



An
Bord
Pleanála

Inspector's Report ABP 312029-21

Development	Demolition of swimming pool and the construction of 6 dwellings.
Location	St. Vincent's CBS, Finglas Road, Glasnevin, Dublin 11
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2979/21
Applicant(s)	Concept Fusion Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party v. Grant
Appellant(s)	Tower View Cottages Resident Group
Observer(s)	None
Date of Site Inspection	24 th June 2022
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 2,449m² and is located on the southern side of the Finglas Road, adjacent to St. Vincent's CBS School in Glasnevin, Dublin 11. The main portion of the site is located at the southern end of the cul-de-sac road serving the existing single-storey terraced dwellings at Tower View Cottages, which back onto the western boundary of the school site. The site is also located to the rear of the existing single-storey residential accommodation for older persons at Clareville Court, which adjoins the north-western site boundary. To the east, the site is adjoined by the school buildings and playground of St. Vincent's primary school. To the south the site is bounded by playing pitches, beyond which is the Dublin-Sligo railway line and the Royal Canal.
- 1.2. Included in the site are two long, narrow sections running from north to south. The western section runs along the Tower View road and through an open space which adjoins Finglas Road. The eastern section runs along the western boundary of the school site and onto Finglas Road. The site accommodates a vacant swimming pool building which forms part of the St. Vincent's CBS site. The building is part single-storey and part double height and has a distinctive scalloped roof profile.

2.0 Proposed Development

- 2.1. In summary, the proposed development will consist of the following:
 - demolition of the existing St. Vincent's Swimming Pool (derelict single-storey detached building c. 757 m²)
 - construction of 6 no. dwellings, comprising 1 no. 2-storey 5-bedroom dwelling, 2 no. 2-storey 4-bedroom dwellings and 1 no. 2.5 storey 5-bedroom dwelling in a single terraced block; and 2 no. semi-detached dwellings comprising 1 no. 4-bedroom dwelling and 1 no. 3-bedroom dwelling
 - all associated on and off-site development works, car parking, boundary treatment works, hard and soft landscaping
 - removal of existing c. 2 m high boundary wall to create direct vehicular and pedestrian access by the extension of the existing Tower View Cottages cul-de-sac

- provision of a temporary construction access road (c. 90 m long) through the adjoining St. Vincent's school lands with vehicular access onto the Finglas Road
- temporary removal (and future reinstatement) of existing single-storey storage building c. 57 m² to facilitate the temporary access.

2.2. It is proposed to lay a new 150mm diameter foul sewer along Tower View road and an adjoining open space to connect to the existing foul sewer. To cater for surface water, a combination of individual soakaways and permeable surfaces will be provided in accordance with SUDs best practice. It is proposed to connect to the existing 100mm diameter watermain along Finglas Road via the existing connections serving Tower View cottages.

2.3. In addition to the normal planning application drawings and information, the application is supported by the following:

- AA Screening Report and Natura Impact Statement
- Housing Quality Assessment Schedule
- Bat and nesting bird assessment
- Masterplan for the site
- Construction Management Plan
- Demolition and Waste Management Plan
- Site Specific Flood Risk Assessment
- Environmental Services Report
- Arboricultural Assessment
- Daylight and Sunlight Assessment
- Letters of support from the adjoining St Vincent's schools
- Responses to further Information requests in the previous application.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission (1st November 2021) subject to 20 no. conditions issued on 3rd November 2021. Notable conditions can be summarised as follows:

Condition no. 4 requires a financial contribution of €4,000 per unit to be paid in respect in public open space.

Condition no. 6 requires that site clearance works shall avoid disturbance of wintering migratory birds during September – March and shall be subject to nesting inspection from March to September.

Condition no. 7 requires the site to be resurveyed for the presence of bats prior to the commencement of site clearance works; a suitably qualified ecologist to verify that the Lighting Plan for the proposed development demonstrates concordance with the recommended mitigation measures in the bat and nesting birds survey; and the provision of bat boxes.

Condition no. 17 requires the north hip of the terrace to be constructed as shown in the Daylight and Sunlight study submitted as further information.

Condition no. 18 requires internal layout changes to House type B to provide at least 5m² of designated storage space.

Condition no. 19 requires provision to be made for the storage of, and access to, the refuse and recycling bins of Tower View Cottages during and after construction.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. Following the initial assessment of the planning application, Dublin City Council's Planning Officer recommended that Further Information was required in relation to:

(1) Daylight and sunlight impacts on surrounding properties.

(2) Clarification of the relationship between the application and another live appeal case (ABP Ref. 309436-21) and implications in respect on section 37(5) of the Planning and Development Act 2000 (as amended).

3.2.2. A response to the Request for Further Information was submitted by the applicant on 7th of September 2021. The response included a Daylight and Sunlight Assessment in response to item 1 of the Further Information Request. Regarding Item 2, the response contended that the current application was different in that it involved an increase in the number of units. It contended that a decision can be made on the application notwithstanding the appeal being processed by the Board at the time.

3.2.3. The assessment outlined in the Planning Officer's final report of 1st November 2021 can be summarised as follows:

- The Z15 zoning allows residential development where it can be demonstrated that the primary uses will be secured as a whole. This has already been approved in the previous DCC decision to grant permission for 5 houses on the site (P.A. Reg. Ref 2395/20) and it is not intended to reassess this principle.
- The proposal takes cognisance of the amendments required under the conditions of the previous DCC decision and there are no objections in relation to design and visual impact.
- With the exception of storage space for house type B, which could be addressed by condition, the proposed houses comply with relevant standards for internal and external private space.
- No communal space is proposed, which is acceptable given the small number of units proposed.
- No significant overlooking or overbearing impacts are identified.
- The Daylight and Sunlight Assessment submitted as further information shows that any impacts on surrounding properties will be acceptable. This appears to be achieved by revising the angle of the roof hip on the terrace and this should be included as a condition of permission.
- The lower quantum of car parking proposed is acceptable given the location of the site and the availability of public transport.

- The extension of the existing cul-de-sac road is considered acceptable when balanced against the need to provide new housing in built-up areas.
- The payment of a financial contribution in lieu of public open space requirements would be acceptable.
- Proposals for tree protection are considered acceptable.
- The application reports indicate that no protected bird species are present. Bats are present but no roosts were found, and mitigation measures are included, which should be included as a condition of permission.
- The playing fields to the south are used by Brent Geese and the submitted NIS notes that without mitigation measures the construction phase is likely to cause significant disturbance. Mitigation measures are included regarding construction timing, screening, and methodology, and these should be included as conditions of permission. The 'Appropriate Assessment' section of the report concludes that significant effects are not likely to arise, either alone or in combination with other plans and projects, that will result in significant effects to any Natura 2000 sites.
- It is accepted that the application is different to the previous application and that there is no confusion in this regard. As such, the planning authority is not prohibited from assessing it under section 37(5) of the Act.
- A grant of permission is recommended, and this forms the basis of the DCC decision.

3.2.4. **Other Technical Reports**

Engineering Department Drainage Division: No objection subject to conditions.

Transportation Planning Division: No objection subject to conditions.

Air Quality Monitoring and Noise Control Section: No objection subject to adherence with the DCC Demolition and Construction Good Practice Guide.

3.3. **Prescribed Bodies**

TII: No objections subject to compliance with Section 49 Development Contribution Scheme (LUAS Cross City).

3.4. **Third Party Observations**

One submission was received on behalf of Tower View Residents Group, the appellants in this case. The issues raised are covered in the grounds of appeal in section 6.0 of this report.

4.0 **Planning History**

On the Appeal Site

P.A. Reg. Ref. 2395/20; ABP Ref. 309436-21: Permission granted (17/12/21) for the demolition of swimming pool and construction of 5 dwellings.

Enforcement File E0314/21: The DCC Planner's Report states that this file was opened in May 2021 after works relating to P.A. Reg. Ref. 2395/20 commenced prior to the issue of a final grant of permission.

On the overall School Site:

Planning Authority Reg. Ref. 2819/15; ABP Ref. PL29N.245488: Planning permission granted on 8th January 2016 for development comprising the demolition of an existing single-storey annex to the rear of the existing school building and the partial demolition of an existing single-storey maintenance outbuilding, (b) construction of a part 2-storey, part single-storey extension to the rear of the existing school building comprising of staff room, construction/woodwork room and associated space at ground floor, library, art/craft room and associated spaces at first floor and all associated site development works at St. Vincent's CBS, Glasnevin, Dublin 11.

5.0 **Policy and Context**

5.1. **Dublin City Development Plan 2016-2022**

Zoning

- 5.1.1. The site is subject to land use zoning 'Z15' (Institutional and Community) which has the objective "to protect and provide for institutional and community uses". Residential uses are open for consideration under this land use zoning.

- 5.1.2. Section 14.8.14 of the development plan states that any development proposal on such lands should consider their potential to contribute to the development of a strategic green network and to the delivery of housing in the city. Development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development, the Development Plan standards for residential accommodation, and the avoidance of abrupt transitions in scale.
- 5.1.3. Where there is an existing institutional/community use, any proposed development on part of the landholding shall be required to demonstrate: (1) how the proposal is in accordance with and assists in securing the aims of the zoning objective; (2) how it secures the retention of the main institutional and community uses on the lands, including space for any necessary expansion of such uses; (3) how it secures the retention of existing functional open space; and, (4) the manner in which the nature and scale of the proposal integrates with the surrounding lands. A masterplan may assist in demonstrating how these requirements may be satisfied.

Housing Policy

- 5.1.4. The housing policies of Dublin City Council are set out in Chapter 5 of the development plan. The policies which are directly relevant to this appeal case are identified below.

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

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

Policy QH21: To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.

Policy QH22: To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

Infill Housing

5.1.5. The development standards concerning infill housing are set out in section 16.10.10 of the development plan. In general, infill housing should comply with all relevant development plan standards for residential development. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed. Infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- Comply with the appropriate minimum habitable room sizes.
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

Private Open Space

5.1.6. A minimum standard of 10 m² of private open space per bedspace will normally be applied, with up to 60-70 m² of rear garden area sufficient for houses in the city.

Public Open Space

5.1.7. For Z15 zoned lands, a requirement for 25% accessible open space and/or provision of community facilities is required. Where the site is too small or inappropriate to fulfil a useful purpose, a financial contribution in lieu will be required.

Car Parking

5.1.8. The site is located in Parking Area 2 of the city, within which a maximum standard of 1 no. car parking space per dwelling applies.

5.2. Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

5.2.1. These Guidelines set out target gross floor areas for a range of different dwelling types. Those which are relevant to this case are identified below. No target gross floor area is identified for 5-bedroom/9-person dwellings.

House Type Bedroom (B) Person (P) Storeys (S)	Target GFA (m ²)	Min. main living room (m ²)	Aggregate living area (m ²)	Aggregate bedroom area (m ²)	Storage (m ²)
4-B/7-P/2-S	110	15	40	43	6
3-B/5-P/2-S	92	13	34	32	5

5.2.2. The Guidelines also recommend the following:

- A main bedroom area of at least 13 m² in dwelling for 3+ persons
- Double bedroom of at least 11.4 m² (min. width 2.8 m)
- A single bedroom of at least 7.1 m² (min. width 2.1 m)
- Min. obstructed living room width of 3.8 m for 3-bedroom dwellings.

5.3. National Planning Framework (NPF)

5.3.1. The 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.

5.4. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)

5.4.1. This sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

5.5. Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities, May 2021

5.5.1. These Guidelines identify planning conditions to which planning authorities and the Board must have regard in granting planning permission for new residential development including housing and/or duplex units. This is intended to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors in a manner that displaces individual purchasers and/or social and affordable housing, including cost rental housing. The application of these conditions applies to all housing developments that include 5 or more houses and/or duplex units.

5.6. Natural Heritage Designations

5.6.1. Surface water and wastewater pathways ultimately lead to Dublin Bay, which is distanced approx. 3 km to the east of the subject site. The nearest parts of Dublin Bay include the following Natura 2000 site designations: South Dublin Bay and River Tolka Estuary SPA (site code: 4024), South Dublin Bay SAC (site code: 0210), North Dublin Bay SAC (site code: 0206) and North Bull Island SPA (site code: 4006).

5.6.2. The proposed development will be supplied with drinking water which originates from the Poulaphouca Reservoir SPA (site code: 004063) which is located c. 25 km to the south-west of the subject site.

5.7. EIA Screening

- 5.7.1. An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
 - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
- 5.7.2. It is proposed to construct 6 no. dwelling houses which is significantly below the 500-unit threshold noted above. The site has an area of 0.24 ha and is located within an existing built-up area but not in a business district. The site is therefore well below the applicable threshold of 10 ha. The introduction of this residential scheme would have no adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to adversely affect the integrity of any European site. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be minimal.
- 5.7.3. I conclude that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment, and that on preliminary examination, an environmental impact assessment report or screening determination in relation to EIA was not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal has been lodged by Esther Eiffe, on behalf of Tower View Cottages Residents Group. The grounds of the appeal can be summarised as follows:

- Due to existing parking requirements and the narrow width of the access road, only one car can pass in either direction. Movements will be further restricted by the additional traffic associated with the proposed development.
- This application would never be considered only for the addition of the turning circle at the end of the cul-de-sac.
- There could be between 15 and 20 cars belonging to the proposed dwellings, together with additional visitor parking demands. The proposal for one parking space per dwelling is unacceptable and will lead to additional parking demands outside the houses of existing residents.
- Construction traffic using the route to the rear of the cottages may impact on the foundations of these properties and there are concerns that construction vehicles will also use the Tower View road access.
- The upper half of Tower View road will be opened to facilitate a large pipe and this will cause huge disruption to residents for a considerable period.
- The development will impact greatly on the quaint, undisturbed ambience that existing residents enjoy.
- There are alternative access routes via St Philomena's Road or Claremont Lawns, which would not disturb Tower View residents and would facilitate additional parking provision.
- Additional traffic on the road is also caused by school drop-off/pick-up and the odd 'park and ride' situation, which adds to the unsuitability of the situation.

6.2. Planning Authority Response

None.

6.3. Applicant Response

6.3.1. A first-party response to the appeal was received from Hendrik W van der Kamp on behalf of the applicant on 22nd December 2021 which can be summarised as follows:

- The DCC roads department has no objection to the proposal. A direct line of vision exists between the turning circle and the Finglas Road junction and it is unlikely that cars will have to back up to facilitate oncoming traffic.
- The proposal meets the maximum 1 space per dwelling standard in the Development Plan. It is policy to restrict parking provision in central areas like this with good transport links.
- A Construction Management Plan has been included which includes separate access to the rear of the Tower View dwellings. The final details must be agreed and enforced by the planning authority.
- Both foul and surface water pipes will be constructed in public lands. The disruption will be controlled by condition, would be a normal occurrence, and will have minimal impact on the existing dwellings.
- The suggested alternative routes are not available to the applicant as they require access through third party lands and would also impact on the use of the adjoining school site.
- It is requested that An Bord Pleanála uphold the decision of Dublin City Council as per the Board's recent decision for a similar development.

6.4. Observations

None.

7.0 Assessment

7.1. Introduction

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 for consideration in this case are as follows:

- Principle of the Development
- Traffic
- Impacts on surrounding properties
- The standard of residential amenity proposed
- Design and visual impact
- Ecology and Biodiversity

7.2. Principle of the Development

7.2.1. The principle of residential development on the site has effectively been established through the Board's recent decision to grant permission under ABP Ref. 309436-21. I note that residential land uses are open for consideration under the Z15 land use zoning objective which applies to the site. The development plan requires that where there is an existing institutional/community use, several criteria must be satisfied when development is proposed on part of the landholding. This matter was comprehensively addressed by the applicant in the previous application, details of which have been re-submitted with the current application.

7.2.2. The applicant has confirmed that the adjoining school buildings are in the ownership of the Edmund Rice School Trust, which has taken ownership of all Christian Brothers schools in the country. However, the former swimming pool site has remained in the ownership of the Christian Brothers. Therefore, it is not within the direct control of school management and is entirely independent from the existing community/institutional uses on the Z15 zoned lands. The school enrolment figures are stated to be below the capacity of both facilities and as such, any future expansion is likely to be modest. A drawing has been provided to demonstrate how

an additional classroom could be provided to each school building if required. It has also been confirmed that the existing use of the schools and sports fields will be retained and will be unaffected by the current proposal.

- 7.2.3. The proposed 6 houses on a stated (net) site area of 0.16 hectares would result in a density of c. 37.5 units per hectare. This would obviously be an increase on the 5 dwellings previously permitted and I am satisfied that the proposal would be consistent with local and national policies aimed at increasing density within built-up and serviced areas.
- 7.2.4. Having regard to the foregoing, I am satisfied that the applicant has met the requirements for the development of this Z15 zoned site for residential purposes, as set out in section 14.8.14 of the development plan. Therefore, consistent with the Board's previous decision, I have no objection to the principle of the proposed development.

7.3. Traffic

- 7.3.1. I note that construction traffic will enter the site through the proposed temporary construction access route within the grounds of St. Vincent's CBS. As such, this traffic will not utilise the public road adjoining Tower View Cottages. The applicant's Construction Management Plan confirms that no on-street parking will be permitted by site operatives and visitors, who will be directed to park within the site. A traffic management plan will be prepared and implemented to ensure continued safe access and egress to/from the car parking area during the construction phase.
- 7.3.2. I note that the appeal raises concern that construction traffic would use the Tower View road. However, this is clearly contrary to the stated intentions of the applicant and there is no reasonable basis to conclude that this would occur. The applicant will be required to finalise construction traffic management proposals with the planning authority as a condition of any permission and this will be a matter for enforcement by the planning authority. I also note the appeal concerns regarding potential structural damage as a result of construction traffic. However, the proposed construction access route would maintain separation from the rear boundaries of the Tower View properties and given the limited scale of the development I do not consider it likely that there would be any structural damage. In any case, this would be a civil matter for resolution between the relevant parties.

- 7.3.3. In considering the operational traffic movements which would arise on foot of the proposed development, I note that 1 to 2 no. in-curtilage parking spaces are proposed for each dwelling. This exceeds the maximum Development Plan standard and section 16.38 of the Plan states that this should only occur in exceptional cases e.g. boundary areas or regeneration areas. Having regard to the central and accessible location of the site, I do not consider that exceptional circumstances apply. Parking should be limited to 1 space per dwelling, and this can be satisfactorily agreed through a condition of any permission.
- 7.3.4. The existing hammerhead within the cul-de-sac at Tower View Cottages will remain, while a turning circle is proposed at the end of the extended cul-de-sac. There is no indication that there would be any significant changes to the current arrangements for bin storage or turning movements within the existing hammerhead.
- 7.3.5. I note the appeal concerns regarding the capacity of the road and particularly the lack of width to accommodate 2-way traffic. However, I consider that the road is relatively short and there is good visibility to identify any potential conflict of movement along the route. The existing hammerhead would also provide an effective 'passing bay' for any traffic exiting the proposed development, which would help to minimise any obstruction to traffic.
- 7.3.6. In my opinion, the additional traffic movements which would arise on foot of this small-scale, infill residential scheme would have no significant impact on the operation of the existing road network. I note that the Transportation Planning Division of Dublin City Council had no objection to the proposed development subject to conditions, including the requirement that all roads to be taken-in-charge comply with the Construction Standards for Roads and Street Works and the Code of Practice. Having regard to the foregoing, I am satisfied that no unacceptable vehicular traffic impacts would arise during the construction or operational phases of the proposed development.
- 7.3.7. In terms of pedestrian safety, I note that an existing footpath extends along the length of the public road adjacent to Tower View Cottages. No changes are proposed to this footpath on foot of the proposed development. I note that the proposed dwellings will be served by a new footpath which will extend along both sides of the extended cul-de-sac. I am satisfied that the proposed pedestrian access

arrangements would be acceptable, having regard to the limited number of existing and proposed dwellings.

- 7.3.8. I note that the appeal contains suggestions about alternative access routes. The applicant has outlined that these are not available as they would require third-party consent and/or would interfere with the operation of the adjoining school lands. Ultimately, I consider that, consistent with the Board's previous decision, the proposed access arrangements would be acceptable in terms of the safety and convenience of vehicular traffic and the movement of pedestrians and other vulnerable road users. Accordingly, I have no objection in relation to the traffic impacts of the proposed development.

7.4. Impacts on surrounding properties

Construction disturbance

- 7.4.1. In considering the potential for disturbance impacts to arise to the residents of Tower View Cottages on foot of the proposed development, it is acknowledged that some level of disturbance will arise. However, the subject site and adjoining lands are zoned lands located in an inner suburban area where temporary construction disturbance, including working such as the laying of the proposed foul water pipe, is common and should be accommodated. In this regard I note that the Construction Management Plan identifies measures to avoid nuisance impacts arising to neighbouring residents. The final details of this plan and a construction traffic management plan will be subject to agreement with the Planning Authority prior to commencement of development, and as such, I am satisfied that these matters can be satisfactorily addressed by way of planning condition.

Daylight and Sunlight

- 7.4.2. The Development Plan highlights the value of daylight and sunlight and states that development 'shall be guided by the principles of' the BRE guide 'Site Layout Planning for Daylight and Sunlight'. At the outset I would highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that 'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'. It notes that other factors that influence layout include considerations of

privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

- 7.4.3. The application included the submission of a 'Daylight & Sunlight Analysis' report as further information, prepared by the '3D Design Bureau'. The report states that all target values used in the study were obtained with reference to the BRE guide 'Site Layout Planning for Daylight and Sunlight'. The assessment contains a 'light from the sky' (VSC) and sunlight (APSH and WPSH) analysis for the windows of surrounding properties. It also includes a sunlight analysis of impacts of the open spaces/gardens of neighbouring properties.
- 7.4.4. I have considered the report submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings.
- 7.4.5. The BRE guide acknowledges that, in designing new development, it is important to safeguard the daylight to nearby buildings and I note that the Development Plan also outlines the need to avoid excessive impacts on existing properties. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight.
- 7.4.6. Consistent with the planning authority request, the applicant's VSC assessment covers the closet dwellings (no.'s 69-71 Clareville Court) and a total of 6 windows. The results state that the impact on all windows will be 'imperceptible' i.e. they would retain a VSC of 27% or 0.8 times their former value in compliance with BRE recommendations.
- 7.4.7. The applicant has included a sunlight analysis for the windows in 69-71 Clareville Court using measurements of annual probable sunlight hours (APSH) and annual

probable sunlight hours for the winter period (WPSH). The BRE guide states that living room windows facing within 90° of due south may be adversely affected if the centre of the window receives less than 25% of APSH or less than 5% of WPSH; and receives less than 0.8 times its former sunlight hours during either period; and has a reduction in sunlight received over the whole year greater than 4% of APSH.

- 7.4.8. The assessment finds that all of the windows would retain the 25% APSH standard and the WPSH of 4%, and that the effect would therefore be 'imperceptible'. I am satisfied that the impacts would be acceptable and would comply with the relevant BRE recommendations.
- 7.4.9. The applicant has carried out a shadow/sunlight assessment for the gardens of surrounding properties at 69-71 Clareville Court and south of 15 Tower View Cottages. The BRE guide recommends that for it to appear adequately sunlit throughout the year, at least half of the space should receive at least 2 hours of sunshine on 21st March. If as a result of new development this cannot be met, and the area which can comply is less than 0.8 times its former value, then loss of sunlight is likely to be noticeable.
- 7.4.10. The applicant's analysis shows that more than 50% of space in all gardens, except No. 69 Clareville Court, would receive at least 2 hours of sunshine on 21st March. However, the results for no. 69 would be 0.99 times their former value and I would therefore concur that the impact would be 'imperceptible'. Accordingly, I am satisfied that any loss of sunlight to these spaces would be acceptable in accordance with BRE guidance.
- 7.4.11. In conclusion, I again highlight that the mandatory application of the BRE standards is not required in this case by the Development Plan or by Section 28 Ministerial guidelines. Consistent with that approach, the BRE guide itself highlights further the need for flexible interpretation in the context of many other design factors. I note that the model used in the applicant's assessment appears to show a lower angled hipped roof at the northern end of the terrace (no.'s 3-6). I do not consider that any such discrepancy is likely to significantly affect the results of the analysis, particularly given the stated need for flexibility in the application of BRE standards. Therefore, I am satisfied that this matter can be clarified through a suitable condition.

7.4.12. I am satisfied that the applicant has carried out an assessment of impacts on neighbouring properties and that it has been competently prepared in accordance with the BRE guidance and methodology. The proposed development would be acceptable in accordance with BRE guidance and would not excessively detract from the amenities of surrounding properties by reason of daylight/sunlight impacts.

Overlooking

7.4.13. The design of house numbers 1-2 has ensured that the first-floor windows facing Clareville Court are generally serving bathroom/circulation spaces. The only bedroom window proposed would be provided at a high level to obscure any visibility. Similarly, the north-facing windows in the larger terrace (no.'s 3-6) would serve only bathroom/en-suite spaces. Accordingly, I am satisfied that the proposed development would not result in any unacceptable overlooking or privacy impacts for the surrounding dwellings.

7.4.14. Furthermore, having regard to the height and scale of the proposed development, together with its separation and orientation in relation to surrounding properties, I do not consider that the proposed development would result in any unacceptable overbearing impacts

Conclusion

7.4.15. Having regard to the foregoing, I do not consider that the proposed development would detract from the residential amenities of surrounding properties in any significant or unacceptable way. Accordingly, I have no objections in this regard.

7.5. Standard of residential amenity proposed

7.5.1. All the proposed units 3 & 4-bedroom units comfortably exceed the target floor areas for dwellings as set out in the Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). Although the Guidelines do not include target areas for 5-bedroom dwellings, I am satisfied that the proposed floor areas in this case (168.5m² and 190m²) are easily of adequate size. Subject to clarification of storage for house type B, I am also satisfied that the proposed houses contain adequate space in terms of individual/aggregate living areas, individual/aggregate bedroom areas, and storage space.

- 7.5.2. The proposed private garden spaces range in size from 62 – 91 m², and as such, comply with development plan standards which state that up to 60-70 m² is sufficient for houses in the city. Consistent with the previous permission for the site, I note that no public open space is proposed in this instance, which I consider to be reasonable based on the limited site size. The development plan and the Dublin City Council Development Contribution Scheme 2020-2023 allow for the payment of a financial contribution in lieu of public open spaces in such instances, and I note that a condition in this regard (No. 4) has been attached to the Planning Authority's Notification of the Decision to Grant Permission.
- 7.5.3. Under the previous application the Inspector's report outlined an opinion that the payment of a financial contribution in lieu of public open space would not be necessary having regard to the limited site size and the number of dwellings proposed. It was also noted that the existing playing pitches on the remaining Z15 zoned land bank would be retained. The Board's subsequent decision did not include a financial contribution specifically in relation to public open space and I do not propose to change this approach given that the same circumstances prevail.
- 7.5.4. In conclusion, I am satisfied that the proposed development would provide an acceptable level of residential amenity for the prospective occupants, both in terms of internal floorspace and external amenity space. Accordingly, I have no objections in this regard.

7.6. Design and Visual impact

- 7.6.1. Although the proposed development involves one additional house, the design and layout is similar to that previously permitted on the site. It is noted that the ridge height of the eastern terrace (no.'s 3-6) has been raised by 2+m and that the previously permitted detached house would be replaced with 2 no. semi-detached dwellings.
- 7.6.2. The site itself is quite concealed given its location off the Finglas Road and to the rear of existing development. Development in the surrounding area also exhibits a wide variety of scale and character. Tower View Cottages form an older terrace of single storey dwellings, while Clareville Court is a more modern development of single storey red-brick blocks. To the east of the site, the school complex comprises a range of modern buildings of much larger scale.

7.6.3. I acknowledge that the proposed development would be of greater height and scale than Clareville Court and Tower View Cottages. However, in the context of the larger school buildings I consider that the proposed development would provide a suitable transition and would facilitate a higher density and more efficient scheme on this brownfield site. The site is not prominent in the wider context and visual impacts would therefore be localised.

7.6.4. Having regard to the above, I consider that the proposed development is of an appropriate scale, design and layout. It can be accommodated on the site without detracting from the visual amenity or character of the area. Accordingly, I have no objections in this regard.

7.7. Ecology & Biodiversity

7.7.1. The application includes a Natura Impact Statement and the implications for Natura 2000 sites are dealt with separately in section 8.0 of this report.

7.7.2. An Arboricultural Assessment report was included with the application. It mainly addresses the potential impacts of the temporary construction access to the east of the site which runs along lines of trees on the western school boundary. Where construction works are proposed in close proximity to the existing trees, it proposes the use of a cellular confinement 'no dig' system to protect the underlying roots. Pruning of trees is also proposed to provide suitable clearance. The proposal will result in only minimal removal of dead / unstable growth and I consider that proposals in this regard are acceptable.

7.7.3. A Bat and Nesting Bird assessment has also been included. It concludes that no protected bird species are present within or on the swimming pool building to be demolished. No bat roosts were found but three species (Common Pipistrelle, Soprano Pipistrelle, Leisler's Bat) were found commuting and feeding, mostly along the edge of the pool building by the tree lines. It states that the building roof has fascia and felt with moderate roost potential. The report acknowledges the potential impacts as a result of presence during building demolition, loss of vegetation, and lighting increase. It recommends mitigation measures relating to construction methodology, construction timing, landscaping, lighting, and bat boxes. I am satisfied that these measures are acceptable and will ensure that there will be no unacceptable impacts on bats or birds as a result of the proposed development.

7.8. Other issues

- 7.8.1. I acknowledge the changes which have arisen to Part V of the Planning and Development Act, 2000 (as amended) by the Affordable Housing Act, 2021. Notwithstanding the foregoing, I note that a Social Housing Exemption Certificate is included on the appeal file (Decision Order P4082 applies) which was granted by DCC under section 97 of the 2000 Act. As per s. 97 (3) of the Act, where the planning authority grants a certificate, section 96 shall not apply to a grant of permission in respect of the development concerned. Accordingly, a Part V condition shall not apply in the event of a grant of permission.
- 7.8.2. The 'Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities' (May 2021) identify planning conditions to which planning authorities and the Board must have regard in granting planning permission for new residential development including housing and/or duplex units (5 or more units). This is intended to prevent the bulk-purchase for market rental purposes by commercial institutional investors. The proposed development includes 6 no. dwelling houses, and as such, I consider that a condition restricting the occupation of the units to individual purchasers should be attached if planning permission is granted by the Board.

8.0 Appropriate Assessment

8.1. Introduction

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment (AA)
- The Natura Impact Statement (NIS)
- Appropriate Assessment of implications of the proposed development on the integrity of relevant European sites.

8.2. Compliance with Article 6(3) of the Habitats Directive

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

8.3. Screening the need for Appropriate Assessment

Background

- 8.3.1. The application includes a 'Screening Report for Appropriate Assessment'. It has been prepared by Padraic Fogarty (MSc MIEMA) of Openfield Ecological Services. The Screening Report was prepared in line with current best practice guidance and identifies European Sites with potential pathways to the proposed development in order to establish the zone of influence of the proposal.
- 8.3.2. The Screening Report outlines that amenity grassland adjacent to the site is used by significant numbers of Light-bellied Brent Geese and the conservation objective set for this species for both North Bull Island SPA and the South Dublin Bay and River Tolka SPA aims for a stable or increasing long term population and no significant decrease in the numbers or range of areas used by waterbird species.
- 8.3.3. Due to the level of disturbance expected during the construction phase the Screening Report concludes that significant effects on North Bull Island SPA and the South Dublin Bay and River Tolka SPA cannot be ruled out and mitigation measures will be required to ensure that no negative impacts occur. The Screening Report concludes that a full Appropriate Assessment will be required, and a separate Natura Impact Statement is included with the application.

8.3.4. Having reviewed the documents and submissions on file, I am satisfied that the information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

Screening for AA – Test of likely significant effects

8.3.5. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

8.3.6. A detailed description of the development is outlined in section 2 of this report. In summary, the proposed development involves the demolition of the existing swimming pool building and the construction of 6 new dwellings, a temporary construction access, and all associated siteworks. The application site extends to 0.24 hectares and is described as consisting mainly of buildings and artificial surfaces. It is bounded on three sides by other urban development. To the south of the site is an open playing field of amenity grassland.

8.3.7. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the main issues considered for examination in terms of implications for likely significant effects on European sites are habitat loss/fragmentation; pollution via surface water and wastewater emissions; construction stage emissions/disturbance; disturbance within Natura 2000 sites; water supply impacts; and ex-situ impacts on Light-bellied Brent Geese.

Submissions and Observations

8.3.8. No submissions or observations were received in relation to impacts on Natura 2000 sites or the question of Appropriate Assessment.

European Sites

8.3.9. The subject site is not located within or directly adjacent to any Natura 2000 site, and as such, there is no potential for direct impacts to occur. There will be no habitat loss or fragmentations and the appeal site is adequately distanced from any Natura 2000 site to ensure that there will be no direct disturbance effects.

8.3.10. Surface water and wastewater pathways ultimately lead to Dublin Bay, which is subject to a number of designations including, South Dublin Bay and River Tolka Estuary SPA (site code: 004024), South Dublin Bay SAC (site code: 000210), North Dublin Bay SAC (site code: 000206) and North Bull Island SPA (site code: 004006). The distance to these sites is over 3km ‘as the crow flies’. Drinking water supply for this development will originate from Poulaphouca Reservoir SPA (site code: 004063), and as such, this site is also considered to fall within the zone of influence of the proposed development.

8.3.11. A summary of European Sites within the potential zone of influence and the identification of potential effects and is presented in the table below. I have added links to conservation objectives for each site, which I have taken into consideration in this Appropriate Assessment section.

European Site (Site Code)	Qualifying Interests (QIs) *Denotes a priority habitat	Distance	Connections (source, pathway, receptor) and effects
South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024)	Light-bellied Goose Branta (bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa tetanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Wetlands [A999] <u>Conservation objectives:</u> https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf	3.2km	Potential water quality impacts as a result of surface water and wastewater pathways to Dublin Bay. Potential ex-situ impacts associated with use of adjoining lands by Light-Bellied Brent Geese.

European Site (Site Code)	Qualifying Interests (QIs) *Denotes a priority habitat	Distance	Connections (source, pathway, receptor) and effects
North Bull Island SPA (Site Code: 004006)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999] <u>Conservation Objectives:</u> https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004006.pdf	6.3km	Potential water quality impacts as a result of surface water and wastewater pathways to Dublin Bay. Potential ex-situ impacts associated with use of adjoining lands by Light-Bellied Brent Geese.
South Dublin Bay SAC (site code: 000210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] <u>Conservation Objectives:</u> https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf	5.6km	Potential water quality impacts as a result of surface water and wastewater pathways to Dublin Bay.

European Site (Site Code)	Qualifying Interests (QIs) *Denotes a priority habitat	Distance	Connections (source, pathway, receptor) and effects
North Dublin Bay SAC (Site Code: 000206)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395] <u>Conservation Objectives:</u> https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf	6.3km	Potential water quality impacts as a result of surface water and wastewater pathways to Dublin Bay.
Poulaphouca Reservoir SPA (Site Code: 004063)	Greylag Goose (Anser anser) [A043] Lesser Black-backed Gull (Larus fuscus) [A183] <u>Conservation Objectives:</u> CO004063.pdf (npws.ie)	25km	Potential impacts on water / drainage regime as a result of water supply connection.

Identification of likely effects

- 8.3.12. The site is not located directly adjacent to any water course and there are no habitats which could be considered wetlands. There are no habitats which are examples of those listed in Annex II of the Habitats Directive. No alien invasive plant species are present.
- 8.3.13. Currently there is no attenuation of rain run-off and surface water is likely to percolate to ground. The proposed development will incorporate SuDS in

accordance with the Greater Dublin Strategic Drainage Study (GDSDS). I note that these are standard features for residential development not specifically included to mitigate against impacts on a European site. The pollution control measures to be undertaken during both the construction and operational phases are standard practices for urban sites and would be required for a development on any urban site to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. The SuDs measures will ensure that there will be no significant changes to the quantity or quality of surface water run-off.

- 8.3.14. Freshwater supply will be via mains supply which originates in the Poulaphouca Reservoir. However, having regard to the nature of the qualifying interests for the Poulaphouca Reservoir SPA (site code: 004063), the nature and limited scale of the proposed development, and the significant separation distances which arise, I consider that significant effects are not likely, and this site can be screened out from the need for further assessment
- 8.3.15. Foul effluent will be discharged to the wastewater treatment plant (WWTP) at Ringsend and will ultimately discharge to Dublin Bay. There is potential for a distant hydrological connection between the subject site and the sites in Dublin Bay due to the wastewater pathway. However, having regard to the limited scale of the proposed development, the foul discharge from the site will be negligible in the context of the overall licenced discharge at Ringsend WWTP.
- 8.3.16. While the applicant's screening report notes that emissions from this plant are currently not in compliance with the Urban Wastewater Treatment Directive, I further note that the pollutant content of discharges to Dublin Bay is likely to decrease in the longer term due to the permission to upgrade the WWTP which was granted in 2019 and will be completed in 2023-2025. It is also an objective of the GDSDS and all development plans in the catchment of Ringsend WWTP to include SuDS within new developments and to protect water quality in the receiving freshwater and marine environments and to implement the WFD objective of achieving good water quality status in Dublin Bay.
- 8.3.17. Thus, I conclude that the proposed development will not impact on the water quality status of Dublin Bay. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from

Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded.

- 8.3.18. Based on the foregoing and having regard to the qualifying interests and conservation objectives for the South Dublin Bay SAC (site code: 000210) and North Dublin Bay SAC (site code: 000206), I consider that significant effects are not likely, and these sites can be screened out from the need for further assessment.
- 8.3.19. The sports pitches (amenity grassland) which adjoin the subject site to the south are used by wintering birds, in particular Light-bellied Brent Geese. The applicant's AA screening report notes that this site was identified as being of "major importance" with a peak count of 408 no. birds in 2016. No loss of feeding habitat for the geese will arise on foot of the proposed development, as the amenity grassland is located outside of the development boundary. However, construction activities (such as noise, dust, human activity etc.) during the wintering season have the potential to cause disturbance to geese, which could result in displacement for the duration of the construction phase.
- 8.3.20. Based on the foregoing, significant effects to South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006) cannot be ruled out and therefore the carrying out of an Appropriate Assessment is necessary in relation to these sites.

Mitigation Measures

- 8.3.21. In this screening exercise, I have not relied upon any measures designed or intended to avoid or reduce any harmful effects of the project on European Sites.

AA Screening Conclusion

- 8.3.22. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually, or in combination with other plans or projects, could have a significant effect on two European Sites in view of the Conservation Objectives of those sites and Appropriate Assessment is therefore required for the following sites:

- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024)

- North Bull Island SPA (Site Code: 004006)

8.3.23. The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment:

- South Dublin Bay SAC (site code: 000210)
- North Dublin Bay SAC (site code: 000206)
- Poulaphouca Reservoir SPA (site code: 004063)

8.4. The Natura Impact Statement

8.4.1. The planning application includes a NIS which examines the potential effects of the proposed development on the integrity of South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA. It includes a description of the proposed development; an outline of the conservation objectives for the site and how they would be affected by the proposed development; and proposes mitigation measures to avoid, reduce or remedy the adverse effects on the integrity of the site.

8.4.2. The applicant's NIS was prepared in line with current best practice and includes an assessment of the direct and indirect effects on habitats and species, as well as an assessment of the cumulative impact of other plans and projects. Based on best available scientific knowledge, it concludes that the implementation of mitigation measures will rule out adverse effects on the integrity of the SPAs.

8.4.3. Having reviewed the documents and submissions included in the appeal file, I am satisfied that the information allows for a complete assessment of any adverse effects of the development alone, or in combination with other plans and projects, on the conservation objectives of the relevant European Sites.

8.5. Appropriate Assessment of implications of the proposed development on the integrity of European Sites

8.5.1. I am satisfied that the potential for significant effects is limited to the ex-situ effects on Light-Bellied Brent Geese associated with North Bull Island SPA and the South Dublin Bay and River Tolka SPA as a result of the level of disturbance expected during the construction phase.

- 8.5.2. I accept that the construction phase is likely to introduce significant disturbance over a number of seasons which may affect the birds' ability to use the lands. Therefore, given the significance of the adjoining playing pitches for Light-bellied Brent Geese, the proposed development could contribute to a temporary decline in goose numbers using the bay in the absence of mitigation. This impact would be contrary to the conservation objectives of the SPAs.
- 8.5.3. The mitigation measures which are proposed in the NIS to avoid such impacts arising include:
- Construction works will not start during the wintering bird season. Works are anticipated to commence in April/May. Demolition, site stripping and site works are expected to take 4 weeks. The houses are to be constructed in timber frame, which is noted to be a much quicker form of construction, and as such, the houses are expected to be weather tight with external works completed by the end of June.
 - During preliminary construction works, the site will be screened from the amenity grassland with hoarding of at least 4 m in height. The applicant's NIS notes that the birds are sensitive to human disturbance but are less sensitive to noise. As such, if the birds do not have views into the site, it is submitted that they will continue to avail of the amenity grassland.
- 8.5.4. I note that the mitigation measures will ensure that external construction works take place after April (when Brent Geese have left for the summer grounds in the Arctic) and likely much earlier than October (when Brent Geese are typically returning). As such, I would accept that the birds are not likely to experience construction disturbance at any significant level.
- 8.5.5. In my opinion, the mitigation measures which have been proposed in this instance are acceptable. I note that the timing of the site construction works coincides with the nesting season for other birds (i.e. not including any species which are Qualifying Interests for the Natura 2000 sites), which represents a risk with respect to proposed tree removal. In my opinion, this matter can be satisfactorily addressed by way of condition.

In-combination effects

- 8.5.6. Given the largely developed nature of the immediately surrounding lands, no developments were identified in the surrounding area that could lead to potential in-combination effects with the proposed development.

8.6. Appropriate Assessment Conclusion

- 8.6.1. The proposed development has been assessed in light of the requirements of Sections 177U and 177V of the Planning and Development Act 2000 (as amended). Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006).
- 8.6.2. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying interests/special conservation interests of those sites in light of their conservation objectives. I am satisfied that an examination of the potential impacts has been analysed and evaluated using the best scientific knowledge. Where potential significant effects on Natura 2000 sites have been identified, key design features and mitigation measures have been prescribed to remove risks to the integrity of the European sites. I am satisfied based on the information available, which I consider to be adequate in order to carry out a Stage 2 Appropriate Assessment, that if the key design features and mitigation measures are undertaken, maintained and monitored as detailed in the NIS, adverse effects on the integrity of Natura 2000 sites will be avoided.
- 8.6.3. Therefore, following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006), or any other European site, in view of the sites' Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

9.0 Recommendation

I recommend that, subject to conditions, planning permission should be granted for the proposed development based on the reasons and considerations outlined below.

10.0 Reasons and Considerations

Having regard to the location of the site on serviced urban land, the Z15 residential land use zoning of the site under which residential development is open for consideration, the retained community use of the remaining Z15 zoned lands at this location, the derelict vacant nature of the existing swimming pool building and the nature and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning provisions for the site and would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 7th day of September, 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 interests of clarity.

2. The proposed development shall be amended as follows:

- (a) One car-parking space only shall be provided for each dwelling.
- (b) The pitch of the hipped roof at the northern end of the terrace (house no.'s 3-6) shall be in accordance with the details shown in the Daylight and Sunlight Assessment report submitted to the planning authority on the 7th day of September, 2021.
- (c) At least 5m² of internal storage space shall be provided for House Type B.

Revised drawings showing compliance with the requirements of (a) to (c) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of sustainable transportation, to reduce overshadowing, and to safeguard the residential amenities of the existing and proposed dwellings.

3. (a) Mitigation and monitoring measures set out in the Natura Impact Statement submitted with this application, shall be carried out in full.

(b) Construction works including site clearance works, demolition of built structures and removal of existing vegetation shall not commence on site until April and external construction works shall be completed by October in order to avoid disturbance of wintering migratory birds, including Light-bellied Brent Goose.

Reason: To prevent disturbance to species scheduled under the Wildlife Act and EU Habitats Directive and in the interest of nature conservation.

4. Works proposed to be undertaken during the bird nesting season (1st March – 1st September) can only proceed subject to on-site verification by a suitably qualified ecologist, that no nesting birds are present. If a nest is found to be present, then works can only proceed subject to a licence from the National Parks and Wildlife Service.

Reason: To prevent disturbance to nesting birds and species scheduled under the Wildlife Act and in the interest of nature conservation.

5. (a) The site shall be resurveyed for the presence of bats prior to the commencement of site clearance, demolition and construction works. The results of this survey, including any actions arising, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Bat boxes shall be installed on site in accordance with the mitigation measures identified in the Bat and Nesting Bird Assessment submitted with the application.

Reason: In the interest of wildlife protection.

6. (a) Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

(b) The developer shall appoint a suitably qualified ecologist to verify that the proposed lighting plan complies with the recommended mitigation measures of the Bat and Nesting Bird Assessment.

Reason: In the interests of wildlife protection and public safety.

7. The developer shall appoint a suitably qualified arboriculturist to supervise site works in accordance with the recommendations of the Arboricultural Assessment of Trees and Tree Protection Measures report submitted with the planning application.

Reason: To ensure that site trees are not damaged or otherwise adversely affected by building operations.

8. All service cables associated with the proposed development (such as electrical, telecommunications, and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

9. All of the in-curtilage car parking spaces serving the residential units shall be provided with electric connections to the exterior of the houses to allow for the provisions of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of sustainable transportation.

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

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

11. Water supply and drainage arrangements, including the 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.

12. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

13. The internal road network serving the proposed development shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

14. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance

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

Reason: In the interest of urban legibility.

15. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.

16. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to

those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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

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

18. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme (St. Stephen's Green to Broombridge) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

19. 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.

Stephen Ward
Senior Planning Inspector

13th July 2022