observations from the following Third Parties:

- Brendan O'Sullivan and Dorothy Lee.
- Michael A. O'Niell
- Gareth and Fiona Dunne
- Shane and Tonja Maguire
- Sally O'Shea
- Dan O'Callaghan & Ciara Cuddihy

As the substantive concerns raised by the Third Parties in their observation submissions to the Board overlap for clarity, I have decided to summarise them as follows:

Suitability of the Location

- The position chosen for the proposed structure is not appropriate and should have been located outside of their clubhouse and at a location with greater separation between it and adjoining residential properties.
- The position of the structure is inappropriate with it being within 15m of Church Road residential properties.
- This structure is a commercial one and its appropriateness in a residential area is questioned.
- The sites residential setting should have informed the applicants to place the structure on site where it would give rise to less adverse residential and visual amenity impacts.

Visual Amenity Impact

- Concerns are raised in relation to the adequacy of the Visual Impact Assessment submitted with the applicant's further information in terms of providing a realistic impact of the proposed structure in its visual setting, including as appreciated from bounding residential properties.
- The scale and height of this over 2,000m² building and its 10.128m height does not conform with the size, height, and scale of buildings in its setting.
- The height, width, length, and angled location so close to residential homes makes its bulk visually incongruous and overbearing.
- No amount of additional planting, camouflaging and the like can meaningfully reduce the visual overbearance of this building in a setting where it is out of character in built form and use with other buildings.
- The softer architectural elements including timber cladding and vertical garden will not overcome this building being still an eyesore and being visually obtrusive.

Residential Amenity Impact

- The applicants have shown total disregard for affected neighbours and disappointingly have ignored the advice of the Planning Authority to reduce the scale of the structure as provided for under Condition No. 2.
- The proposed structure in the form proposed, even as revised by way of the applicants First Party appeal, would be visually overbearing as appreciated from adjoining residential properties and would also give rise to overshadowing of adjoining properties in its vicinity.
- The proposed development would result in a sense of being physically overlooked and would give rise to a perception of being overlooked.
- The structure provides for no soundproofing and there is a concern with regards to the additional noise pollution it would give rise to. Particularly for families with young children given the hours of commercial operations of the site.
- A similar structure located at Santa Sabina Secondary School, and it is noted that this structure contains air conditioning which gives rise to significant noise pollution.

Of concern this structure is substantially bigger than this example so there is potential for it to give rise to greater potential adverse impacts.

- Concerns are raised that the proposal includes removal doors on the structure in summer which would give rise to greater noise amplification arising from the structure.
- Concern is raised that the light survey does not reflect the existing situation which is contended gives rise to adverse light pollution. The information provided by the applicant stating the contrary is false and mischievous.
- The mitigation measures proposed in the revised design put forward to the Board on appeal would do little to reduce the general outlook or scale of the proposed development as viewed from adjoining properties.
- Part of the Air Hall is positioned on the wall of two neighbouring properties and the suggestion that the full height of this structure does not affect the amenity value of their private open space is irrelevant as it is the scale, massing and height of the overall structure that affects all of the neighbouring properties on Church Road.
- The proposed development, if permitted, would give rise to light and noise nuisances with the applicant providing no meaningful mitigation measures to address these.
- The placement of such a substantial building against and in proximity to residential boundaries is objected to.
- Residential amenities of adjoining and neighbouring properties have and are compromised from this development in terms of light pollution, noise and other disamenity.
- This development, if permitted, would detract from the enjoyment of adjoining homes. Particularly along those on the eastern boundary and it would give rise to depreciation of these properties further.
- Club members spend a couple of hours here each week. Residents should not be burdened from adverse impacts arising 24 hours 7 days of the week.
- The whole point of living in a house with a back garden is to be able to see the sky and not to be sunlight deprived in these properties.

- The realistic noise levels from tennis players, camps, coaching, pop music (which it is contended that the club regularly plays during opening hours with no regard to neighbours), music during outdoor yoga sessions and the like will be amplified by the building and any noise inside the structure would be amplified and give rise to additional noise nuisance when the sliding doors are open.
- The number of courts already present gives rise to diminishment of residential amenities. This proposal would significantly cumulatively add to the level of residential diminishment that arises from the applicant's activities and operations at this site.

Zoning

- The applicants have ignored the open space land use zoning of the lands, the transitional character of the site's setting and the provisions of the Development Plan for developments at such locations.

Further Information Revisions

- Concern is raised that the scale of the structure was not modified by the applicants despite the concern raised in the further information request.
- The revised proposal does not address the visual and residential amenity impacts of the proposed development sufficiently for it to be permitted. It will have a negative impact on living conditions of neighbouring properties.

Pattern of Development

- The applicant contends that their development is compatible with other developments within the Fingal area. This contention is very generalised and does not relate to the specifics of the site's location in a residential area.

Planning Authority and An Bord Pleanála Precedents

- There is an established precedent by Planning Authority's and An Bord Pleanála on appeal to refuse this type of development in similar residential settings and where there is potential for adverse visual amenity to arise.

Landscaping

- The landscaping would take a significant time to provide any level of screening.

Other

- The run off at the side of the courts already make them unsuitable for international competition and it is only by reducing the number of courts at this location to three would the standards referred to by the applicant in their appeal submission be achieved.
- Whether the applicant has adequate run off or not is not a planning matter. What is an issue is the applicant's proposal to develop the site with a building of the size, scale, mass, and height at a location that cannot accommodate it.
- This is not a normal development in the area of Fingal. It is a commercial development that is beyond the price tag of most of the community to join and use it as an amenity. It is therefore not access to all or most. It is an enhanced sports facility for a privileged minority.
- No consultation was had with adjoining and neighbouring properties.
- If the applicant seeks to meet international standards, then they should examine their site and see where an ideal location would be. In addition, if the applicant cannot achieve the scale of development it wishes to achieve at this site, then they should look for an alternate location.
- The proposed development is contrary to the applicant's future plan for the club. With this plan showing the air hall located closer to the club house.
- This tennis club had 12 courts and previously relinquished one court to facilitate the provision of its existing air hall. Therefore, why is the loss of another court a problem.

Planning Authority's Decision

- The Board is sought to overturn the Planning Authority's decision given the applicants unwillingness to modify the proposed development and to put in place measures to protect residential amenity.
- A refusal would result in the applicants having to reconsider the location of a four-court indoor complex on the grounds and consider a more feasible solution of placing it more centrally on this site.

7.4. Further Responses

7.4.1. On the 24th day of August, 2021, the Board received a response from Ray & Elizabeth Collier (Third Party). It can be summarised as follows:

- Condition No. 2 has been applied by the Council in the interests of residential amenity.
- The applicants complain that the Visual Impact Assessment was not considered by the Planning Authority during the course of its determination. It is noted that the information provided in this assessment was inaccurate and misrepresented the building in its visual context. It also lacked the information requested by the Planning Authority in such an assessment by way of their further information request.
- The combined length, width, and angled location of the building with it touching the eastern boundary as well as 18m from the rear of residential properties, if permitted, would be overbearing and result in overshadowing that would have a negative impact on homes adjoining the eastern boundary.
- No amount of screening would eliminate the negative impact of the building.
- The current boundary has two trees with one requiring removal due to poor condition.
- The proposal includes the planting of further trees that would grow higher than the proposed building. This would also give rise to additional overshadowing.
- The applicant has misrepresented the position of the building relative to boundaries and buildings even in the revised drawings.
- The proposal to increase the site boundary with No. 9 Church Road to 4.4m is unacceptable and there is no mitigation for the proposed steep increase in gable height over a short distance from boundaries and homes.
- At its nearest point the separation distance between the nearest dwelling would be approximately 19m and not the 25m stated by the applicant.
- The structure has the potential to result in significant noise nuisance and the design of the building has the potential to amplify this.

- This building is a commercial building in a residential setting and similar such developments have been refused.
- This proposed development would seriously injure amenities of adjoining residential properties.
- The applicant is incorrect in stating that the 4 courts in question have been in this position for many years. Courts 1 and 2 are the two courts nearest the clubhouse and Courts 3 and 4 were moved on foot of grant of permission P.A. Ref. No. F18A/0695 in 2018 to align with Courts 5 & 6. The original footprint of Courts 3 & 4 remains a vacant blank space and the courts could be returned to their original position. It is therefore incorrect of the applicant to state that the lands are fully utilised.
- All courts have been used for many years without problems and the ambition to site 4 courts at the chosen location is at fault. The chosen placement is not suitable.
- The applicant is also getting rid of mini-courts and replacing them with car parking. This cannot be considered an enhancement of the facilities and/or beneficial to the community or the clubs members.
- There are already two covered courts at this club and the addition of four more would cover 50% of the available courts.
- This club is not for public use and its use is for members who pay a fee.

7.4.2. On the 23rd day of August, 2021, the Board received a response from the Trustees of Sutton Lawn Tennis Club which includes the following comments:

- The drawings submitted as part of the original application were taken from an aged survey.
- Revised drawings were prepared to demonstrate this and submitted as part of their further information response. These revised drawings are contended to be accurate.
- The appellants arguments that are based on comparing the distance between the proposed structure and the houses on Church Road to that of the distances between the proposed structure and the houses on Howth Road and Greenfield Road is unreasonable and illogical.
- The appellants argument suggests that they are aggrieved by the fact that the proposed development will have less of an impact on the residents of Howth Road

and Greenfield Road that the residents on Church Road. This argument is irrelevant and should have no bearing on the Boards decision.

8.0 Referrals

8.1. The Board referred this appeal case to the Development Applications Unit, The Heritage Council and An Taisce. No responses were received.

9.0 Assessment

9.1. *Preliminary Comment*

9.1.1. I note that this appeal case is subject to First Party Appeal seeking the omission of Condition No.2 which requires the applicant to reduce the scale of the proposed development from covering 4 tennis courts to 3 tennis courts. In this regard, the easternmost court is excluded, and the applicant is required to ensure a minimum distance of 15m to the eastern boundaries, as well as to agree 'in writing' all of the external finishes. They contend that this condition is not warranted for a number of reasons including that there would be no difference in the residential and/or visual amenity impact of the proposed permanent cover structure to allow for indoor play. As such they request that the Board consider this appeal case under Section 139(c) of the Planning and Development Act, 2000, as amended.

9.1.2. In addition, two Third Party Appeals have been received. These seek the Board to overturn the decision of the Planning Authority on the basis that the proposed development would give rise to serious injury to their amenities. In addition, on the basis that it would add to the cumulative adverse amenity diminishment that has arisen from the development at this site in recent years. They also highlight the unwillingness of the applicant to make modifications to the proposed development as sought by way of the Planning Authority's further information request. Through to the applicant's similar unwillingness to make any concessions in relation to the development that is sought to provide a measure of adequate protection for adjoining properties from the potential further diminishment of their residential amenities that would arise from a development of this nature, scale and extent in suburban residential setting should it be permitted. It is therefore sought that planning permission be refused in its entirety by the Board, but should the Board be minded to grant permission this grant should

not concede the improvements that arise to the proposed development by way of Condition No. 2 of the Planning Authority's decision notification. Based on the reason that this condition provides a measure of protection for the more sensitive to change adjoining land uses.

9.1.3. Having inspected the site and its setting, had regard to documentation on file including all submissions and responses received by the Board through to having examined relevant planning provisions, in particular those set out in the Fingal Development Plan 2017 to 2023, I consider the key planning issues in this case to be:

- Principle of the Proposed Development
- Residential Amenity Impact
- Other Matters Arising

9.1.4. I also consider that the matter of 'Appropriate Assessment' requires examination.

9.1.5. In addition, I note that the applicant submitted their response to the Planning Authority's further information request on the 8th day of June, 2021. The applicant's response included revisions to the suite of drawings reflecting a revised up to date examination of the site and its setting.

9.1.6. In particular, it more accurately represents the relationship of the site, the proposed development, and adjoining properties.

9.1.7. It also puts forward a response as to why they do not propose to amend the scale of the proposed covered tennis court area's or provide an increased lateral separation distance between it and adjoining properties. Particularly adjoining properties to the east of the proposed structure.

9.1.8. This response is also accompanied by an acoustic assessment and a light spill survey determining impact on residential properties in the vicinity of the proposed development. In response to the concerns with light overspill the proposed development, which note as originally submitted to the Planning Authority consisting of the following components:

- 1) General improvements to existing tennis courts/layout including removal of outdoor court lighting to 4 no. existing courts.
- 2) Reorganisation of the existing car parking on site including new landscaping.

3) Construction of proprietary fixed cover structure/membrane system with removable sides (for Summer) to permanently cover 4 no. existing tennis courts for indoor play.

4) All associated works.

Is now amended to include the turning off permanently of specific flood lights; it includes the removal of the seated area to the south of courts 5, 6 and 7; it includes revised soakaways and permeable paving solutions; and, improvements to the landscaping to be provided as part of the proposed development.

9.1.9. Given the modest improvements that the applicants further information response gives rise to in terms of residential amenity impact, visual amenity impact and surface water drainage I propose to base my assessment below on the proposed development as revised.

9.2. *Principle of the Proposed Development*

9.2.1. The appeal site relates to the grounds of Sutton Lawn Tennis Club with the 1.486ha site subject to the land use zoning objective 'OS – *Open Space*' under the current Fingal Development Plan. The stated objective for such lands is to preserve and provide for open space and recreational amenities. In addition, the vision for such land is to: "*provide recreational and amenity resources for urban and rural populations subject to strict development controls. Only community facilities and other recreational uses will be considered and encouraged by the Planning Authority*".

9.2.2. As set out previously this proposal seeks planning permission for a number of improvements to what is an existing recreational facility with the main component comprising the construction of a proprietary fixed cover structure/membrane system with removal sides for the summer months which would permanently cover four existing tennis courts to allow for indoor play and the reorganisation of the existing car park on site.

9.2.3. The proposed development relates to an established recreational facility. Under the Development Plan provisions recreational facilities and sports clubs are listed as being permitted in principle on 'OS' zoned lands. This is however subject to safeguards which in this case includes but is not limited to consideration to the transitional land use character of the site and its setting.

- 9.2.4. This transitional land use character arises from the fact that the 'OS' land use zoning at this location is confined to the boundaries of the appeal site with the majority of the site occupying a restricted in area backland parcel of land, that is bound on all sides by land zoned 'RS' under the Development Plan. The stated land use objective for such lands is: *"to provide for residential development and protect and improve residential amenity"*.
- 9.2.5. In relation to transitional zonal areas, I note that Section 11.4 of the Development Plan states that: *"while the zoning objectives and control standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones"*. It further states that: *"in dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zone"*. It provides the following example: *"in zones abutting residential areas or abutting residential development within predominantly mixed zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of residential property"*.
- 9.2.6. This matter is therefore considered in more detail in the following section of this assessment below which deals specifically with the matter of residential amenity impact. I am satisfied that the other components of the proposed development, i.e., the reorganisation of the existing car park, the provision of new landscaping and the removal of outdoor court lighting are acceptable and give rise to no substantive issue.

9.3. *Residential Amenity Impact*

- 9.3.1. The Third-Party Appellants and Observers in this appeal case raise concerns that the proposed development would, if permitted, give rise to serious adverse amenity impact on their residential amenities by way of visual overbearance, overlooking and perception of being overlooking, overshadowing, visual incongruity, visual overbearance, diminishment of property value, noise through to overspill of light nuisance.
- 9.3.2. Moreover, they contend that their residential amenities have to date already been significantly eroded by the manner in which the applicant has operated this commercial facility with little regard by them to adhering to the conditions placed upon them by

way of the several grants of permission that have facilitated the expansion and intensification of this recreational facility over recent decades.

- 9.3.3. They therefore raise a concern that the proposed development if permitted as proposed, but lesser so, if granted with the minor modifications included in the applicant's response to the Planning Authority's further information request together with the additional modifications required under Condition No. 2 of the Planning Authority's grant of permission, would give rise to cumulative adverse diminishment of their residential amenities.
- 9.3.4. They also raise a concern that the positioning of the proposed proprietary fixed cover structure/membrane system with removable sides (for summers) to permanently cover tennis courts No.s 3, 4, 8 and 9 is poorly considered in terms of its relationship on site relative to adjoining residential properties dwellings and private amenity spaces as well as in relation to the clubhouse. On the latter point it is contended that the positioning is contrary to the visioning for the club which had proposed to place such a structure alongside the clubhouse in a more central position on site, thus achieving greater lateral separation distances with the more sensitive to change adjoining residential properties bounding the site.
- 9.3.5. *Visual Amenity Impact:* In relation to visual amenity impact, I note that the appeal site is a restricted site with the main triangular shaped portion of the site bound by a mixture of single through to two storey properties. The site is relatively flat, and the site levels of adjoining land appears to be similarly so. The existing structures on site are mainly positioned on the western and north western portion of the site. There is variable lateral separation distance from the site boundaries and the rear of the bounding residential properties. With the depth of the rear gardens of the adjoining dwellings fronting onto Howth Road are in average c30m; the depth of the rear gardens of properties fronting Church Road are in average c25m and the depth of the rear gardens of properties fronting onto Greenfield Road are significantly less varying between 4m to 14m in their depth.
- 9.3.6. There is an existing air hall structure on site that has a 9m maximum height and 1,296m² floor area with this covering two tennis courts and which is indicated to be in place 6 months of the year. This is positioned in the southernmost corner of the site

and there are a number of mature trees and hedgerows present along the nearest boundaries with adjoining Church Road and Greenfield Road properties.

- 9.3.7. I also observed that the site contains a proliferation of tall floodlight structures, including some positioned in close proximity to boundaries shared with adjoining residential properties.
- 9.3.8. According to the planning history files, the documentation provided and having carried out an inspection of the site the majority appear to consist of 12m in height poles with luminaries attached towards their uppermost height as well as a number of what are indicated to be lesser in height 8m to 10m floodlight structures.
- 9.3.9. The proposed proprietary fixed covered structure/membrane systems with removal sides would be a permanent installation covering four tennis courts. This gable shaped structure has a given overall floor area of 2,188.96m², a 62m length, a 36m width and a maximum 10.1m height. The height tapers downwards in slightly domed manner towards its eaves which at their lowest height are given as 4.467m. Of note, at the nearest point this structure would be positioned within c1.4m of the boundaries that are shared with No.s 9 and 10 Church Road. At its maximum separation distance from the boundaries shared with residential properties addressing Church Road the structure measures c14.5m. It would appear that the existing lighting within the position which it is proposed to place the permanent installation cover would be integrated into its interior.
- 9.3.10. The positioning of this structure relative to the residential properties that bound the site would in my view result in a significant change to the visual amenities of adjoining Church Road properties due to the proposed structures overall built form, height, scale, mass, and volume. In addition, whilst it is not out of character with the air hall on site it is out of character with the pattern of development in its immediate setting. Which I consider includes the positioning of main structures within the curtilage of a relatively generous lateral separation distance between them and other structures in adjoining sites.
- 9.3.11. The lack of adequate separation distance between the proposed structure when taken together with the overall physical height, scale through to mass would be highly visually overbearing, incongruous, and overly dominant when viewed from adjoining Church Road properties. With this built structure also resulting in a level of

overshadowing to the rear of these properties private amenity space and as internal illumination is proposed with the external membrane structure suggested being one that would not screen this internal light. The proposed structure would be highly visible throughout the extensive hours of opening of the applicant's commercial enterprise at this location throughout the year. Thus, adding to its visual apparentness when viewed from adjoining residential properties.

- 9.3.12. The Planning Authority sought to reach a balance between the proposed development and safeguarding the residential and visual amenities by way of Condition No. 2 in their notification to grant permission.
- 9.3.13. Under this condition they required a reduction in scale of the proposed structure to cover 3 courts only. In this regard, the easternmost court was omitted, a minimum setback of 15m from the eastern boundary and agreement of all external finishes was also required. The given reason for this condition was in part in the interest of residential amenity.
- 9.3.14. The applicant by way of their first party against this condition seek that the Board grant permission for the development with this condition omitted. They do not accept that this development as proposed, albeit its proximity to residential properties adjoining its eastern boundary, would give rise to any residential and/or visual amenity impact.
- 9.3.15. Given the sensitivity of the adjoining residential developments to change, having regard to the planning history of the site to the current nature, scale, and extent of development at the site, regard should be had to the transitional character of the site. With Section 11.4 of the Development Plan clearly setting out that abrupt transitions in scale and use in the boundary areas of adjoining land uses should be avoided. It also sets out that in dealing with such developments that it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zone.
- 9.3.16. Against this context I consider that the setting back of the proposed permanent fixed cover structure 15m from the eastern boundary is appropriate and reasonable having regard to the protection afforded under the Development Plan to the more sensitive to change land use where two distinctly different land use exist beside one another.
- 9.3.17. Should this not be suitable to the applicant it would be appropriate that they revisit the positioning of this structure within the curtilage of their site. Ideally to a more central

location on this backland site and where consolidation of built structures could be achieved by way of a more comprehensive site appropriate and site sensitive redevelopment that would achieve better utilisation of the limited site area whilst minimising adverse amenity impact on its surrounding established residential neighbours.

9.3.18. I am not convinced that the documentation on file shows that the applicant has fully assessed alternative locations within the site and had adequate regard to ensuring no adverse diminishment of residential amenity would arise from this component of the proposed development.

9.3.19. Further, I am not satisfied that the Visual Impact Assessment provides a satisfactory and accurate representation of the proposed development in its context.

9.3.20. Based on the lack of adequate lateral separation distance of the proposed proprietary fixed cover structure/membrane system to permanently cover four number tennis courts from the residential properties on the eastern boundary of the site. Alongside having regard to the overall built form, height, scale, mass, and its internal illumination with the potential for visual overspill. I consider that the proposed development in the absence of Condition No. 2 would have a significant material negative visual amenity impact on residential properties in its vicinity, in particular No.s 6 to 10 Church Road, in a manner that would be contrary to the proper planning and sustainable development of the area. I am therefore of the view that Board should it be minded to grant permission should include Condition No. 2 in the interest of achieving a balance between recreational amenity improvements at this established recreational facility as part of the safeguards to protect residential amenity of adjoining properties. I also consider it appropriate that a condition be imposed that requires visual improvements to the eastern elevation of the structure to reduce its visual impact incongruity and apparentness when viewed from adjoining properties.

9.3.21. *Overshadowing:* In relation to overshadowing I consider that the proposed development, subject to any grant of permission by the Board, including the requirements set out under Condition No. 2 of the Planning Authority's decision notification. Alongside having regard to the shadow analysis provided; the position and the overall built form of the proposed structure as reduced to accommodate three tennis courts as opposed to two with the easternmost court being omitted; the

orientation of the site; the relationship of the proposed structure relative to residential properties; including their rear elevation and rear private amenity space provision; having regard to other natural and man-made features, that no undue overshadowing would arise.

- 9.3.22. *Noise:* I note that this application is accompanied by an Environmental Noise Assessment which factored in a precaution for the assessment being carried out during Covid 19. This report concludes no adverse impacts would arise and sets out that noise levels predicted for the enclosures with the sides removed (open sides) would be higher than when closed.
- 9.3.23. In reaching this conclusion it indicates that the noise levels predicted across the majority of the adjacent gardens from the tennis activities would range between 41 and 44dB L_{evening} (19:00 to 23:00).
- 9.3.24. This is indicated as the worse-case scenario based on the L_{AFMAX} noise modelling.
- 9.3.25. When regard is has to BS4212, in relation to small impulsivity penalty is applicable in this type of scenario. With this being +3dB.
- 9.3.26. When this is factored in the predicted noise would be up to 47dB $L_{\text{AREVENING}}$. It sets out that it is unlikely that the proposed tennis courts enclosure will cause an adverse noise impact on adjacent noise sensitive locations.
- 9.3.27. I note that no revised assessment was carried out to have regard to the implications of Condition No. 2 of the Planning Authority's notification to grant planning permission. I am also cognisant that the planning history of the site restricts the levels of noise that can arise from the permitted activities thereon and the applicant's further information response omitted the internal seating area from inside the proposed structure. In addition, I am of the view that the setting back of the proposed cover structure has the potential to lessen the level of noise nuisance that could potentially arise from the proposed development.
- 9.3.28. In general, the proposed development should not give rise to any additional noise over and above that currently experienced within the tennis club.
- 9.3.29. Notwithstanding, the structure would facilitate tennis play during inclement weather during its hours of operation which will give rise to a noise source which may otherwise not be present. The main source of when the louvres are open, the lack of any noise

insulation in the materials used to build the envelope of the cover structure, any associated plant through to the use of any music or other sources of that would amplify noise within this structure.

9.3.30. The documentation provided by the application does not set out any robust mitigation measures so as to ameliorate the noise. Nor does it provide any mitigation measures to abate tonal noises through vibrations. Though the setting back of the structure as said should give rise to some abatement of these potential nuisances.

9.3.31. Notwithstanding, a condition which reiterates the noise controls and other similar associated nuisances placed on the operations of this recreational facility by way of previous grants of permission should be included in conditions if the development is looked upon favourably by the Board.

9.3.32. Light Overspill: Should the Board be minded to grant permission for the proposed development subject to the requirements set out under Condition No. 2 of the Planning Authority's notification to grant planning permission I consider that this would significantly mitigate any adverse impact on residential amenities by way of additional light overspill. In particular for the closest residential properties to the east of the proposed development that address Church Road. I also consider subject to the applicant ensuring that the internal illumination of the proposed fixed cover structure is designed to ensure no undue light overspill. And that if any lighting of the exterior of this structure is proposed that this should be subject to prior agreement with the Planning Authority should the Board be minded to grant permission as a precaution. This is reasonable on the basis of protection of residential amenities.

9.3.33. Moreover, the removal of outdoor lighting from the tennis courts to facilitate this development has the potential to give rise to some improvement to the environment of adjoining residential properties by way of reducing the level of lighting to the rear of their premises which would appear to be exposed to a significant level of lighting, particularly floodlighting for evening and night-time use of this facilities outdoor tennis courts through to practice walls.

9.3.34. Intensification: I do not accept the applicant's arguments that this development would not give rise to any intensification of use if permitted. Given that this development whether permitted as a four or three court permanent structure would effectively

eliminate outdoor tennis play. With the covered courts being useable more frequently than an outdoor court would given light and weather conditions which hamper play.

- 9.3.35. **Depreciation of Property Value:** I do not consider this concern unreasonable in the case of the four-court structure given this structure close proximity to a number of Church Road properties, the structures built form, the nature of its use, the operational hours of the club and the like. However, there is no professional assessment of this provided by a suitably qualified professional. The setting back of the proposed structure by 15m from its eastern boundary and the reduction of the structures size so that covers three courts with no internal raised seating area would as said, result in a more appropriate balance between this recreational facilities operations and its context within a residential setting. Thus, the potential for depreciation of property value is significantly reduced. I cannot however determine however in the absence of expert assessment on this matter that either option would be a realistic outcome.

9.4. **Other Matters Arising**

- 9.4.1. **Landscaping:** The appellant proposes two additional trees to be planted by way of their appeal submission to the Board and the provision of a green wall on the eastern elevation as part of a reworked elevational treatment in order to lessen the visual apparentness of the proposed development alongside provide additional levels of screening. I consider that these two suggested amendments should be incorporated into any grant of permission by the Board in the interests of protecting and improving the amenities of the area.
- 9.4.2. **Floodlighting:** I consider that the conditions attached to the Planning Authority's notification to grant permission that relate to lighting and floodlighting reasonable given the proliferation of lighting and floodlights at the site. And given that the site is bound by residential development. Additional lighting and/or amendments to the lighting at the site has the potential to give rise to additional nuisance that has the potential to diminish residential amenity of properties. I therefore recommend that the Board include Condition No.s 3 and 4 of the Planning Authority's notification decision as part of any grant of permission.

9.5. **Appropriate Assessment**

- 9.5.1. The closest Natura 2000 site that could potentially be impacted by the proposed development are North Bull Island SPA (Site code: 004006) which is situated c92.5m

to the south of the site at its nearest point; North Dublin Bay SAC (Site Code: 000206), which is situated c100m to the south of the site at its nearest point; and, Baldoyle Bay SAC & SPA (Site code: 000199 and 004016 respectively) are situated c360m to the north of the site at their nearest point.

- 9.5.2. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the brownfield and serviced nature of the site; the nature, scale, and extent of the proposed development; the separation distances involved to adjoining Natura 2000 sites and the nature of the landscape in between. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

10.0 Recommendation

- 10.1. I recommend that planning permission be **granted**.

11.0 Reasons and Considerations

- 11.1. Having regard to the fact the proposed development is an extension to established facilities within an existing sports club, and is therefore consistent with land use zoning policy under the Fingal Development Plan, 2017-2023, and having regard to the acceptable design and scale of the proposed development in the context of visual amenity, residential amenity and traffic safety and convenience, and subject to the following conditions, the proposed development would be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars submitted on the 7th day of October, 2020, and as amended by the further plans submitted on the 8th day of June, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree

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

Reason: In the interest of clarity.

2. Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority, revised plans, and elevations at a scale of 1:100 and site layout plan at scale 1:200 to demonstrate the following amendments:
 - (a) Reduction in the scale of the development to cover 3 courts only (excluding the easternmost court).
 - (b) Ensure a minimum setback of 15m to the eastern boundary.
 - (c) Revised eastern elevation as submitted to the Board as part of the appeal submission dated 29th day of June, 2021.
 - (d) Revised landscaping scheme along the eastern boundary.
 - (e) Details of all external finishes, including manufactures brochures, pictures etc.

Reason: In the interest of residential amenity and the proper planning and sustainable development of the area.

3. Prior to the commencement of the development the developer shall submit for the written approval of the Planning Authority and Public Lighting Section of Fingal County Council, a plan detailing acceptable lux levels on the site, as they relate to this development.

Reason: In the interest of the proper planning and sustainable development of the area.

4. The developer shall comply with any future requirement of the Council in relation to adjusting the floodlight aiming or fitting appropriate additional louvres to deal

with remaining glare issues that may arise for residents/road-users but may only become apparent when the installation is commissioned.

Reason: In the interest of the proper planning and sustainable development of the area.

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

Reason: In the interest of public health.

6. The noise level shall not exceed 55 dB(A) rated sound level (i.e., corrected sound level for a tonal or impulsive component at any point along the northern boundary of the site between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Measures shall include details regarding soundproofing and measures to reduce plant equipment noise levels.

Reason: To protect the amenities of property in the vicinity of the site.

7. No music or other amplified sound shall be broadcast externally from the proposed structure.

Reason: To protect the amenities of the area.

8. No plant equipment shall be located on the elevations of the cover structure or on the roof profile of the proposed development.

Reason: In the interests of orderly development.

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 hours of working, noise management measures, protection of the public roads and public footpaths, and off-site disposal of construction/demolition waste.

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

10. Site development and building works shall be carried out only between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 07.00 to 13.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

11. a) All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant's/developers own expense.

b) The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of Dun Laoghaire Rathdown County Council or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.

Reason: To protect the amenities of the area.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme

made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Patricia-Marie Young
Planning Inspector

21st day of February, 2022.