



An
Bord
Pleanála

Inspector's Report

ABP-312993-22

Development	Change of use and construction of a three-storey extension to former Enterprise Centre (Protected Structure) to provide for a Primary School.
Location	Site of c. 0.20 ha, located at the Former Dun Laoghaire Enterprise Centre, George's Place, Dun Laoghaire, Co Dublin, within the setting of a Protected Structure, (RPS No. 528 Fire Station- Facade Only)
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/0248
Applicant(s)	Department of Education
Type of Application	Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party Appeals
Appellant(s)	(1) Patricia Stewart

(2) Ann Mulcrone, Conor and Naoise
Mulcrone, Liam and Mabel
Fitzpatrick, Vivienne Fitzpatrick

(3) Bronwyn Salmon, John Wiles, Ger
Harrington, Lisa MacNicholas,
Assie Sattar

(4) Michael O'Reilly

Observer(s)

Frank Foley

Date of Site Inspection

6th September 2022

Inspector

Susan Clarke

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1.0 Site Location and Description

- 1.1. The site is located at the former Dun Laoghaire Enterprise Centre, George's Place, Dun Laoghaire, Co. Dublin and has a stated area of 0.2ha. The front façade of the two-storey redbrick building, which was formerly a fire station, is a designated Protected Structure (RPS Ref. 528). The site is located on the north-eastern side of George's Place approximately 100m to the east of the intersection of George's Place and Clarence Street. Bentley Villas, a two storey, brick terrace, is located to the west, while Stable Lane (a two-storey terrace with units of varying heights) is located to the north. George's Lane bounds the site to the east with a recently constructed housing development comprising a terrace of two storey, brick dwellings on the opposite side of this laneway. A two-storey over basement property (designated Protected Structure 1958) is located on the eastern corner of George's Place and George's Lane. There is a part 4/part 5 storey apartment building (Harbour Court) located directly to the south of the development on the opposite side of George's Place.
- 1.2. The site comprises a two storey L-shaped building that abuts the southern and eastern boundaries to George's Place and George's Lane, respectively. There is a large hard standing area located to the rear of the building, which has a vehicular access point onto George's Lane. The northern boundary of the site also includes a vehicle access gate, which links Stable Lane and George's Lane. The site also includes a section of the public footpath and road along George's Place for public realm works. The site was extended on foot of a Request for Further Information to include a strip of land along Stable Lane.

2.0 Proposed Development

- 2.1. The proposed development comprises the change of use, conversion, renovation and internal alterations of the former enterprise centre and the construction of a three storey extension to the rear of the existing building to provide for a primary school with 16 No. classrooms and 2 No. additional needs units, with a total gross floor area of 3,515 sq m¹.

¹ Source: Site Notice, dated 26th March 2021

2.2. The development also includes:

- A general-purpose hall,
- Hard and soft play areas,
- Ancillary staff and student facilities,
- Bicycle and scooter parking,
- A vehicle drop off/set down area to the immediate south of the site on George's Place,
- Drainage works,
- Landscaping,
- PV panels,
- Service connections including an ESB sub-station,
- Ancillary ramps and stairs,
- SuDS and green roof provision, and
- All associated site works.

The proposal also includes providing pedestrian and cycle connectivity from George's Lane to Crofton Road via Stable Lane and the existing gateway on the northern boundary of the site. The proposal also includes for the removal of on-street car parking spaces on George's Place and provision of a widened footpath.

2.3. **Request for Further Information**

Following a Request for Further Information, the following key amendments were made to the scheme:

- Extension of the red line boundary to include a pedestrian and cycle link on the western side of Stable Lane.
- Redesign of the existing gate along the northern boundary of the site between Stable Lane and George's Lane.
- Additional 150 sq m play area, providing a total of 431 sq m play area.

- First and second floor level setbacks of the proposed extension from the western boundary by 2m.
- Reorganisation of the proposed central atrium.
- Façade materials and treatments amended.
- Section of the northern elevation of the proposed rear extension, that is positioned parallel to Stable Lane, to be reduced from 11m to 7m in width.
- Provision of 'saw tooth' glazing at first and second floor levels along the northern elevation at second and third floor level.
- Revised landscaping proposals.
- Provision of bike rack system within the site and Sheffield stands proposed to the front of the school for public/visitor use along George's Place.
- Omission of proposed PV panels at roof level and replacement with paved/membrane area.

In addition, the Applicant confirmed that the maximum number of pupils would 444 No.² and no additional dedicated showers, lockers and drying facilities for staff will be proposed in association with the bicycle facilities. Staff storage facilities are to be provided in the staffroom.

Furthermore, the Applicant confirmed that three car parking spaces would be removed to facilitate urban realm work improvements at George's Place and that two spaces will be provided for use by disabled persons.

2.4. Documentation Submitted with Planning Application

In addition to a Planning Application Form and Statutory Notices, the application included supporting documents (in association with architectural, engineering and landscaping drawings) as follows:

- Planning Report, dated March 2021
- Design Report, dated March 2021
- Conservation Report, dated 26th March 2021

² Source: Tom Phillips + Associates RFI Response document dated 14th January 2022.

- Verified Photomontages, dated January 2021
- Road Safety Audit Stage 1, dated January 2021
- Appropriate Assessment Screening, dated October 2020
- Ecological Impact Assessment, dated October 2020
- Noise Impact Assessment, dated January 2021
- Operational Waste Management Plan, dated December 2020
- Mechanical and Electrical Site Services, dated March 2021
- Traffic & Transport Assessment, dated February 2021
- Outline Construction & Demolition Management Plan, February 2021
- Flood Risk Assessment, dated February 2021
- School Travel Plan, February 2021
- Engineering Assessment Report, February 2021
- Landscape Specifications, dated March 2021.

Following the **RFI**, the Applicant submitted further documentation:

- Planning RFI Response, dated November 2021 (Architectural)
- Response to Request for Further Information, dated January 2022 (Landscape)
- Landscape Specifications and Maintenance Plan, dated November 2021
- Operational Waste Management Plan, dated October 2021
- Noise Impact Assessment, dated October 2021
- Verified Photomontages, dated November 2021
- Sunlight, Daylight & Shadow Assessment (Impact Neighbours), V1, not dated
- Mobility Management Plan/Traffic Management Plan, dated January 2022
- Further Information Response Report, dated January 2022 (Engineering)
- Traffic & Transport Assessment, dated January 2022
- Outline Construction & Demolition Management Plan, dated January 2022

- School Travel Plan, dated January 2022
- Construction Traffic Management Plan, dated January 2022

As part of the **First-Party Responses to the Third-Party Appeals**, the following documentation was provided:

- Site Investigation Report, dated February 2020
- Amplitude Acoustics Commentary on Noise Assessment (Technical Memorandum), dated March 2022
- Eire Ecology Commentary on Bat Survey, dated March 2022
- Moore Archaeological and Environmental Services Commentary on Appropriate Assessment Screening, March 2022
- Waterman Moylan Consulting Engineers Commentary on Traffic/Parking/Safety, dated April 2022
- Redacted Contract Signed by Both Parties (not dated) and Site Location Map (Dwg. No. PL-19-285)
- Dun Laoghaire Educate Together National School Play Area Management Plan, dated 16th November 2021
- Reddy Architecture + Urbanism Response to Appeal, dated April 2022
- Chris Shackleton Consulting Ltd Commentary on Daylight/Sunlight, not dated
- Department of Education Response in relation to the Appeal, not dated.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. The Local Authority issued a Notification of Decision to Grant Permission on 16th February 2022, subject to 23 No. conditions including:

- Condition No. 2: The smaller north-west facing windows to Classroom Nos. 4, 5, 13 & 14 shall be manufactured opaque and permanently maintained to a height of 1.8m above finished floor level given their orientation and proximity to Stable Lane.

- Condition No. 4: Having regard to the location of the proposed school relative to the residences within the immediate surrounds, the use of the school and associated GP hall shall be limited to the hours of 7am to 9pm, Monday to Friday and 9am – 5pm Saturday.
- Condition No. 5: Submission of a detailed strategy and methodology for the planned refurbishment works to the Former Fire Station for agreement with the Local Authority.
- Condition No. 7: Public realm works to be completed at the Applicant's expense. On-street parking at Stable Lane be retained.
- Condition No. 8 Revised and updated School Travel Plan to be submitted and agreed with the Local Authority.
- Condition No. 12: Prior to the use of the proposed connection linking George's Lane to Stable Lane by pedestrians and cyclists, the Applicant shall ensure that they have sufficient legal interest or written consent of the person who has legal interest in the relevant land holdings to facilitate this pedestrian/cyclist link.

3.2. Planning Authority Reports

3.2.1. Further Information

Following the initial DLRCC reports and consideration of submissions, the Planning Authority issued a request for Further Information on 19th May 2021 in relation to four areas with multiple subsections. The information requested can be summarised as follows:

Planning and Design

- Demonstrate that the play space provided on site is suitable for a school of this size having regard to the various technical guidance documents; outline how the outdoor space would be managed by the school management given the intended number of students that will be enrolled; modify the design of the extensions so that a setback is provided from the western boundary at first and second floor level; reconsider the palette of materials and fenestration detail; submit a detailed daylight and sunlight assessment; provide details of the

proposed pedestrian connection between George's Place and Crofton Place; and submit a Landscape Design Rationale.

Transportation

- Clarify the proposed total number of pupils and staff; clarify the proposed number and type of cycle and scooter parking spaces; confirm provision for showers, lockers and drying facilities; outline access arrangement and gated boundary treatment for the proposed pedestrian/cyclist link through to Stable Lane; provide refuse collection detail; revise School Travel Plan, Traffic and Transport Assessment; and Operational Traffic Management Plan; demonstrate the location and quantity of all public parking spaces to be removed; provide preliminary construction phase traffic management plan; and provide external lighting plans.

Drainage

- Recalculate the attenuation volume using the revised discharge rate; confirm green roof area to be provided; outline rainwater harvesting proposals; and submit an updated Pre-connection Enquiry.

Environment

- Submit a detailed noise impact assessment taking account of the recommendations of Professional Practise Guidance on Planning and Noise (ProPG, 2017), and provide a more detailed Outline Construction & Demolition Management Plan and Operational Waste Management.

3.2.2. Planning Reports

The Planner's Report forms the basis for the Planning Authority decision and can be summarised as follows:

- Principle of development acceptable in land use terms (MTC zoning) and Special Local Objective 68 which seeks the renewal of the obsolete area at George's Place and the Fire Station in accordance with the Dun Laoghaire Urban Framework Plan (UFP).
- Proposal is consistent with Policy SIC8 (Schools)

- Acceptable RFI Response in terms of landscaping, pedestrian/cycle connectivity, refuse storage and collection, and drainage.
- Notwithstanding the impacts in terms of sunlight, daylight and overshadowing on the properties to the north of the site along Stable Lane, satisfied that the proposed development strikes an appropriate balance in terms of providing a building of scale and form which is responsive to the character of this urban site and makes efficient use of 'MTC' zoned lands; provides a design which is sympathetic to the character existing Protected Structure on site; provides an appropriately scaled building which will meet the future needs of the school and will provide a built form which will generally preserve the residential amenity of the principal amenity areas of the properties within the vicinity of the application site.
- Satisfied no undue overlooking will occur, subject to condition.
- Highlights that under Section 34(13) of the Planning and Development Act 2000 *“a person shall not be entitled solely by reason of permission under this section to carry out any development”* in relation to works proposed on lands outside the Applicant's control.
- No real likelihood of significant effects on the environment arising from the proposed development.
- No significant impacts upon Natura 2000 sites.
- Recommends permission be granted subject to condition.

3.2.3. Other Technical Reports

- Drainage Planning: No objection, subject to condition.
- Transportation Planning: No objection, subject to condition.
- Public Lighting Section: Recommended that a clarification of additional information be sought in relation to the type of lighting proposed, light spread, and operating hours.
- Environment Enforcement: No objection, subject to condition.
- Architect's Department: No objection, subject to condition.

- Parks and Landscape Services: Recommended additional information be sought in relation to the original proposal, however provided no comments in respect to the RFI Response.

3.3. Prescribed Bodies

- Irish Water: No objection, subject to condition.
- Arts Council: No comments received.
- Failte Eireann: No comments received.
- Heritage Council: No comments received.
- An Taisce: No comments received.
- Department of Culture, Heritage and the Gaeltacht: No comments received.

3.4. Third Party Observations

3.4.1. The Local Authority recorded a total of 44 No. observations in respect of the original proposed development. A further 14 No. were submitted in respect of the RFI Response. Conflicting statements are made in respect of a number of the topics. For example, whilst some Observers support the principle of developing a school on the site, others do not. Furthermore, the suggestion by some to provide a play area at roof top level, is counterargued by others on the grounds that it would reduce the area's residential amenity. Notwithstanding this, the key topics raised can be summarised as follows:

- Support the provision of a new school in the area.
- Proposal will revitalise the area.
- Proposal is contrary to UFP as it does not provide mixed use development on the site.
- Part VIII permitted residential development opposite the subject site significantly reduced the site's potential to accommodate a school of this size.
- No information provided regarding the site selection process for the proposal and alternative sites considered by the Applicant.

- Proposal provides an active use for the Protected Structure. However, concerns also raised that the proposal will adversely impact the character and setting of the Structure.
- Insufficient and poor-quality play area proposed. Suggest rooftop play area.
- Poor quality proposal that will negatively impact children's development and their rights (UN Convention on the Rights of the Child).
- Significant adverse impacts on the area's residential amenity.
- Overdevelopment - excessive scale, height and massing. Insufficient site size.
- Piecemeal development.
- Overlooking and loss of privacy.
- Overshadowing.
- Daylight/sunlight impacts.
- Negative visual impact on the area. Poor quality of materials selected.
- Insufficient legal interest. Stable Lane and Connaught Mews are not taken in charge. It is a privately owned area. No public right-of-way exists over the Lane.
- Significant car parking overspill in the area and traffic congestion.
- Traffic hazard.
- Negative construction impacts on the area, including noise, dust, structural risks.
- Contaminated soils and groundwater.
- Flooding.
- Noise impacts during construction and operation of the school.
- Invalid application.
- Insufficient detail provided with the application.
- Inconsistencies in planning application documentation.
- Lack of public consultation.
- Proposal conflicts with surrounding land uses.

- Devaluation of surrounding property.
- Security.
- Fire safety.

4.0 Planning History

4.1. No planning applications identified relating to the site.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan, 2022-2028

- 5.1.1. Since the Local Authority issued a Notification of Decision to Grant Permission for the proposed development, a new development plan has been prepared and adopted for the County. The applicable plan is the Dun Laoghaire Rathdown County Development Plan, 2022-2028. I do not consider that there are material differences between the former Development Plan and the new Development Plan for the purposes of assessing this appeal case, with the exception of the site being designated a Proposed Education Site in the current Development Plan.
- 5.1.2. The site is zoned 'MTC', which aims "*To protect, provide for and-or improve major town centre facilities*".
- 5.1.3. The front façade of the building is designated a Protected Structure (Ref. 528). In addition, there is a Protected Structure located immediately east of the site on the opposite side of George's Lane, which is designated a Protected Structure (Ref. 1958). Section 12.11.2 of the Development Plan addresses Protected Structures.
- 5.1.4. The site is subject to a Specific Local Objective (SLO) 31: *To seek the redevelopment of the obsolete area at the Fire Station in accordance with the objectives of the Interim Dún Laoghaire Urban Framework Plan and the forthcoming Dún Laoghaire and Environs Local Area Plan.*
- 5.1.5. Section 12.3.2.5 of the Development Plan addresses school development and sets out the criteria for assessing applications for new schools.

The Planning Authority will consider school developments having regard to specific requirements of the Department of Education (DoE) and guidance set out within 'The

Provision of Schools and the Planning System, A Code of Practice for Planning Authorities' (2008).

In general, new schools shall be developed in areas where new/additional schools are required as identified by the DoE and/or within existing school/ education sites.

In assessing individual planning applications for new schools and/or redevelopment/extensions of existing schools, the Planning Authority will have regard to the following:

- *Overall need in terms of necessity, deficiency, and opportunity to enhance or develop schools.*
- *Site location, proximity of school to catchment area, size of site relative to outdoor space requirements and the future needs of the school (i.e. sufficient space provided for future expansion).*
- *Design – In certain instances urban typologies will be encouraged to maximise efficient use of land and to maximise space for outdoor recreational facilities.*
- *Traffic and transport impact on the surrounding road network.*
- *Good, safe accessible pedestrian and cyclist routes to and from the school from nearby residential and commercial areas.*
- *Adequate cycle facilities in accordance with the requirements in the Council Cycle Policy Guidelines and Standards. In all cases it is a requirement to provide showers, changing facilities, lockers and clothes drying facilities, for use by staff and/or students that walk or cycle to work/place of education.*
- *Safe access and adequate car parking layout to facilitate drop off/pick up.*
- *Adequate signage, lighting, and boundary treatments.*
- *Impact on local amenities and out of school hours uses/dual functioning of school facilities.*
- *Conformity with the requirements of appropriate legislative guidelines.*
- *Conformity with land use zoning objectives.*

- *In all cases, a School Travel Plan shall be submitted with an application for any school development, requirements of which should be ascertained at pre-planning stage.*
- *Temporary classrooms will be assessed on a case-by-case basis and will generally be accepted for a period not exceeding five years and such classrooms should not interfere with onsite car/ cycle parking spaces or unduly impact the usability of outdoor play/sports facilities.*
- *Extensions to schools will generally be accepted where they will replace existing temporary classroom structures on site. School extensions should be located having regard to adjoining amenities and amenities within the school site.*
- *Dual function of sports facilities/halls etc. outside of school hours will be encouraged where the use of such facilities will be of a benefit to the wider community, however any outside hours usage of the school should not be to the detriment of adjoining residential amenities. Full details of all anticipated uses outside of school hours should be provided with the planning application.*

5.1.6. Appendix 17 of the Development Plan contains the Interim Dún Laoghaire Urban Framework Plan. Section 17.5.6 relates to George's Place and states that the site offers an opportunity to provide a mixed-use redevelopment that includes educational uses. The first phase of the development anticipates a new pedestrian/cycle link between George's Place and Crofton Road. The completion of this route across Stable Lane to further strengthen the connectivity between Georges Street and the Waterfront is a strategic objective of this Plan. Any redevelopment will include upgrades to the public realm along George's Place.

5.2. **National Planning Policy/Guidelines**

The following planning national policy/guidance documents are also relevant:

- National Planning Framework (2018)
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)

- Design Manual for Urban Roads and Streets (2019)
- The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)
- Development Management Guidelines for Planning Authorities (2007)
- The Provision of Schools and the Planning System - A Code of Practice for Planning Authorities, the Department of Education and Science and the Department of the Environment, Heritage and Local Government (2008).
- Technical Guidance document TGD-025 on the Identification and Suitability Assessment of Sites for Primary Schools (2012).

5.3. Natural Heritage Designations

- 5.3.1. The South Dublin Bay SAC (site code 000210) is located approximately 900m from the site while the South Dublin Bay and River Tolka Estuary SPA (site code: 004024) is located c.480m from the site.

5.4. EIA Screening

- 5.4.1. 'Education' is not a class of development, whereby Environmental Impact Assessment (EIA) is mandatory. Should an alternative approach be adopted whereby the proposal is assessed under Class 10(b)(iv) (Infrastructure Projects) as an urban development, I highlight that the proposed development on a site of 0.2ha is significantly below the threshold of 2ha in a business district. Having regard to the nature and scale of the proposed development comprising the construction of a primary school in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See Appendix B attached to this Report for the preliminary examination.

6.0 The Appeal

6.1. Four Third-Party Appeals

6.1.1. Four Third-Party Appeals with supportive information attached, were submitted to An Bord Pleanála opposing the Local Authority's decision from the following:

1. **Patricia Stewart** (Crofton Mews, Stable Lane)
2. **Ann Mulcrone** (Connaught Place), **Conor and Naoise Mulcrone** (mews to the rear of Connaught Place, Stable Lane), **Liam and Mabel Fitzpatrick** (Connaught Place), **Vivienne Fitzpatrick** (mews to the rear of Connaught Place, Stable Lane), prepared by Reid Associates
3. **Bronwyn Salmon** (Stable Lane), **John Wiles** (Stable Lane), **Ger Harrington** (Stable Lane), **Lisa MacNicholas** (Stable Lane), **Assie Sattar** (Crofton Terrace), prepared by Kiaran O'Mallay & Co.
4. **Michael O'Reilly** (Stable Lane), prepared by Core.

As similar topics are raised in the four Third-Parties' grounds of appeal, the key points raised are collectively summarised below.

6.2. Grounds of Appeal

6.2.1. Residential Amenity

Daylight/Sunlight/Overshadowing

- Due to the constraint nature of the site and scale of the proposed development all southern skylight and winter sunlight will be lost to the dwellings along Stable Lane, which will result in a loss of residential amenity.
- The daylight and sunlight assessment demonstrates that the impact on properties on Stable Lane is significant and injurious, and the relevant standards are breached and fail the test for all properties on Stable Lane.
- Only 1 No. window out of 16 No. ground and first floor windows of the properties at Stable Lane (Nos. 3A, 4, 5 and 6) would comply with the BRE Standards post development. Two others are marginal fails, whereas the remaining 13 No. are all fails. For each of those 13 No. windows, the predicted daylight is well below

the 27% figure in the BRE Guidelines and the reduction ratio is also well below 80% per the Guidelines.

- With regard to sunlight, while it is noted that the proposed scheme won't reduce annual sunlight hours to less than 25%, nevertheless, several of the predicted reductions are significant and would amount to more than halving the sunlight provision for Stable Lane residents.
- With regard to winter sunlight, the proposal would significantly affect amenity with 8 No. of 16 No. windows on Stable Lane failing to comply with the Guidelines, one is a marginal fail, and the other 7 No. pass. Of the eight that fail, three of these windows serve active rooms. The loss of winter sunlight from the south-facing windows and skylights is significant because of the shorter and lower arc of the sun in winter. Winter light and warmth are vital to these homes.
- The Applicant collates the results from other properties at Bentley Villas and George's Lane to conclude an 87% compliance with the BRE requirements for VSC and the average change ratio for VSC of 0.91. This conclusion is manifestly false and misleading in respect of Nos. 3A, 4, 5 and 6 Stable Lane where 15 No. out of 16 No. ground and first floor windows or 93.75% would not comply with the BRE Guidelines for daylight.
- The boundary wall opposite the properties on Stable Lane has limited impact in terms of non-compliance with the BRE standards as only three windows are currently below the 27% guideline.
- Having regard to the height, scale, bulk, mass, proximity and orientation of the proposal relative to the properties at Stable Lane, the proposal will significantly overshadow and darken the properties.
- DLRCC has failed to protect the area's residential amenity.

Overlooking

- Direct overlooking of bathrooms, bedrooms and stairwells is an invasion of privacy for dwellings on Stable Lane. The laneway currently forms an informal semi-private amenity space. The classrooms will be intensively used and

occupied and will give rise to an intensive overbearing and obtrusive development bearing down on the neighbouring mews dwellings.

- There are two full floors of classrooms that overlook neighbouring properties on Stable Lane and the rear of Connaught Place. The rear gardens of Crofton Terrace will also be overlooked.
- The overlooking impact on the mews to the rear of Connaught Place is exacerbated by the realignment of the windows at upper floor levels to more directly overlook Connaught Place. The separation distance appears to be of the order of 25m and is 10m less than the standard of 35m, which is appropriate between windows at third floor level and fourth level.
- The provision of some non-transparent glazing will not obviate the sense of overlooking and loss of privacy nor does it address overlooking from a seated position inside the classrooms.
- The response to additional information fails to address the injury to residential amenity in any meaningful way and the design retains clear glazing.
- Condition No. 2 attached to the Decision is inadequate to prevent substantive and egregious overlooking.
- All windows, where direct overlooking is at a distance of less than 22m should be conditioned to be obscured.

6.2.2. Design

- The uses identified in the UFP for the site are mixed uses. The proposed school is a mono use.
- The site is inappropriate by reference to: its irregular shape, the presence of a substantial protected structure that is not readily converted to education use without substantial loss of architectural heritage, and the potential for contaminated land due to its former use.
- The natural constraints of the site and the simple fact that the basic size requirements of a two stream school mean that no balance is possible on this site, as it is simply not capable of accommodating the quantum of development

required, particularly as DLRCC have already compromised the site by partially developing it for social housing.

- The proposal would be visually dominant and have an overbearing visual impact on the surrounding properties. The height of the proposed development is comparable to that of a 4.5 storey building and it will be constructed flush with the northern face of the site's boundary to Stable Lane, which comprises of 1.5 storey and 2 storey houses. The proposal would seriously detract from the visual and residential amenity of the Lane.
- Amendments made at RFI stage are ineffective to protect residential amenity.
- The 4 to 5 storey equivalent height breaches the height strategy for the coastal fringe. The slope of the site exacerbates the impact and accentuates the dominance of the structure over Stable Lane.
- No noise impact assessment was undertaken to assess the impacts from the proposed heat pump on the roof.
- The proposed development would seriously injure the amenities and depreciate the value of properties in the vicinity.
- There is no balance between the application and the impact on the residents of Stable Lane.
- The CGIs are misleading.

Architectural Heritage

- The proposal will result in an excessively massive building structure, which dominates and obscures the legibility of the Old Fire Station. The Protected Structure designation is not limited to the front facade only. The setting of the Protected Structure is also of significance and protected.
- The Conservation Report is inadequate and does not assess the true impact of the massing, scale, depth, and height of the proposed extension.
- The proposal would result in significant irreversible change to the Protected Structure that would detrimentally and permanently affect its character, appearance and potential alternative future uses. Approximately two-thirds of

the historic two-storey elevation to the inner yard would be demolished to accommodate the proposed school use within part of the historic structure.

- The development will impinge on the setting of the Protected Structures at Crofton Terrace, as it would dominate the rear view and rear aspect of those properties.
- The UFP shows the rear facade of the Old Fire Station protected structure as free from development structures and enclosing a courtyard space.
- The stone boundary wall defines the streetscape character to Stable Lane and the projection of the proposed extension above that wall and the skewing of the building form interrupts the relationship of the Old Fire Station to this landmark boundary.

Technical Guidance Document TGD-025 and TGD-027

- The site is wholly unsuitable and would result in a sub-standard school to the detriment of the future pupils of the proposed school. The irregular shape with a substantial protected structure is not readily converted to use for a primary school. The site is possibly contaminated and access is limited.
- The proposal is in breach of the Department of Education and Skills' own guidelines (Technical Guidance Document TGD -025: Identification and Suitability Assessment of Sites for Primary Schools) and will result in a substandard development.
- Table 1 in TGD-025 recommends a minimum site area of 1.5 hectares for a two-storey 16-24 classroom primary school. The Kiaran O'Malley & Co. Appeal states that the Guidance sets out how the figure of 1.5 hectares is calculated and notes that there is some flexibility for meeting this area where some elements "*can be provided outside the designated site area*". In this instance, there is no on-site parking proposed (- 1,200 sq.m.), no traffic circulation (- 2,000 sq.m.), and it is a three storey building (footprint is estimated to be c. 1,350 sq.m., so a reduction of 850 sq.m.). Using those figures it could be argued that the site area for the proposed primary school to accord with TGD-025 would be 9,937.50 sq.m. (7,950 sq.m. + 25% for separation zones). There is an 80% shortfall in site area required.

- The Reid Associates Appeal highlights that the proposal (0.16ha) is eight times less than the recommended average site size (1.04ha) for a 16 No. classroom school. The substandard external play area (281 sq m) is 17% smaller than the recommended area (1,600 sq m). There is no justification for such an egregious deviation from the Applicant's Guidelines.
- An eight class room school and two storey extension would be more appropriate.
- The development of the Part VIII housing scheme comprised the opportunity to adequately provide for the school.
- A number of the classrooms (including Nos.1, 2 and 9) do not have proper light. Too few of the proposed classrooms would face either east or south to take advantage of useful passive solar gains.
- There is a significant lack of decent outdoor playground and soft play area. This is significant in light of Covid-19. The Applicant acknowledges that the play area is inadequate and deficient by having to examine alternatives outside the subject site.
- Having regard to the length of time each break/lunch is, there are concerns regarding how feasible the Applicant's proposed staggered use of the play area is.
- There is a perception of objective bias and lack of transparency as the Planning Authority is the owner of the land.

Legal Status of Stable Lane and the Gateway along the Northern Boundary of the Site

- The Applicant has confirmed that the gate on the northern boundary of the site is outside their ownership.
- Insufficient legal interest to include Stable Lane in the planning application and to carry out works to provide a shared surface and pedestrian and cycle access to the Lane. The planning application is therefore ultra vires and has no legal authority and would comprise an illegal development.

- It is a privately owned lane that is not in charge by the Local Authority. Correspondence dated 1st August 2017 and 21st April 2022 (attached to the Kiaran O'Malley & Co. Appeal) from the Local Authority's Road Maintenance Section confirms that Stable Lane is not in charge of the County Council.
- The Applicant has no right to open the access gate on the northern boundary of the site out onto private land on Stable Lane. The gates have remained permanently locked since the abandonment of the Fire Station use of the site and historically access was only ever granted in cases of emergency and was otherwise permanently closed.
- The inclusion of this access undermines the legality of the application and renders the Planning Authority's decision ultra vires. The Board has no option but to dismiss the appeal on the basis of insufficient legal interest.
- There is no right of pedestrian or cycle access from the gates to Stable Lane.
- The conditions (Nos. 1, 7, 12) attached to the grant of planning permission referring to the pedestrian link are ultra vires and undermine the legality of the Planning Authority's decision.
- George's Lane provides a home zone to the housing constructed in 2016.
- Request for Oral Hearing to clarify issues relating to ownership.
- Urban Framework Plan for Dun Laoghaire appendix 12 of the current development plan is an indicative plan only which shows ideas for George's Place. If this was not the case, then the entire layout of the proposal is a material contravention of the Urban Framework Plan. Any pedestrian connection to link to Crofton Road was predicated on not reducing parking provision.
- The Council have sought to drive the agenda of a cycle pedestrian link without proper public notice or legal authority and secure a cycleway across private land.

6.2.3. Traffic

- Concerns raised in relation to the accuracy and robustness of the traffic impact assessment and the feasibility of the initiatives proposed in the School Travel Plan/ Mobility Management Plan.

- The proposed primary school will be dependent on the use of the private car as the means of transport for pupils to and from the school, so it would be expected to generate significant additional traffic and increased car parking demand.
- The modal split of 58% of car use associated with the proposed development shows that the proposed catchment is not within the town centre 15-minute walk zone. It is an aspirational target and is disproportionately high relative to the Census.
- The resultant number of car drop offs of c.270 in the morning and the same in the evening is unsustainable and would give rise to significant traffic congestion in the town centre.
- It is not realistic to expect the surrounding road network that is heavily used for on-street residential parking and comprises various narrow one-way roads, to be able to cater for the level of additional traffic each morning and afternoon. As a result, the proposal would cause indiscriminate illegal on-street parking, double parking, etc
- The pedestrian access from Stable Lane to Crofton Road is indicative in the UFP. Any pedestrian connection to link to Crofton Road was predicated on not reducing parking provision.
- There is no information to alert the residents that their existing parking facilities are removed.
- The link would have serious impact on the existing access and egress arrangements at Stable Lane including to No. 7 Crofton Terrace and No. 7 Stable Lane both of which have pedestrian doors that open directly onto the proposed cycleway.
- Any potential use of Stable Lane associated with the proposed development would also seriously impact on residents through excessive and concentrated traffic generation and haphazard parking arising from the drop off and collection of school kids at Stable Lane and Crofton Road, and the inevitable traffic congestion and blocking of their right to pass and repass over Stable Lane. The Lane is a cul-de-sac. It has no footpath, so parents can be expected to drive to the existing gates to drop off and collect their kids at the school.

- The Applicant's mobility management plan is highly aspirational and fails to justify the targeted modal split, in particular, the blunt and unexplained halving of private car usage from 58% to 30%. The percentage for cycling to school is disproportionately high relative to the Census.

6.2.4. Flooding

- Evidence of surcharging of public sewers in the area.
- The flood risk assessment does not comply with the Guidelines and the SuDS are inadequate, particularly having regard to surcharging in the area.
- Flood risk was not adequately addressed by the planning authority.
- Need to review the attenuation and the potential ground water risk and provide for permanent barrier flood relief to prevent egress of floodwaters.
- No site-specific flood risk assessment prepared.
- Significant flooding implications for dwellings on Stable Lane, Connaught Place, and Crofton Terrace that have lower finished floor levels than the site.
- Mitigation measures are not sufficient.

6.2.5. Appropriate Assessment

- The Planning Authority adopted the Applicant's Appropriate Assessment screening. However, this was fundamentally flawed. The possibility of an effect is enough to trigger the need for Appropriate Assessment. Reference is made to Case C-258/11 Sweetman.
- The Applicant relied upon the potential for a significant effect and did not consider contaminated underground water pathways but did consider mitigation. It also ruled out surface water contamination although the plans showed overland flood risk and risk of surcharging of public sewers which could eventually end up in the SAC/SPA.
- The conclusion at Section 6 of the AA screening stated there was a pathway and this has not been corrected either by the Applicant or the Planning Authority who are reliant upon the conclusion.
- Potential ground water contamination necessitated a hydrology report.

- The bat survey does not include any nighttime recordings or survey which is deficient given the prevalence of Leisler's bat and Pipistrelle bat in the vicinity.

6.2.6. **Legality of the Planning Application/Decision**

- The application is invalid. Shortcomings were noted by the Local Authority. Public notices do not adequately describe the proposal. Mandatory requirement to provide contiguous plans showing the context of Stable Lane. Insufficient information presented on site plan. The Board cannot cure the defects and in light this reference is made to the Balcadden Residents V An Bord Pleanála case in the Reid Associates Appeal.
- Concerns raised in relation to the jurisdiction of the Local Authority's Decision and the robustness of the assessment.
- Inadequate assessment by the Local Authority of issues raised by third parties and RFI Response.
- No engagement or consultation with the local community.
- Ground contamination not addressed by the planning authority.

6.3. **Applicant Response**

The Applicant submitted responses to the Board in respect of each of the four Third-Party Appeals. The key points can be summarised as follows:

6.3.1. **Residential Amenity**

Daylight/Sunlight/Overshadowing

- Compact growth, by nature, will lead to a level of overshadowing, which is unavoidable. In a built-up town centre infill development, it is not unexpected that there will be some impact particularly since the rear of the site was never developed fully. However, the BRE guidelines state that the lack of existing development on a site should not sterilise its future use and/or its development potential.
- The proposed design has been cautiously designed to allow the maximum amount of sunlight and daylight to be retained for neighbouring properties.

- Individual windows were enumerated and tested and results provided in various tables. Individual results are clearly identified as pass, fail or marginal in accordance with the BRE guidelines. There were no attempts to conflate the failure on Stable Lane. While the impacts on the adjoining properties are acknowledged, the significance of the change is as a result of the subject site being historically un-developed.
- Annual sunlight APSH and Shadow to the rear of these properties complies with requirements, although winter sunlight for some of the GFL windows will be limited.
- With respect to Stable Lane, the windows to the Lane are generally small and face directly into a 3.5 m high wall along the entire boundary. This limits their access to sky or sun light to that which comes over the top of the wall. Light is further limited by residents parking in front of these windows. These windows open directly onto the Lane and this proximity obviously causes privacy issues. This is likely the reason that most windows have treatments to limit visibility, which will consequently also limit light. From aerial imagery it can be seen that the fenestration to the rear is larger than that of the front elevations. It is thus reasonable to conclude that these rear windows are the primary source of light to these rooms.
- The requirement for testing of windows for sunlight is limited to Living rooms and conservatories.

Overlooking

- The issue of overlooking, and loss of privacy has been assessed and addressed by way of specific design measures, as well as a redesign of the initial proposed development.
- DL RCC are satisfied that adequate design measures have been taken to ensure overlooking will not occur.
- Condition No. 2 attached to the Local Authority's Decision requires smaller, opaque windows for a number of classrooms.
- The 'saw-tooth' configuration of the northern windows angles the view from these windows down Stable Lane as opposed to looking directly perpendicular at the

Stable Lane facades. The windows looking towards Stable Lane are set at an oblique angle of 55deg to the Appellants' skylights. This provides separation distances of between 15.12m and 20.64m to the facade of No. 7 when taken at 90deg from the Applicant's windows and separation distances of between 16.54m and 21.59m to the facade of the proposed school when taken at 90deg from the Appellants' skylights. This provides acceptable separation for the purposes of privacy.

- Classrooms will only be in use for limited times.

6.3.2. Design

- The proposed development is of a similar scale to other developments granted and built in the vicinity, including a 13 storey structure at St. Michael's car park, 200m from the subject site.
- The proposed design is of a scale similar to other educational facilities within the area, despite the site being located in the town centre, a zone which is noted as being capable of supporting increased densities.
- The proposed development, and in particular the site layout, was carefully conceived so as not to be unduly obtrusive, and to be consistent and compatible with the existing grain of development.
- Provision of a school at this location would not detract from but instead would add to the property value of the surrounding properties in the vicinity. The provision of such a use would increase the vitality of the area, thus increasing the vibrancy of the area overall, in turn making it a more desirable area to settle in. This is well documented in media analysis.
- A noise impact assessment undertaken in respect of the proposed heat pump plant units to be installed at roof level was prepared. The assessment found that the predicted noise levels comply with the relevant noise criteria. The assessment does not include the benefit of screening from existing or proposed structures and as such is considered a conservative assessment with no adverse noise effects due to the heat pumps anticipated.
- Arguments made in relation to the CGIS are dubious. DLRCC raised no concerns in relation to the CGIs.

Architectural Heritage

- The proposed development is acceptable as it allows for the adaptive reuse of the structure, thus allowing for the future use of the structure.
- The ancillary uses of the school will be provided within the fabric of the existing building with the larger classrooms placed in the centre of the site.
- It is considered that the development respects the protected structure status of the façade of the fire station.
- The proposed use of the subject site does not detract from but enhances the Protected Structure on site, by virtue of allowing the Structure to be utilized in a meaningful manner.
- The protected structure status applies only to the façade of the fire station building.

Technical Guidance Document TGD-025

- The acquisition of school sites in highly developed urban areas where land is extremely scarce presents particular challenges for the Department.
- More intensive use of school sites in urban settings is consistent with the objectives of the National Planning Framework.
- There is a proven and urgent evidence-based need to provide a new primary school serving this part of Dublin grounded in the Department's own assessments as provided in the application. What is being argued by the Appellants regarding TGDs-25 and 27 is simply a misrepresentation of this guidance.
- TGD-25 and 27 are guidance documents only. The guidance documents make it clear from the outset that the achievement of the ideal site sizes for greenfield school provision will not always be possible in urban areas, where land is becoming an ever more scarce and valuable resource.
- It is considered wholly unrealistic and unsustainable to suggest that future schools in urban or inner suburban infill locations in Dublin can be developed on 6 ha sites — this quantum of land simply is not, and will not be, available in urban areas and especially in high value parts of existing town and cities. New schools,

however, will still be required. This 'conundrum' is now explicitly addressed in the 2019 Departmental Guidance.

- It is a somewhat bizarre situation that the Department of Education, which has the primary responsibility of planning for and providing schools throughout the State, and who authored and revised the above referenced guidance, is being critiqued on the content and application of its own guidance in the Appeal.
- This site has the benefit of being within proximity of significant public and recreational open space in the Dun Laoghaire-Rathdown Area and a range of other well established sports facilities and related playing areas including soccer, GAA, cricket and hockey clubs most of which are within a short radius of the site. It is wholly appropriate to maximise the use of the site itself for the provision of educational accommodation and services rather than the provision of playing pitches.
- A number of potential site options were identified with the assistance of the officials in DLRCC, all provide to be either unsuitable or unavailable for acquisition. It was against this background that the subject site was selected.
- The Technical Guidance Documents set out a target of 4.5% Average Daylight Factor (ADF) within each classroom. Classroom 2 is well above this requirement. However, Classroom 1 & Classroom 9 are slightly below the target figures with results of 3.55 and 3.21 respectively. Due to the location and specific design requirements, especially considering the nature of the site and the protected structure, a concession was made by DoE on a small number of teaching spaces being slightly below the target value set by themselves.
- The indoor supplementary play area is not a semi-subterranean space. Full height windows are provided.
- The proposed development has been designed to ensure that the optimal conditions for the students at the school, particularly considering the constraints of the site.

6.3.3. Works to Stable Lane

- Consent to carry out the proposed works was furnished to the satisfaction of the Local Authority to validate the planning application.

- All lands contained within the planning application, during the course of the application, were under control or taken in charge by DLRCC.
- The gate between Stable Lane and George's Lane is outside of the Department of Education's ownership. It is in the ownership of DLRCC. The Local Authority has confirmed that the surrounding laneways are taken in charge.
- The upgrade and partial opening of the gate was explicitly requested by the Local Authority, to improve permeability. Should the Board request that the gate be closed after school hours, the Applicant is willing to accept this request, by way of a suitably worded planning condition. It is likely that this will be the case in any instance, in order to secure the grounds in the evening. The Applicant is also happy to omit the opening of the gate, if the Board believe the development is not reliant on its inclusion.
- Stable Lane, due to its primary use being car parking, does not constitute an amenity space. Each of these properties has their own private rear garden spaces.
- Planning permission not required to open an already existing gate.
- The concerns raised by the Appellants have been sufficiently dealt with in the application.
- Ask the Board to dismiss the request for an oral hearing.

6.3.4. Traffic

- The Development Plan's requirements for parking for a primary school is 1 space per classroom maximum. The numbers stated in the document are maximum parking numbers not minimum.
- The survey carried out on 23 October 2020 demonstrates that there is ample available parking to cater for all of the proposed car trips to the primary school. Only 22% of the available surveyed parking is required to facilitate the drop off trips to the school. The survey was undertaken during the Covid-19 Pandemic however, given the quantum of parking available an increase in the number of users post Covid-19 would still result in ample drop-off parking.

- Based on the current modal split given by the existing Red Door School in Monkstown, it is estimated that the number of car trips will be 72.
- The Traffic & Transport Assessment and School Travel Plan does not assume that all parents will take part in the Park and Stride initiative: it is only the 30% modal split of car users which require park and stride. All spaces are in close proximity to the school location.
- The School Travel Plan identifies measures that will be implemented to reduce transportation demand and to encourage a modal shift towards sustainable forms of transport. The Plan embraces the core principles set out with Smarter Travel —A Sustainable Transport Future 2009-2020.
- The Appellants provide no back up information but more statements of opinion with respect to primary schools being heavily reliant on parents dropping off and collecting their children by private car. Drop off trips are to be managed within the local environs of the school, availability of parking and promotion of green modes of transport.
- A Road Safety Audit was undertaken by the Applicant.

6.3.5. **Flooding**

- A site-specific flood risk assessment was completed as part of the planning documentation.
- The attenuation of surface water is necessary to ensure that there is no impact on the existing drainage infrastructure, either in terms of quality or volume of runoff. This will offer a significant benefit to the existing drainage network as the existing site is currently discharging all surface water to the extant 225mm diameter combined sewer without any restriction or attenuation on the flow. The proposed development will reduce the runoff by 90% (from 20.4 l/sec to 2l/sec).
- The overland flood routes are the same for the existing site and proposed site

6.3.6. **Appropriate Assessment**

- The Site Investigations Report informed the Construction Management documentation. The Outline Construction and Demolition Management Plan accounted for any potential contamination issues if discovered on site.

6.3.7. **Legality of the Planning Application/Decision**

- The application was validated by the Local Authority. The readvertisement of the site notices in relation to the building was related to the request for additional daylight and sunlight analysis, not to the height of the extension. The drawings illustrate the proposed development in detail including the building height.
- The Request for Further Information has been adequately considered and addressed, and that the assessment of the information provided as part of this request concludes that the information provided was sufficient to address the concerns of the Planning Authority.
- There is no connectivity from the subject site to any other European site.
- The daylight survey for bats showed no evidence of previous bat occupancy. Although some attic spaces showed some potential for roosting bats no evidence was found. The proposal will have no effect on local bat population.

6.4. **Planning Authority Response**

- 6.4.1. The Local Authority advised the Board that the grounds of appeal do not raise any new matter, in the opinion of the Planning Authority, that would justify a change of attitude to the proposed development.

6.5. **Observations**

An Observation from Frank Foley was received by the Board supporting the grounds of appeal made by the Third-Party Appellants. In summary, the same key points were raised in the Observation as those raised by the Appellants including:

- Adverse impacts on the Protected Structure.
- Negative impact on residential amenity in terms of daylight/sunlight impacts and overlooking.
- No evidence provided that the boundary wall is in the DOE or Council's ownership. The wall is included in the original lease of the grounds upon which Connaught Place, Crofton Terrace and Stable Lane were constructed in the 1840s.

- No sufficient legal interest on behalf of the Applicant to make the planning application. Illegal attempt to establish a public right of way over private property.
- Significant overspill car parking in the area from the proposal as it includes no car parking spaces.
- Devaluation of property prices.
- Due to the small size of the site, it is not suitable for a 16 No. classroom school.

6.6. Further Responses

Further Responses were received from the Third-party Appellants and Observer in respect of the First-Party Responses, as detailed above. The new key points can be summarised as follows:

- A Freedom of Information request (FOI-014-2022) confirms that DLRCC has no legal right of way or ownership of Stable Lane, and that the Lane has not been taken in charge. Works to install pay parking were done informally without any legal basis or documentation to support it. DLRCC's second letter of consent to the Applicant has no basis in fact or evidence.
- The Applicant has stated that they are happy to omit the opening of the gate.
- The Fire Station building is not registered and does not appear on folio deeds. The Council's title to the Fire Station Building and main site area appears defective. There is no benefit of a right-of-way recorded on the Folio over Stable Lane.
- The wall along the southern side of Stable Lane was built before 1867 and this predates any structures on what is now the old fire station lands. The Council does not have the right to include any of the wall between Stable Lane and the old fire station in the proposed sale of lands.
- The site was subject to Japanese Knotweed infestation and there has been no certification that the treatment of this infestation is complete.
- The First-Party Response only provides a personal opinion on the matters raised in the Third-party Appeals, and no factual basis to support the opinions.

- The Applicant has failed to disclose the full range of sites considered within the scope area. Difficult to accept that the site represents the best option for the development of a new school, particularly when the Council has control of the nearby port lands and additional lands at St. Josephs NS in Dun Laoghaire.
- The development of 50% of the site for low density social housing in 2019 has severed a critical link to Kelly's Avenue and necessitates the unauthorised use within the application of Stable Lane access; and renders the balance of the site and Protected Structure entirely unsuitable for a school of this size.
- During the winter months, Stable Lane is used primarily for parking. In spring /summer and autumn, the Lane is used for both parking and as a recreational south facing semi-private area by residents.
- The Appeal site is not an established educational site.
- The site is not suitable due to contamination issues.
- Downstream flooding has not been addressed.

In addition, the Local Authority made a Further Responses dated 5th May 2022 and 14th September 2022 confirming that it was of the opinion that no new matters were raised that would justify a change of attitude to the proposed development.

7.0 Assessment

Having inspected the site and examined the application details and all other documentation on file, and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of the development and land use zoning
- Site Suitability
- Impacts on Adjoining Residential Properties
- Architectural Heritage
- Traffic
- Public Realm Works
- Ecology
- Flooding
- Appropriate Assessment
- Other Matters

Each of these issues are addressed in turn below.

My assessment considers the planning application as lodged with the Planning Authority and amended by way of a request for further information, de novo. As such, I do not consider it necessary to address concerns raised by the Appellants with respect to the robustness of the Local Authority's assessment. I note that there are inconsistencies throughout the planning application documentation, such as in relation to the number of pupils and staff to attend the school and bicycle parking. I consider these points to be relatively minor and would not have a material bearing on the assessment of the application.

7.1. Principle of Development and Land Use Zoning

- 7.1.1. The proposed development will provide for 16 No. mainstream classrooms and two additional needs units. The site is located within an area that has a Major Town Centre (MTC) land use zoning objective. This objective seeks "*To protect, provide for and-or improve major town centre facilities*". Education is listed as permitted in principle under

this zoning objective. The site has also been designated a Proposed Education Site in the Development Plan. Furthermore, the site is subject to a Specific Local Objective (SLO) 31: *To seek the redevelopment of the obsolete area at the Fire Station in accordance with the objectives of the Interim Dún Laoghaire Urban Framework Plan and the forthcoming Dún Laoghaire and Environs Local Area Plan.* Having regard to the above, the proposed development is acceptable in land use zoning terms. I note the concerns raised by local residents in relation to the proposed singular use of the site in light of the mix of uses proposed in the UFP. However, I am satisfied that the use is compatible with the objectives of the site's land use zoning and will positively contribute to the range of uses in the town centre, whilst also providing an active use in the existing Protected Structure on-site. I highlight that the Planning Authority stated also that the development would be compatible with the overall policies and objectives for the zone. Accordingly, I consider that the proposed development is appropriate, subject to all other relevant planning considerations being satisfactorily addressed as outlined in the following sections.

7.2. Site Suitability

Site Selection

- 7.2.1. One of the primary concerns raised by the Appellants relates to the site selection process and the design of the school, in particular the quantum and quality of play area proposed. The Applicant highlights that the requirement for a 16 classroom primary school to serve the Dún Laoghaire was listed in the Department's Capital Programme since 2015. A temporary school (Dun Laoghaire ENTS) opened in prefab accommodation on the campus of The Red Door School in Monkstown. In respect to the identification of a permanent site for the school, the Applicant advises that "*while a number of potential site options were identified with the assistance of officials in Dún Laoghaire Rathdown County Council (DLRCC), all proved to be either unsuitable or unavailable for acquisition. It was against this background that the Old Fire Station site at George's Place, Dún Laoghaire was identified and deemed suitable for the development of a 16 classroom primary school to serve the Dún Laoghaire SPA.*" Notwithstanding the merits of this statement, and as highlighted by the Appellants, no evidence has been submitted with the application demonstrating what other sites were considered as part of the site selection process. However, this is not a mandatory requirement for such planning applications. Furthermore, it does not undermine the

identified need for a school in the general area or contradict the principle of developing an appropriately sized school on the site.

- 7.2.2. The issue of contamination is addressed in further detail below. In summary, I consider that this matter could be adequately addressed by way of a condition, and in my view would not form a reason for refusal.

School Size

- 7.2.3. Technical Guidance Document TGD-025 - Identification and Suitability Assessment of Sites for Primary Schools (2019) sets out the design criteria for primary schools. It is important to note that the Guidance Document is for guidance only (Section 1.2(c)). Table 1 (School Site Area Analysis) recommends that an 8-16 No. classroom school should measure 1.04ha and a 16-24 No. classroom school should measure 1.5ha (both in relation to a two storey building)³. The subject site measures 0.2ha and as such is significantly below the recommended size. Notwithstanding this, the Guidance Document states: *“Due to the scarcity of land in urban areas it is not always possible to achieve the ideal site size for school buildings. Where some of the elements required for a school site can be provided outside the designated site area (e.g. traffic management, parking, playing fields, etc.), where it is possible to provide multi-storey (above two storey) buildings and where separation areas can be reduced due to the nature of permitted development on and adjacent to the site, smaller sites can be considered. Constraints in site sizes in urban areas mean that the full suite of external accommodation may not be provided in all cases. In such circumstances priority should be given to the provision of accommodation and services specific to the pedagogical requirements of the school. In many cases this will be in line with Local Authorities’ own development policies, e.g. encouraging sustainable transport methods thus reducing parking and set down requirements.”*

- 7.2.4. The Applicant argues that given the scarcity of appropriately zoned and located urban lands in the Dún Laoghaire Rathdown area, it is appropriate that an urban landholding, which is not insignificant in urban development terms, zoned explicitly for education use in the Development Plan, should seek to maximise the quantum of educational accommodation that can be reasonably provided on this site. Furthermore, the

³ Technical Guidance Document TGD-026 sets out the criteria for Specialist Accommodation Provision for Pupils with Special Educational Needs in Primary Schools with 2 or more special classes & Post Primary Schools.

Applicant states that the drop-off area is proposed off-site for the subject application and that the site benefits from being within proximity of significant public and recreational open space in the Dún Laoghaire-Rathdown area. Having examined the application in the context of the design criteria in Table 1 of the Guidance Document, it is evident that the footprint of the building exceeds the Guidance Document reference of 1,600 sq m. However, the Applicant has advised that the proposed building is necessary to meet their needs requirement.

7.2.5. There is a significant shortfall in play area proposed as part of the development, whereby there is only a total of 405 sq m proposed (294 Outdoor Yard and 111 sq m ANU). As outlined earlier, a number of the observations made to the Local Authority suggested that a rooftop play area be provided (as has similarly been done for many urban located schools). However, a further number of local residents objected to this suggestion. I note that there may be difficulties with this suggestion in this instance, having regard to the provision of services, including permeable/membrane paving and a heat pump, etc, being located at rooftop level.

7.2.6. In response to the shortfall of play area, the Applicant states that half the GP Hall area will be allocated for play area and that the breaks will be staggered into junior and senior times across the three play areas with the morning break lasting 10 or 20 minutes and the lunch break lasting 20 or 30 minutes. Furthermore, the Applicant states that *“the school is in range of well-established sports facilities and related playing areas including soccer, GAA, cricket and hockey clubs most of which are within a short radius of the site”*. A map is included in the First-Party Response illustrating the distance between the subject site and three off-site playgrounds/parks: Vesey Park 0.4km, Moran Park 1km and People’s Park 1.2km. Having visited these parks I note that while People’s Park has a playground area, the other two parks do not. Furthermore, none of the parks have playing pitch or ballcourt areas. Having regard to the tight timeframes for breaks, I do not consider it plausible that these parks could be used during breaktimes. However, it may be possible to use them for physical education by older children. Similar to the Appellants, I query the use of some of these parks, in particular People’s Park, for younger children having regard to the distance between the Park and the site, and urban nature of the surrounding environment.

7.2.7. I acknowledge the Applicant’s ‘conundrum’ of providing new school space in urban areas with scarce availability, particularly in light of the current property market.

Therefore, whilst there is a significant shortfall in play area proposed, in light of the Guidance Document's acknowledgment regarding the difficulties of developing schools in urban locations, and on balance, I consider the proposal acceptable having regard the various mitigation measures proposed by the Applicant. These include confirmation that staggered breaks can be managed, proximity of public parks and nearby sports facilities and related playing areas, and the site's constraints in terms of its urban location and the presence of a Protected Structure. Furthermore, as discussed in further detail elsewhere in this Report, I consider the proposed development to be acceptable in relation to other key planning considerations, including, land use zoning, traffic, residential amenity, flooding, etc. I reiterate that the Guidance Document is not mandatory and clearly states that in urban areas it is not always possible to achieve the ideal site size for school buildings. Furthermore, I highlight to the Board that Section 12.3.2.5 of the Development Plan requires only that the Planning Authority "*consider school developments having regard to specific requirements of the Department of Education (DoE) and guidance set out within 'The Provision of Schools and the Planning System, A Code of Practice for Planning Authorities' (2008).*" Furthermore, the Development Plan requires that "*the Planning Authority will have regard*" to various criteria when assessing school application, including the size of the site relative to the outdoor space requirements and future needs of the school.

- 7.2.8. In conclusion, there is no mandatory requirement to comply with the School Site Area Analysis criteria.

Lighting Standards for Classrooms

- 7.2.9. The Applicant assessed the quantum of daylight received by the classrooms in accordance with the BRE guide 'Site Layout Planning for Daylight and Sunlight'. The Applicant states⁴ that classrooms will achieve an Average Daylight Factor of 4.5% with the exception of Classrooms 1 and 9, which reach an ADF of 3.55% and 3.21% respectively. A series of compensatory measures have been included (provision of a light trough and maximising the width of external windows) to increase the daylight for these classrooms. While the Applicant has not provided the analysis for the classrooms with the Application, having reviewed the planning drawings I am satisfied

⁴ Source: Tom Phillips + Associates RFI Response document dated 14th January 2022.

that the classrooms will achieve sufficient light, having regard to the orientation of the site, the low density nature of the surrounding area, and the proposed compensatory design measures. I consider the reduced daylight for Classrooms 1 and 9 to be relatively minor and that these spaces will provide a sufficient level of light for pupils and staff.

Conclusion

7.2.10. In summary, notwithstanding the shortfall in play area, having regard to the significant planning gain provided by this critical community infrastructure in an urban and accessible location, on balance, I consider the proposed development to be acceptable. Furthermore, I am satisfied that the proposal is generally compliant with the criteria outlined in Section 12.3.2.5 of the Development Plan for assessing applications for new schools. Further discussion is provided in the sections below with regards to traffic impacts and cycle parking facilities.

7.3. Impacts on Adjoining Residential Properties

Architectural Design and Visual Impact

7.3.1. The proposed development involves the change of use, conversion, renovation and internal alterations to the existing building, and the construction of a three storey extension to provide for a primary school. The majority of the classroom space and general-purpose hall will be provided in the new extension to the rear of the existing building, while the majority of the administration and ancillary spaces will be provided in the existing main building facing George's Place. There are two external play areas at ground floor level proposed in the north-eastern corner (294 sq m) of the site and an additional needs unit (111 sq m) in the north-western corner of the site. There is a heat pump, and paved/membrane area with green roof proposed at roof level. The extension will have an overall parapet height of 14.45m along the northern elevation (including the hand railing) while the height of the heat pump plant enclosure will marginally exceed this in the centre of the roof. The extension will be finished with vertical hardwood timber blades panels and a light-coloured brick. A number of elevations will have a protruding end-on brick pattern, which will create visual interest and mitigate the overall massing of the structure. A number of the windows will be fitted with opaque glazing to prevent overlooking. A set of CGIs illustrating the revised

scheme were submitted at RFI stage. I believe they provide an accurate representation of how the scheme would appear.

- 7.3.2. As outlined earlier, the proposed extension was setback 2m from the boundary wall of the rear garden of No. 10 Bentley Villas along the western boundary of the site at RFI stage. The extension will extend between 11.56m and 11.95m in width from ground to second floor level along the western boundary and will have a maximum height of 12.3m (12.7m including the safety rail) above the natural ground level. The existing 2.65m high boundary wall between No. 10 Bentley Villas and the proposed extension will be retained. As such, the majority of the ground floor will not be visible to the adjacent neighbours located to the west of the site. The proposed stairwell located north of the rear gardens will measure approximately 11.5m in height and will extend to approx. 7m in width on all floor levels. Having regard to the setback distance of the extension along the western boundary, the orientation of the neighbouring dwellings, (whereby they are not directly overlooking the main body of the proposed extension, but rather face in the direction of the proposed outdoor external play area), and the proposed use of materials, I do not consider that the proposal will be significantly overbearing or visually obstructive for the residents of Bentley Villas.
- 7.3.3. Having regard to the height, massing and setback distances of the proposed extension behind the main building to the residential units directly opposite the site on George's Place and George's Lane, I do not consider that the proposal will have any overbearing or negative visual impacts on these units. In my opinion, the upgrade works to the existing building will improve the visual amenity provided by the Protected Structure.
- 7.3.4. The north-eastern corner of the proposed extension faces parallel to the northern boundary of the site, with the dwellings on Stable Lane located further north. The northern corner elevation runs directly parallel to the boundary wall for a width of approximately 3.22m but is setback approx. 2.46m from the northern façade of the subject wall. However, at first and second floor levels, the proposed extension immediately abuts the northern boundary wall for approx. 7m. The balance of the northern façade (a length of 20m at ground floor level and approx. 26m at first and second floor levels) is faced at an oblique angle to the northern boundary wall. The northern elevation has a parapet height of approx. 14m. The series of projecting/saw-tooth windows on the first and second floor levels rise to approx. 13m in height. Whilst the majority of this elevation is setback from the boundary wall (3.76m high), the first

and second floor levels will have a significant visual impact on the residents of Stable Lane. This is largely due to the vacant nature of the existing yard on the subject site. Notwithstanding this, I do not consider that the scale and massing of the proposed extension is excessive for a highly accessible urban location. For example, the BIM building located immediately west of the dwellings fronting Stable Lane and Crofton Road is six storeys high. The dwellings on Stable Lane are setback approx. 5.37m from the northern façade of the boundary wall. These dwellings are not Protected Structures, nor are they located in an architectural conservation area. In summary, I am satisfied that the height, scale, massing and use of materials for the proposed extension is appropriate at this location and that it will not create significant adverse visual or overbearing impacts for these residents.

7.3.5. Having regard to the separation distance between the proposed extension and the terrace of dwellings on Crofton Road (which are designated Protected Structures), I am satisfied that the proposal will not be overbearing nor will it adversely impact the architectural character or setting of these properties. Similarly, due to the separation distance between the proposed development and Connaught Mews, I do not consider that the proposal will create significant negative overbearing or visual impacts on these units that would adversely affect their residential amenity.

7.3.6. In summary, in my view, it is not a reasonable expectation that there would be no material change in the overall height and scale of any redevelopment proposal on the subject site, having regard to national guidelines and the site's town centre location/land use zoning and the proximity to public transport. I am satisfied that the proposed design in terms of height, scale, massing, and use of materials is appropriate for the site and is consistent with the site's MTC zoning objective and national policy for compact urban development. Furthermore, the proposed height is consistent with the Development Plan's Building Height Strategy for Dun Laoghaire, which notes that *Traditional building height within the area are typically 2-4 storeys, with some post-war developments of about 4-5 storey*. In conclusion, having regard to the site's context in a highly accessible urban area, I do not consider the scale and massing of the proposed development to be excessive. In my opinion, the proposed development will not adversely impact the visual amenity or character of the area, nor will it have overbearing impacts that would adversely impact the surrounding residential amenity of the area.

Overlooking

7.3.7. In terms of overlooking, the proposed development will not result in a significant additional level of overlooking beyond what is currently experienced by residents living along George's Lane, George's Place and Bentley Villas. This is particularly well demonstrated by the separation distances annotated on Dwg. No. P19-073K-RAU-17-00-DR-A-20005. I note residents' concerns from the properties on Stable Lane and Connaught Mews, however having regard to the angled view from the saw-tooth configuration of windows on the northern elevation and the separation distances (whilst not 22m), I do not consider that significant overlooking will occur that would adversely impact on the units' residential amenity. Further comfort would be provided by Condition No. 2 attached to the Local Authority's Decision which requires that the smaller north-west facing windows to Classroom Nos. 4, 5, 13 & 14 shall be manufactured opaque and permanently maintained to a height of 1.8m above finished floor level given their orientation and proximity to Stable Lane. Should the Board be minded to grant permission for the proposal, I recommend that a similar condition is attached to the Order. I note the Applicant's comments in the RFI Response in relation to providing louvers on the windows of the northern elevation and their corresponding negative impact on internal light within the classrooms. Having regard to the separation distances and that no direct overlooking will occur, I do not consider the screens to be necessary in this instance. In conclusion, having regard to the above, and subject to appropriate conditions, I do not consider that the proposed development would seriously detract from the privacy of surrounding properties by reason of overlooking or otherwise.

Noise Impacts

7.3.8. In terms of noise impacts, the Applicant submitted a noise impact assessment having deployed an unattended noise monitor on site to continuously record noise levels from 22nd May to 27th May 2020. As the assessment was undertaken during Covid-19 restrictions, a combination of attended and unattended measurements available from TII traffic data and previous experience to predict noise levels across the site were used to predict the noise levels from the proposed development. The Applicant outlines that the Department of Education and Skill's "*Acoustic Performance in New Primary and Post Primary Schools Buildings*" (SDG 02-05-03) specifies an upper noise limit of 35 dB L' Aeq,30min for classrooms, special education tuition rooms and

general purpose rooms. There is no specific guidance for external amenity areas and as such, for purpose of the assessment 55 dB Lday was adopted. The Assessment (dated October 2021) reports that the external courtyards and play areas have been predicted to comply with the 'Desirable Low Sound Levels' of Lday 55 dB(A) as outlined in the Dublin Agglomerations Noise Action Plan without any additional mitigation. The assessment includes the internal noise levels with partially open windows used for natural ventilation. The Assessment reports that with the exception of the classrooms on the east and north facades, all classrooms and the GP Hall are predicted to comply with the internal ambient noise levels with a partially open window. The classrooms on the north and east façade are predicted to marginally exceed the internal ambient noise levels with partially opened windows by 1-10dBA.

- 7.3.9. Following concerns raised in the Reid Associates Appeal in relation to the potential noise impacts from the proposed heat pump at rooftop level, an additional assessment was completed in March 2022. The Report (dated 31st March 2022) concludes that the predicted noise levels from the heat pump comply with the relevant Dublin Agglomerations Noise Action Plan standard (45dB LAeq or 10dB above background) without the benefit of screening from existing or proposed structures.
- 7.3.10. In summary, I am satisfied the noise assessments are robust. The main open space on site is well enclosed by both the proposed structures on site and the existing boundary treatments, which should serve to reduce noise impact. Furthermore, the ANU area is enclosed. Having regard to the school's hours of operation the noise impacts would be limited to very narrow time periods during the day. Furthermore, the position of the heat pump at rooftop level in an urban area is unlikely to create adverse noise impacts.
- 7.3.11. In terms of the use of the GP hall outside normal school hours, I consider that restricting the use of this facility to the hours of 7am to 9pm, Monday to Friday and 9am – 5pm Saturday as required by Condition No. 4 attached to the Local Authority's decision, would ensure there are no adverse impacts on the area's amenity. Should the Board be minded to grant permission for the proposed development, I recommend that a similar condition is attached to the Order.
- 7.3.12. In conclusion, I am satisfied that the proposed development will not generate significant negative noise impacts on the area's residential amenity.

Daylight/Sunlight/Overshadowing

Daylight

- 7.3.13. The Building Height Guidelines seek compliance with the requirements of the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' and associated British Standard (note that BS 8206-2:2008 was withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met, that this be clearly articulated and justified. The Applicant has submitted a quantitative performance analysis of the daylight/sunlight/overshadowing from the proposed development based on these Guidelines.
- 7.3.14. The BRE Guidelines describe recommended values (e.g. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impacts. However, it should be noted that the standards described in the BRE Guidelines are discretionary and not mandatory policy/criteria (para. 1.6). The Guidelines also state in paragraph 1.6 that, *"although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design"*.
- 7.3.15. The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate, etc. In addition, 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 to more suburban locations. I refer the Board to the Sunlight, Daylight & Shadow Assessment (Impact Neighbours) prepared by Chris Shackleton Consulting (not dated) submitted as part of the RFI Response.
- 7.3.16. The impact on daylight is measured in terms of Vertical Sky Component⁵. The assessment included Nos. 3a to No. 7 Stable Lane, Nos. 1 to 6 George's Lane, No.

⁵ The BRE guidelines set out a two-stage guide for the vertical sky component (VSC).

1. Where the Vertical Sky component at the centre of the existing window exceeds 27% with the new development in place then enough skylight should still be reached by the existing window.

10 Bentley Villas, and the Harbour Court units on George's Place located directly opposite the existing building on the subject site. All windows were recorded to achieve a VSC of 27% or experience less than 0.8 times their former value, with the exception of 16 No. windows along Stable Lane and two of the six windows tested at No. 10 Bentley Villas. The Report quotes Section 2.2.6 of the Guidelines, which states that *"if a room has two or more windows of equal size, the mean of their VCSs may be taken"*. The Applicant has assumed that the pair of windows at No. 10 that individually failed the VSC, serve habitable rooms, but that these rooms are also served by additional windows. (Having regard to the fenestration layout on the eastern and southern elevations of No. 10, I consider this assumption to be fair.) When these additional windows serving the rooms are included and the results are averaged as per clause 2.2.6, the final results are compliant with the Guidelines. Therefore, the Applicant reports that 87% of the windows tested in the surrounding area are compliant with the Guidelines.

7.3.17. Of the 16 No. windows that failed along Stable Lane, two marginally failed achieving 0.77 and 0.78. I concur with the Applicant that the failure is marginal and that the results are acceptable having regard to the site's urban location. The remaining 14 No. windows (relating to Nos. 4, 5, 6 & 7 Stable Lane), that do not exceed the 0.8 ratio, have results ranging from 0.35 to 0.72. The Applicant highlights that light to these units is already limited as a result of the high boundary wall located on the subject site, and states that any proposed development which extends above this wall will have a disproportional impact on the residential units. The Applicant states in respect to No. 5 Stable Lane, for which there are internal floor plans available online: *"While the analysis in the main report shows negative impact to the lane facing windows of this house the impact on the light within the rooms which they serve would be considerably less give[n] the greater contribution provided by the larger unaffected windows and glazed roof to the rear."* Furthermore, the Applicant contends that the fenestration to the rear of these units is greater than that of the front elevations.

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2. Where the vertical sky component with the new development in place is both less than 27% and less than 0.8 times its former value, then the area lit by the window is likely to appear more gloomy, and electric light will be needed more of the time.

7.3.18. I consider the assessment to be robust and that it accords with the Guidelines. I note that the windows on the southern elevation of Nos. 2 and 3 Stable Lane were not assessed, however having regard to the separation distance between these units and the site and the orientation and design of the proposed development, in my opinion, a detailed assessment of these is not necessary as the units are unlikely to be adversely impacted in terms of daylight. Due to the position of the tested units along Stable Lane and the separation distance (5.375m) between them and the 3.67m high boundary, any significant redevelopment of the site in accordance with national policy for compact infill brownfield development, is likely to negatively impact these units in terms of daylight. Whilst I note the Appellants' arguments in relation to the availability of light to the rear of these properties, and I concur that there is not a significant increase in fenestration to the rear of the units, nonetheless Google Maps illustrates that there is no obstruction to light received by the windows to the rear of the units. In respect to compensatory design measures the Applicant states that the development was designed to minimise the impact on Stable Lane, whereby the extension is orientated in the centre of the site immediately abutting the existing building to the south and as such there is minimal construction on the Stable Lane boundary. Furthermore, the extension was setback at RFI stage along the western boundary. In my view, there are limited additional compensatory measures that could be considered in this instance that would notably improve the results, with the exception of introducing significant setbacks on the proposed northern elevation. However, such a suggestion would not accord with national policy for high density compact urban development in accessible locations.

7.3.19. In summary, as required by the Building Height Guidelines, regard must be had to the provisions of national and local policies and objectives with respect to urban development including increased densities and regeneration within urban areas. Having regard to the foregoing and acknowledging the constraints associated by the subject site in terms of its position to the units on Stable Lane and the presence of the 3.75m high boundary wall, and the Protected Structure status of the existing building on the site, I consider that the loss of daylight to the residential units along Stable Lane to be justified in this instance. As stated above, 87% of the windows tested are compliant with the Guidelines. As such, in my view a refusal of permission is not warranted with regard to loss of daylight.

Sunlight

- 7.3.20. Sunlight access is assessed with respect to a measure called Annual Probable Sunlight Hours (APSH). BRE guidance recommends that the APSH received at a given window in the proposed case should be at least 25% of the total available light, including at least 5% in winter. Where the proposed values fall short of these, and the loss is greater than 4%, then the proposed values should not be less than 0.8 times their previous value in each period. The Applicant outlines that only windows that face within 90° of due south require testing for sunlight. As such, the residential properties on George's Lane and George's Place were excluded from the analysis.
- 7.3.21. The analysis demonstrates that 95% of the tested windows comply with the APSH requirements. The two windows (identified as 3.0.1 and 3.1.1 in the assessment) that fail, are the same two windows in No. 10 Bentley Villas that failed the VSC test. Having regard to the compliance rate of the remaining four windows tested for this unit, I consider that there will be no undue loss of sunlight for this dwelling that would adversely impact its residential amenity. In terms of the WPSH 73% of the windows pass, with three windows failing marginally and eight windows failing along Stable Lane. The Applicant argues that the results are not unexpected as the lower angle of the winter sun in a town/city environment make it difficult to achieve compliance with WPSH. Furthermore, the Applicant states that "*the windows impacted here look across an undeveloped site and this lack of development should not dictate development potential*". I concur with the Applicant in this regard and consider that the non-compliance with the Guidelines (which as stated above are not mandatory policy) is acceptable in this instance having regard to national policy for compact growth in urban locations that are in close proximity to public transport. Furthermore, for similar reasons relating to the reduced levels of daylight, I consider that there are limited compensatory measures that could be considered which would notably improve the results whilst also complying with national policy for compact urban development. As such, in my view a refusal of permission is not warranted with regard to loss of sunlight.

Overshadowing

- 7.3.22. Section 3.3 of BRE 209 considers the impact of development on sunlight to existing amenity spaces such as gardens, open spaces, playing fields and playgrounds. Section 3.3.7 recommends that at least half of the amenity space should receive at

least two hours of sunlight on March 21st (the Equinox) and in scenarios where detailed calculations cannot be carried out it is suggested that the centre of the area should receive at least two hours of sunlight on March 21st. The Applicant's analysis demonstrates that all the tested areas (rear gardens of Nos. 3A -7 Stable Lane, Nos. 1-6 George's Lane and the side and rear garden of No. 10 Bentley Villas) were compliant with the Guidelines.

Conclusion

7.3.23. I reiterate 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 am satisfied that the Applicant's assessment of the proposal has been competently prepared in accordance with the BRE / BS guidance and methodology. The assessment demonstrates that the impacts would be acceptable in accordance with recommended flexible interpretation of BRE guidance. I highlight that the Appellants have not submitted technical evidence contravening the Applicant's assessment. The site is located in a well-connected urban area and as previously outlined, increased height and density should be encouraged at such locations in order to achieve wider NPF planning objectives relating to compact development and brownfield redevelopment. Accordingly, I am satisfied that the proposed development is acceptable at this location and that it will not excessively detract from the amenities of surrounding properties by reason of daylight/sunlight/overshadowing impacts.

Construction Impacts

7.3.24. The temporary disturbance impacts associated with any urban construction project, including noise and dust, are generally common and unavoidable. Having regard to the need to facilitate the redevelopment of the site, I consider that any such temporary impacts would be acceptable and can be satisfactorily mitigated through the agreement of a construction management plan in accordance with standard practice. Furthermore, subject to the implementation of standard construction techniques which can be agreed with the Local Authority prior to the commencement of the development, I am satisfied that the integrity of the adjoining properties can be protected during the construction period of the proposed development.

Security

7.3.25. The proposal involves the provision of a primary school that is consistent with the MTC zoning for the site. The scheme has been designed to appropriately interface with the surrounding public roads and does not include any features that would be of concern regarding security or anti-social behaviour. I do not consider that the permeability that would be provided from the proposed link between George's Place's and Crofton Road via George's Lane and Stable Lane would create any safety or security issues as this area has good passive surveillance. In terms of security for the school, I do not consider it necessary that the existing gate on the northern boundary should be closed at night, as the main gateway into the school on the eastern boundary of the site on George's Lane would restrict access to the school grounds. Accordingly, I have no reason to conclude that the proposed development would lead to any negative impacts in terms of the safety and security of the area.

Property Values

7.3.26. I note the concerns raised in this case in respect of the devaluation of neighbouring property as a result of the proposed development. However, having regard to the assessment outlined above, I am satisfied that the proposed development would not seriously injure the amenities of properties to such an extent that it would have any adverse effect on the value of property in the vicinity of the site.

Conclusion on Impacts on Surrounding Residences

7.3.27. While traffic/transport impacts will be outlined later in this Report, the other potential impacts of the proposed development on the residential amenities of surrounding properties have been outlined above. I consider that the proposed development would be sufficiently distanced from existing properties to avoid any unacceptable overlooking or overbearing impacts. And while the proposed development would involve an intensification of activity and development at both construction and operational stages, I consider that the impacts would be acceptable having regard to the site's MTC zoning objective, its proximity to public transport and the need to facilitate the compact urban development in accordance with local and national planning policies.

7.4. Architectural Heritage

- 7.4.1. In terms of the internal works proposed to the existing building, I am satisfied that the proposed works would not adversely impact the structure's overall architectural heritage value and would facilitate the building being maintained in active use. In addition, I am satisfied that the proposed amendments to the elevations are relatively minor in nature and will not negatively impact the building's character or setting.
- 7.4.2. Whilst signage is referenced in the Statutory Notices no details of same are provided with the application. The Applicant states in the Planning Report (dated March 2021), that "*signage details for the school are to be agreed via an appropriately worded planning condition at compliance stage*". Having regard to the Protected Structure status of the front façade, I do not consider this proposal acceptable. As such, should the Board be minded to grant permission for the proposed development, I recommend that a condition be attached to the decision requiring that planning permission be sought separately for any signage proposal.
- 7.4.3. In terms of the proposed rear extension to the building, I note the Applicant's Conservation Report (dated March 2021) states that the area proposed to be built on was historically a covered yard. I am satisfied with the methodology and findings of this Report. Due to the proposed extension's setback position to the rear of the site and its relative height and massing to the existing building, I am satisfied that it will not be overbearing on the Protected Structure when viewed from George's Place. This is particularly evident in Proposed View 1 and 2 of the photomontages that were submitted as part of the RFI Response. While the extension will restrict views of the rear elevation of the building, I note that this elevation is largely not visible at present due to the rear northern boundary wall that is 3.76m in height. Furthermore, I note that the protected structure status relates to the front façade of the building only. Notwithstanding this, I do not concur with the comments made in the Reid Appeal regarding the proposed extension interrupting the relationship between the old fire station and the boundary wall. As stated above, the area proposed to be built on was historically a covered yard. The use of materials for the proposed extension will also maintain the legibility of the historic building form on the site and would be disguisable to the original building. Furthermore, I do not consider that the extension will negatively impact the character and setting of the neighbouring Protected Structure on the corner of George's Place and George's Lane due to the proposed design, scale and massing

of the proposal. I note that the Local Authority's Conservation Officer had no objection to the proposed development. The Reid Associates Appeal states that the UFP shows the rear facade of the Protected Structure would be free from development structures. However, I note that the image being referred to is in the former UFP, and not in the current version (2022-2028) of the Development Plan.

- 7.4.4. In summary, I consider the proposed development will not significantly impact the overall integrity of the Structure's architectural heritage, subject to the attachment of conditions requiring comprehensive monitoring of the demolition and construction works to the existing building.

7.5. Traffic

- 7.5.1. The Appellants have raised concerns in relation to the potential traffic impact from the proposed development. Specific concerns are raised in relation to the additional vehicular traffic which the school would generate and the impact on car parking in the area. The proposed development includes for two parallel car parking spaces along George's Place for ANU drop-off. There is no drop-off/setting down area, staff or visitor car parking proposed as part of the development due to the availability of public transport in the vicinity of the site. The Applicant contends that the pedestrian connectivity of the site will influence off-site drop off usage, as all drop offs are proposed to take place outside the site in the surrounding area. The Applicant states that footpaths will be provided in accordance with DMURS (minimum 1.8m wide).
- 7.5.2. A Traffic and Transport Assessment, Mobility Management Plan/Traffic Management Plan and a School Travel Plan for the proposed scheme were prepared by Waterman Moylan Consulting Engineers in January 2022 and submitted as part of the RFI Response to the Local Authority. The three Reports outline the proximity of public transport in the area to the site by various modes including, Dublin Bus, Dart/train, Luas, and Dublin BusConnects. The existing and proposed cycle and pedestrian routes are highlighted including a route from Crofton Road via Stable Lane to the site. The Applicant highlights that there have been no incidents recorded along the frontage of the site between the years 2005 and 2016 on the Road Safety Authority database. In addition, a Road Safety Audit was completed.
- 7.5.3. Furthermore, the Reports (which are based on a total number of 400 pupils) contains census data for commuting patterns with the Dun Laoghaire settlement area. This data

was compared with the results of a modal split survey sent to the principal of the Red Door School (temporary school location). The analysis demonstrates that while 62% of commuters travel by private car in the Dun Laoghaire area, 58% of staff and pupils travel by private car to the temporary school location. Utilising this data, and through the implementation of the School Travel Plan, the opening modal split of 58% private car usage is projected to be reduced to 30% within five years of the school opening. It is estimated that the proposed school would generate 72 AM drop-off trips (62 pupils and 10 staff).

- 7.5.4. The Applicant argues that given the number of drop off spaces located in the vicinity of the proposed site, it is expected that there is sufficient availability to facilitate drop offs for the 30 minutes before the school opens. This assumption is based on the analysis of a car parking survey of the area, which was completed in October 2020. The Applicant surveyed car parking areas (12 No. areas) in the vicinity of the site and recorded that there were 442 No. spaces in total, of which 118 No. were occupied on the date of the survey and the balance (324 No.) were available. As such, the Applicant argues that there is ample parking available to cater for the 72 No. proposed car trips to the school. It is proposed to divert 100% of school car trips to park and stride facilities with the exception of the SNU drop-off area along George's Place. In order to achieve this the school proposes special initiatives including a successful car-pooling strategy, the appointment of a Travel Manager and the provision of onsite pedestrian and cyclist facilities including bicycle parking spaces and scooter parking spaces. In response to local residents' concerns that the survey was undertaken during the implementation of Covid-19 restrictions, the Applicant notes that "*given the quantum of parking available an increase in the number of users post Covid 19 would still result in ample drop-off parking for pupils and their parents*".
- 7.5.5. The School Travel Plan includes special initiatives including the appointment of a Mobility/Travel Manager, whose objective will be to encourage and facilitate sustainable travel for pupils and staff associated with the school. This will include monitoring and ensuring the on-site pedestrian and cyclists facilities are maintained in a clean, operational condition and that additional facilities such as bicycle parking spaces are provided if demand should exceed the facilities provided.
- 7.5.6. I note from my site visit that the existing road and footpath network is sufficient in standard to cater for the additional traffic likely to be generated by the proposed

development. The area is well served by on-street car parking to facilitate drop off and pick up periods as well as being well serviced by public transport. Having regard to the details submitted with the application in relation to transportation and access to the site, and the various proposals in the School Travel Plan, including the appointment of a Travel/Mobility Manager and proposal to encourage sustainable travel, I consider that the proposed development is acceptable from a traffic and transport perspective. I note the inconsistencies in the planning application documentation with respect to the total number of pupils proposed to be enrolled at the school and the total number of trips proposed to be generated. However, I consider these to be relatively minor and, in my view, would not have a significant bearing on the projected traffic impacts from the proposed development.

- 7.5.7. The Appellants question the target modal split of 30%. Whilst I acknowledge this target is ambitious, I do not consider it unachievable having regard to its five year timeframe, the availability of public transport currently in the area and planned future transport projects, and the sustainable travel initiatives, including a range of hard and soft measures to discourage use of private car and promote behavioural change, outlined in the Mobility Management Plan/Traffic Management Plan and the School Travel Plan. I note that planning permission has been granted for others schools with similar projected targets; St. Tiernan's Community School, Parkvale, Balally, Dublin 16 (Ref. 303041) = 35% modal split target. The proposal is consistent with Transport Strategy for the Greater Dublin Area 2016 – 2035 which promotes walking, cycling and use of public transport by pupils. The Strategy notes that *School travel is a critical factor in GDA transport, particularly in the AM peak hour. School trips are a substantial contributor to local congestion and have a significant impact on travel times by all modes.* An Taisce's Green School programme highlights the benefits of walking and cycling/scooting to school in terms of health and fitness and the development of social skills for children.
- 7.5.8. Having regard to the foregoing, I consider that the proposed development would not cause significant road congestion and would not give rise to the creation of a traffic hazard in this location, subject to condition.

Cycle and Scooter Parking

7.5.9. There are a number of inconsistencies throughout the planning application documentation with regards to the proposed number of bicycle and scooter parking spaces to be provided. For the purposes of this assessment, I am referencing the facilities shown on Dwg. No. P19-073K-RAU-17-00-DR-A-21005, Rev. P03.06 submitted as part of the RFI Response. This drawing illustrates a tiered bike rack along the northern boundary of the site that can accommodate 66 No. bicycle spaces; a wall mounter bike along the ANU Play Area, which can accommodate 16 No. spaces; a semi-vertical rack to accommodate 10 No. staff bicycle spaces along the western boundary of the GP Hall; and three Sheffield stands along George's Place to accommodate six visitor spaces. As such, a total of 98 No. bicycle spaces are proposed. An annotation on the subject drawing states that 40 No. scooter spaces will be provided next to the ANU Play Area. The Applicant confirmed at RFI stage that no dedicated showers, lockers and drying facilities would be provided. The Applicant stated that the provision of universal access washrooms, located at each floor are also for staff use and that staff lockers and storage facilities are provided in the staffroom. The Local Authority's Transportation Department stated that given the range of user type at the proposed school and the nature of the existing building and site layout, that in this instance, the provision of cycle/scooter parking is acceptable. I am satisfied that the number of spaces to be provided is consistent with the DLRCC's Standards for Cycle Parking and Associated Cycling Facilities for New Developments' (2018).

Conclusion

7.5.10. Having regard to the above, I do not consider the proposed development presents a traffic hazard to the area nor will it generate a significant volume of traffic that would result in serious congestion or over-spill car parking in the area due to the proximity of various public transport modes and the quantum of car parking spaces in the surrounding area. As such, I do not recommend that permission is refused on traffic grounds.

7.6. Public Realm Works

Stable Lane

7.6.1. One of the primary concerns raised by the Appellants relates to the provision of a cycle and pedestrian linkway on the western side of Stable Lane, which would provide a

connection from Crofton Road to George's Lane via the existing gateway on the northern boundary of the site. The Site Location Map (Dwg. No. PL-19-285) attached to the copy of the redacted contract between the DLRCC and the Minister for Education would indicate that the Applicant is in control/owns the existing building and the rear hard surface area, but not the northern gateway. The original planning application documentation submitted to the Local Authority includes the area outline in red on Dwg. No. PL-19-285 and the existing gateway on the northern boundary of the site facing Stable Lane, but did not include Stable Lane. However, at RFI Stage the Local Authority requested that a cycle/pedestrian link be provided along Stable Lane. As such, as part of the RFI Response the red line boundary was amended to take account of the proposed link on the Lane. In addition, a letter of consent with the title "*Inclusion of Council Lands*", dated 12th January 2022, from Robert Burns, Director of Services in the Infrastructure and Climate Change Department of DLRCC to Mr Austin Curry of the Department of Education stating that DLRCC "*consents to the inclusion, by Department of Education, of lands at the Old Fire Station, George's Place, Dun Laoghaire, outlined in red on Drawing No. P100, Revision A, as part of a planning application*". The referenced drawing includes the subject site and a cycle/pedestrian laneway along the western side of Stable Lane. Furthermore, the Applicant's Dwg. No. P195, Rev. A '*Proposed Road Markings & Signage*' illustrates a proposed shared surface area on George's Place, George's Lane and Stable Lane. I note that the Statutory Notices were readvertised at this stage also.

- 7.6.2. As outlined in Section 6.0 above, the Applicant states that the existing gate along the northern boundary of the site is owned by DLRCC, and that Stable Lane is owned and taken-in-charge by DLRCC. Furthermore, the Applicant states that planning permission is not required to open the gate. However, the Appellants dispute this matter stating that the Lane is in private ownership and not taken-in-charge and as such there is no legal basis for the Applicant to include these lands as part of the planning application. The Appellants state that the gateway, which has been closed for 22 years, is only to be used in emergency cases. The Appellants make reference to correspondence (obtained under Freedom of Information ((FO)-014-2022), dated 10th April 2022) dating from 2016 to 2018 relating to whether or not the existing gateway along the northern elevation was owned by the DLRCC and if DLRCC owned/had taken-in-charge Stable Lane. The matter arose in relation to the

development of the Part VIII residential scheme on George's Lane. It would appear from the correspondence that the Local Authority had initial plans to provide pedestrian access to the Part VIII scheme from Stable Lane via the existing gateway. However, further to research conducted by Local Authority officials definitive confirmation that the Lane was owned/taken-in-charge could not be provided. An email from Austin Baines to John Healy and Frank Austin dated 2nd February 2018 states "*It does appear the road/lane is not in charge and is not in the Council's ownership*". As such, the proposal to provide a pedestrian access to the residential development was omitted from the residential scheme. Having regard to the above, the Appellants in this subject appeal case argue that the letter of consent issued by the Local Authority to the Applicant for this case has no basis in fact or evidence and as such the application should have been invalidated.

- 7.6.3. The Development Management Guidelines for Planning Authorities (2007) state "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts*". These Guidelines advise that where a third party raises doubts as to the sufficiency of an applicant's legal interest in a site, further information may have to be sought under Article 33 of the Planning and Development Regulations, 2001 (as amended). If notwithstanding the further information, some doubt still remains, the planning authority may decide to grant permission. The Guidelines further advise that, only where it is clear from the response that the applicant does not have sufficient legal interest, should planning permission be refused.
- 7.6.4. Acknowledging the case put forward by the Applicant that they have sufficient legal interest obtained from the Local Authority to make the planning application and the counter arguments presented by the Appellants in the various submissions to the Board, it is clear that there is a lack of clarity regarding the legal status of Stable Lane and the existing gateway on the northern boundary of the site. I do not consider it appropriate for the Board to determine whether or not the Local Authority is deliberately attempting to be misleading on the matter. I note that none of the Appellants state that they own the laneway or gateway.
- 7.6.5. Having regard to the foregoing and acknowledging the Development Management Guidelines for Planning Authorities (2007) and the lack of clarity on the legal status of the Stable Lane and the existing gate, I do not recommend that permission is refused

on this basis. As highlighted by the Guidelines and the Local Authority, Section 34(13) of the *Planning and Development Act 2000 (as amended)* states: “A person shall not be entitled solely by reason of a permission under this section to carry out any development.” As such, should the Board be minded to grant permission for the development, it is the Applicant’s responsibility to ensure sufficient legal interest exists to implement the permission. Under such a scenario, I recommend that the Board’s Direction makes reference to this Section of the Act and suggest that a copy of the Direction issues with the Order.

7.6.6. I note that the Appellants argue that Condition No. 12 attached to the Notification of Decision to Grant Permission “*is tacit confirmation by the Council of our view that the applicant does not have any legal interest to execute the proposed pedestrian and cycleway at Stable Lane* (Third-party Appeal prepared by Kieran O’Malley & Co (dated 15th March 2022)). However, I do not consider this to be the case, but rather the Condition is in line with best practice in providing clarity on such matters. I reiterate that the Development Management Guidelines for Planning Authorities states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. The developer must be certain under civil law that he/she has all rights in the land to execute the grant of permission.

7.6.7. The proposal to provide the pedestrian and cycle path on Stable Lane was proposed by the Local Authority and it is in accordance with the Urban Framework Plan. Whilst pupils and staff would benefit from the connectivity it would bring to the area, the proposed school is not dependent on the delivery of the accessway. I do not consider that the omission of the accessway would significantly alter the proposed traffic impacts from the proposed development. However, provision of the link would increase permeability in the area and in my opinion, its delivery would be within the best interests of good urban planning. As the link is proposed on the western side of Stable Lane where car parking is currently prohibited, it will not result in a loss of car parking spaces along the Lane. Furthermore, I do not concur with the Appellants that the link would cause traffic congestion or a hazard on the Lane as it would only facilitate pedestrian and cyclist access to the subject site. As addressed above, there is significant car parking in the area; it is not limited to Stable Lane.

7.6.8. The link is proposed along the western side of the Stable Lane, which contains two rear access/egress points to No. 7 Stable Lane and No. 7 Crofton Terrace,

respectively (see Photo 12). There is a small separation distance of approx. one metre between the proposed link and the side wall of the rear garden boundary wall and the access/egress points, which contains shrubbery. The two access/egress points are side entrances, with the primary access/egress points to the dwellings being located on Stable Lane and Crofton Terrace, respectively. I consider it is reasonable to assume that these entrances are not frequently used by a high volume of people as they only serve the two dwellings. Having regard to the separation distance between the proposed link and the access/egress points to the rear gardens, the good sightlines from these points, and the frequency and usage of the points, I do not consider that the proposal will block access to these properties, nor does it represent a safety hazard.

7.6.9. Whilst I acknowledge the local residents' statements that the Lane is used as an informal gathering area/play area, I question the amenity value the space can provide having regard to the confines of the area and the volume of car parking. Nonetheless, as the school will operate for only limited hours of the day and not during the weekends, I do not consider that it will significantly impact its current amenity value in terms of an outdoor recreational area.

7.6.10. It is not clear what is meant by the reference to 'proposed shared surface' on Dwg. No. P195, Rev. A '*Proposed Road Markings & Signage*'. With the exception of providing the pedestrian and cycle lane, removing the ESB substations and pay-and-display metre and the erecting signage at the northern end of the Lane, there are no other works along the Lane. I highlight that there is currently no barrier in place preventing the public from accessing Stable Lane. I note from my site visit that the area is used by the general public for car parking. As highlighted by the Appellants this drawing (Dwg. No. P195, Rev. A) does not illustrate the existing car parking spaces on Stable Lane. Condition No. 7 attached to the Local Authority's Decision requires that the on-street parking on Stable Lane should be retained. I concur with the Local Authority that the omission of the car parking spaces is not warranted.

George's Place

7.6.11. As outlined before, the proposal includes two accessible drop-off spaces and six bicycle spaces along George's Place. In addition, bollards, three trees, new paving, road signage and a street bench to the front of the site are proposed. I consider that

these works will positively contribute the area's visual amenity and that the removal of the on-street parking to the front of the existing building will not have significant traffic impacts on the area.

George's Lane

7.6.12. The Appellants state that George's Lane is a home zone for the Part VIII housing scheme. While there are no spaces delineated on the ground, I note from my site visit that the northern section of this Lane is used for car parking (see Photo Nos. 20-22). This is consistent with Dwg. No. P002 (see Appendix B attached) relating to the permitted Part VIII residential scheme which provides for six car parking spaces along the eastern boundary of the subject site. The subject Applicant's Dwg. No. P195, Rev. A '*Proposed Road Markings & Signage*' illustrates the permitted parking spaces (albeit at a different angle to the boundary wall) and a yellow box north and south of the gateway along the northern boundary. In the interests of safety, I recommend that the southern yellow box is extended in a western direction to cover the area in front of the existing gate along the eastern boundary of the site to provide safe access to the school grounds. There is no additional car parking proposed on George's Lane. Whilst the Applicant proposes a staging area for waste collection at the southern end of the laneway, there are no other works proposed to the Lane. The front gardens to the dwellings on the eastern side of the Lane have a low level wall and railings. Whilst the pedestrian and cyclist usage of George's Lane will increase, I do not consider that the proposal will result in a significant loss of amenity space for the residents of George's Lane having regard to the fact that they have large rear gardens.

7.6.13. The proposal includes two options for bin staging areas; one along George's Place between the proposed trees, and one at the junction of George's Lane and George's Place. The first option conflicts with the proposed tactile paving for the pedestrian crossing on George's Place (see Dwg Nos. P19-073K-RAU-17-00-DR-A-20006, Rev. P03.05 and 142-DL-DD-01, Rev. B). Furthermore, in the interests of visual amenity and permeability, I recommend that the area at the junction of George's Lane and George's Place be selected. However, I note that part of this staging area is located outside the red line boundary. As such, should the Board be minded to grant permission for the proposed development, I recommend that the details of this area be clarified and agreed with the Local Authority prior to the commencement of the development.

7.7. Ecology

- 7.7.1. The planning application documentation included an Ecological Impact Assessment (dated October 2020). Following a desk study, a field survey (including a bat survey), was conducted on 17th June 2020. The Report confirms that there are no rare or protected habitats recorded and that the development area is generally of low ecological value. Furthermore, the Report states that there are no predicted in-combination effects from the proposed development and surrounding developments that would likely adversely impact on biodiversity. The Applicant advises that the daylight survey for bats showed no evidence of previous bat occupancy and that the building is considered of low value to bats for roosting due to the lack of connectivity to surrounding feeding or commuting areas. Although some attic spaces showed some potential for roosting bats no evidence was found. It was concluded that the proposal will have no direct or indirect impact on local bat population. In response to the Appellant's comments in the Reid Appeal that night time surveys or recordings were not undertaken, Eire Ecology on behalf of the Applicant references Section 5.7 of the Bat Mitigation Guidelines for Ireland (NPWS, 2006) which states that "*it is for the person planning the survey to decide what level of effort is required, according to the objective of the survey and local conditions.*" The ecologist (John Curtin) reiterates the main reasons why bats were not recorded and contends that the survey was undertaken in accordance with the relevant guidelines. I note that the Guidelines state that "*evening surveys with bat detectors at an appropriate time of year **may be helpful in narrowing down the area to be searched***". [Bold; My emphasis.] I am satisfied with the findings of the Ecological Impact Assessment, including the bat survey.
- 7.7.2. The Report states that while there were no signs of invasive species on site, there is a stored area of treated Japanese Knotweed. The Report states that this will be removed by the Local Authority. I am satisfied that this matter can be addressed by way of condition to ensure there are no adverse impacts on the area's biodiversity.
- 7.7.3. With regards to concerns raised by the Appellants in relation to the potential for the site to contain contaminated soil as the site was previously used as an area to refuel Council vehicles, the Applicant highlights that the Site Investigation Report (dated 28th February 2020) states that seven samples from the site were stated to be non-hazardous material. The testing locations are illustrated on an aerial photograph of the site in the Report. The Report states: *Six of the samples did detect Total Petroleum*

Hydrocarbons above the limit of detection, but the levels were low and not in the liquid phase so the soils can be classified as non-hazardous. Following this analysis of the solid test results, the leachate disposal suite results recorded elevated loss of ignition and total organic carbon results in 3 and 2 samples respectively. The arsenic result in TP04 also exceeded the inert threshold and therefore, discussions with landfills should be completed prior to removal of soils from the site. Seven samples were tested for analysis but it cannot be discounted that any localised contamination may have been missed. Any made ground excavated on site should be stockpiled separately to natural soils to avoid any potential cross contamination of the soils." The Applicant states that the Site Investigation Report informed the Outline Construction Management Plan. The Planning Authority raised no issues with the development in this regard. Subject to condition, I am satisfied that this matter will not adversely impact the surrounding environment and that it can be adequately dealt with through the mechanism of the construction and demolition waste management plan.

- 7.7.4. In summary, I am satisfied that the proposed development will not negatively impact the area's biodiversity and as such, I do not recommend that planning permission is refused on this basis.

7.8. **Flooding**

- 7.8.1. Concerns are raised in relation to flooding on the site, in particular flooding caused by surcharging of public sewers in the area. The Appellants argue that the Applicant's flood risk assessment is not compliant with the Guidelines and that the proposal will have implications for dwellings on Stable Lane, Connaught Place, and Crofton Terrace which have lower finished floor levels than the site. The Applicant submitted a Flood Risk Assessment (dated February 2021) with the planning application that confirms that the site is located in Flood Zone C and as such is at a very low risk of flooding. Therefore, a Justification Test is not required. The Report outlines that the proposed development is to be constructed with levels ranging between 11.96m and 19.94m and the finished floor levels of 12.15m and 10.78m. The Assessment confirms that the risk from tidal flooding is low and no flood mitigation measures need to be implemented in this respect. With respect to fluvial flooding, the Assessment states that the risk is low having regard to the finished floor levels being positioned above predicted flood levels. For the same reasons, the residual risk of flooding from ground water and human/mechanical error is low.

- 7.8.2. In relation to pluvial flooding, the Report states *“The proposed development on-site surface water drainage sewers have been designed to accommodate flows from a 5-year return event which indicates that on average the internal system may surcharge during rainfall events with a return period in excess of five years. Therefore, the likelihood of surcharging of the on-site drainage system is considered moderate.”* However, the Applicant states that the existing drainage system has capacity to accommodate development on the site and therefore the likelihood of flooding is low. There is a reduction in hard standing area as a result of the proposed development. There is no flow path to the development as any overland flooding is directed away from the site. The Applicant advises that due to the adequate sizing of surface water network, the provision of SUDS devices, the clearance between finished floor level and surrounding roads, installation of a hydrobrake, and the reduction of hard standing area, the residual risk of flooding from surface water is low.
- 7.8.3. In response to the concerns raised by the Appellants, the Applicant highlights that the proposal will offer a significant benefit to the existing drainage network as the existing site is currently discharging all surface water to the extant 225mm diameter combined sewer without any restriction or attenuation on the flow. As such, the peak surface water runoff from the existing development of 20.4l/sec will reduce under the proposed development to 2l/sec. Furthermore, the Applicant states *“The overland flood route[s] are the same for the existing site and the proposed site. The development of the site provides great benefit in terms of surface water outflow. All surface water will be intercepted on site and stored within the drainage network and attenuation which has capacity of the 1 in 100 year storm with 20% climate change allowed for in calculations. It is not intended that surface water from the subject site flow overland as the drainage network has capacity for same.”*
- 7.8.4. I am satisfied that the submitted flood risk assessment is robust and that it accords with relevant national guidance and that the proposed development will not cause a significant flood risk to surrounding properties. Furthermore, I am satisfied that the proposed mitigation measures are appropriate and adequate and a permanent barrier flood relief to prevent egress of floodwaters, as suggested by the Appellants, is not required. Furthermore, I note that the Local Authority’s Drainage Planning Section had no objection to the development subject to condition. Having regard to the foregoing,

I do not recommend that planning permission is refused for the proposed development on the basis of flood risk.

7.9. Appropriate Assessment

- 7.9.1. The Appellants have raised concerns in relation to contaminated underground water pathways, surface water contamination, and an increase in foul sewerage in respect to appropriate assessment. Furthermore, the Appellants argue a hydrology report is required to examine if there is a potential pathway for contaminants to reach nearby European sites. In addition, the Reid Appeal highlights that the Applicant's Screening Assessment stated that "*there is connectivity to these or any other European Site*".
- 7.9.2. The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites. The closest European Sites are the South Dublin Bay SAC (site code 000210) and South Dublin Bay and River Tolka Estuary SPA (site code: 004024). The South Dublin Bay SAC is located approximately 900m from the site while the South Dublin Bay and River Tolka Estuary SPA is located c.480m from the site. There are no direct pathways between the site and the Natura 2000 network.
- 7.9.3. It is proposed to drain foul effluent via gravity from the development and connect to the existing public foul water network located to the east of the site on George's Lane. Surface water from the existing building will continue to be drained via gravity by means of the existing surface water sewers to the south and east of the site on George's Lane. Surface water from the proposed extension will be drained via gravity to a proposed surface water sewer along the northern boundary of the site. The proposed sewer will connect to the existing public surface water network located to the east of the site on George's Lane. Surface water from the development site will drain via gravity to the existing 22mm diameter combined sewer to the east of the site. Surface water attenuation will be provided within an underground surface water storage tank, prior to discharging to the existing combined sewer.
- 7.9.4. With regard to surface water, the development incorporates appropriate standard management measures to regulate discharge flows in terms of quantity and quality. As outlined above, there is limited potential for surface water contamination during construction works. I am satisfied that the implementation of standard best-practice construction management will satisfactorily address this matter.

- 7.9.5. GSI Mapping indicates that the subsoil permeability is low and the groundwater vulnerability in the area is only moderate. Therefore, I am satisfied that any potential groundwater impacts can be excluded. Whilst the Appellants state that the Applicant has not considered contaminated underground water pathways, I note that there is no evidence on the file that such pathways are present. Notwithstanding this, I highlight that there is known potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants. Therefore, having regard to the limited scale of the development, the ‘unpolluted’ EPA classification of the coastal waters in Dublin Bay and the dilution capacity of these waters; I am satisfied that there is no possibility of significant effects on European sites within the Bay.
- 7.9.6. The potential for significant impacts such as displacement or disturbance due to loss or fragmentation of habitats or other disturbance is excluded due to the lack of suitable habitat for qualifying interests of European sites and the intervening distances between the appeal site and European sites in this urban location.
- 7.9.7. The wastewater emissions from the development would result in an increased loading on the Ringsend WWTP. However, there is known potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants. Having regard to the scale and nature of the development and the associated discharges; the ‘unpolluted’ EPA classification of the coastal waters in Dublin Bay and the dilution capacity of these waters; and the capacity of the Ringsend WWTP; I am satisfied that there is no possibility that the additional wastewater loading resulting from the development will result in significant effects on European sites within Dublin Bay.
- 7.9.8. As outlined above, the removal of any potential localised contaminated soil from the site will be managed in accordance with a construction and demolition waste management plan as per good construction practices. There is nothing unique, particularly challenging or innovative about this urban brownfield site, either at construction phase or operational phase. It is therefore evident from the information before the Board that the proposed construction would not be likely to have a significant effect on the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA.
- 7.9.1. In summary, in this project, no measures have been especially designed to protect any European Site. I am satisfied that any proposals incorporated within the

development, including surface water management proposals and the disposal of potentially contaminated material, constitute standard best practice and that no mitigation measures are relied upon for the purposes of Appropriate Assessment screening. Having regard to the above preliminary examination and on the basis of the information on file, which I consider adequate in order to issue a screening determination, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment is not required.

7.9.2. I note that the Applicant has prepared an Appropriate Assessment Screening (dated October 2020) in respect of the proposed development, which also concludes that potential significant effects on European sites have been excluded at a preliminary screening stage. In response to the comment regarding connectivity, the Applicant confirmed in a Technical Note (dated March 2022) that there was a typographical error in the Screening Assessment that in fact “*there is no connectivity to these or any other European Site.*”

7.10. Other Matters

Validity of the Application

7.10.1. In terms of the validity of the application, as stated above, I am satisfied that the Applicant has provided evidence of sufficient legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. With regards to the concerns raised in relation to the validity and quality of the planning application, I consider these matters to be relatively minor details that do not materially impact the assessment or the determination of the case. Furthermore, with respect to the concerns in relation to the description of the development, in particular the height of the proposal, I highlight that the Planning Regulations only require that the statutory notices provide a brief description of the nature and extent of a development proposal. The planning application was made to and validated by the Local Authority. The above assessment represents my de novo consideration of all planning matters material to the proposed development. In summary, I am satisfied that there is sufficient

information in respect of the proposed development for the purposes of the planning application and decision.

Separate Legal Codes

- 7.10.2. Issues relating to compliance with non-planning regulations, including inter alia Building Regulations, Fire Safety Certificate, etc. will be evaluated under separate legal codes, and as such in my opinion, need not concern the Board for the purposes of this Appeal.

Consultation

- 7.10.3. The Appellants highlight that there was no consultation with the public prior to the lodgement of the planning application. Public consultation prior to the lodgement of an application is not mandatory for a project of this size and nature. Furthermore, I note that observations were made to the Local Authority in respect to the proposed development during the relevant statutory consultation periods following the lodgement of the original planning application documentation and the RFI Response. The Board has already determined that an oral hearing is not required in respect of this case.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted, subject to the conditions outlined below.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed school development, the site's land use zoning (MTC) and other objectives contained in the Dún Laoghaire-Rathdown County Development Plan 2022-2028, including the designation of the site for educational use, Specific Local Objective 31 seeking the redevelopment of the subject site and Section 12.3.2.5 (School Development), and the provisions contained in the National Planning Framework, and Urban Development and Building Heights - Guidelines for Planning Authorities with respect to compact brownfield urban development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute a facility of value to the community,

would not cause traffic congestion or endanger pedestrians, cyclist or traffic safety, would not seriously injure the amenities of the area or of property in the vicinity, would not negatively impact the character or setting of the Protected Structure (Ref. 528) and would not cause significant environmental harm in terms of biodiversity or flooding. Therefore, the proposed development is in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars submitted to the Local Authority on 20th January 2022, 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The use of the general purpose hall outside of school hours and outside term time shall be made available where it will be of benefit to the wider community, to details (including hours of operation) to be agreed in writing with the planning authority before the general purpose hall is opened for use.</p> <p>Reason: To comply with the requirements of Section 12.3.2.5 (School Development) of the County Development Plan 2022-2028, and in the interests of the proper planning and sustainable development of the area.</p>
3.	<p>The smaller north-west facing windows to Classroom Nos. 4, 5, 13 & 14 shall be manufactured opaque and permanently maintained to a height of 1.8m above finished floor level given their orientation and proximity to Stable Lane, the details of which shall be agreed with the Planning Authority prior to the commencement of the development.</p>

	Reason: In the interest of residential amenity.
4.	<p>Details including samples of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
5.	<p>On-street car parking spaces on Stable Lane shall be retained.</p> <p>Reason: In the interest of clarity.</p>
6.	<p>The developer shall implement the measures for achievement of the targets specified in the submitted School Travel Plan and Mobility Management Plan/Traffic Management Plan. These shall be fully implemented, monitored and reviewed under the direction of the Mobility/Travel Manager who shall be appointed by the developer, in accordance with the requirements of the planning authority. Periodic updates on achievement of targets and provision of monitoring reports shall be submitted, in accordance with an agreed timeframe, to the planning authority. If targets for modal split are not being achieved, alternative arrangements shall be agreed in writing with the planning authority.</p> <p>Reason: In the interest of pedestrian and vehicular safety, amenity, clarity and orderly development.</p>
7.	<p>Details of the proposed bicycle and scooter facilities to be submitted and agreed in writing with the Local Authority prior to the commencement of the development.</p> <p>Reason: In the interest of clarity.</p>
8.	<p>Details of proposed traffic and road signage and markings in the vicinity of the proposed school to be submitted and agreed with the Local Authority, prior to the commencement of the development. The yellow box south of the existing gateway on the northern boundary of the site shall be extended in a</p>

	<p>westerly direction in front of the existing gate on the eastern boundary of the site.</p> <p>Reason: In the interest of road safety.</p>
9.	<p>The developer shall engage the services of a Conservation Architect or equivalent expert with specialised conservation expertise, in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011 and in accordance with Best Conservation Practice, to monitor all works to the Protected Structure.</p> <p>Reason: To ensure that the integrity of this protected structure is maintained and that all works are carried out in accordance with best conservation practice.</p>
10.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p>

	<p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
11.	<p>No signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected on the building or within the site unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area.</p>
12.	<p>No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.</p> <p>Reason: In the interests of visual and residential amenities.</p>
13.	<p>All external lighting details to be submitted and agreed with the Local Authority prior to the commencement of the development.</p> <p>Reason: In the interests of visual and residential amenities.</p>
14.	<p>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.</p> <p>Reason: In the interests of visual and residential amenity.</p>
15.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection, including staging areas. for waste and, in particular, recyclable materials and for the ongoing</p>

	<p>operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
16.	<p>Details demonstrating how the space to the front of the existing gateway along the eastern boundary of the site will be kept clear from car parking shall be submitted and agreed with the Local Authority prior to the commencement of the development.</p> <p>Reason: In the interest of pedestrian and cyclist safety.</p>
17.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
18.	<p>Any invasive alien plant species shall be treated and removed from the site by a competent operator under the supervision of the project ecologist. Removal of soil material contaminated or potentially contaminated with Japanese Knotweed may only be carried out under license from the National Parks and Wildlife Service in accordance with the Birds and Natural Habitats Regulations 2011.</p> <p>Reason: To control the risk of spread of invasive alien species from this site.</p>
19.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, protocol for the removal and treatment of potential contaminated material, and details of the methods and locations to be</p>

	<p>employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
20.	<p>The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
21.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.</p> <p>Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.</p>
22.	<p>Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health</p>
23.	<p>Lighting shall be provided in accordance with a scheme, which shall include lighting of pedestrian / cycle routes, 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 occupation of the school.</p> <p>Reason: In the interests of amenity and public safety.</p>

Susan Clarke
Planning Inspector

25th October 2022

Appendix A: EIA Preliminary Examination

An Bord Pleanála Case Reference	313993-22	
Development Summary	Provision of a primary school.	
Examination		
		Yes / No / Uncertain
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?	No	
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?	No	
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?	No	
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?	No	
Comment		
<p>Having regard to the limited nature and scale of the proposed development on a brownfield serviced site measuring 0.2ha and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.</p>		
Conclusion		
<p>Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?</p>		
There is no real likelihood of significant effects on the environment	EIAR not required	✓
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required	No
	Sch 7A information submitted?	No
There is a real likelihood of significant effects on the environment	EIAR is required (Issue notification)	No

Inspector _____ Date: _____

DP/ADP _____ **Date:** _____

(only where EIAR/ Schedule 7A information is being sought)

Appendix B: Part VIII Residential Scheme on George's Lane - Dwg. No. P002

