



Development	Demolition of greenhouses and related structures. Construction of a nursing home with 120 beds and all associated site works.
Location	Former Highfield Plant Nursery located off Oaklands Crescent Road, Highfield Road, Rathgar, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3971/22
Applicant(s)	Prime GP 1 Limited.
Type of Application	Permission.
Planning Authority Decision	Grant, subject to conditions.
Type of Appeal	Third Party
Appellant(s)	Geraldine Egan and others. Paula Fyans and others. Richview Management DAC.
Observer(s)	Four observers, see section 6.4.

Date of Site Inspection

23 January 2024.

Inspector

Terence McLellan

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1.0 Site Location and Description

- 1.1. The subject site is an irregularly shaped, fully enclosed site, measuring approximately 0.67 hectares, located around 4km from Dublin city centre, 1.1km from Rathmines village centre, and 850m from Rathgar Avenue. The site was formerly in use by the Highfield Plant Nursery and accommodates various glasshouses related to the former operation. However, the glasshouses are in various states of disrepair and the now vacant site is very overgrown in parts with recolonising vegetation, particularly along the east and southeast boundaries.
- 1.2. The main access to the site is from Highfield Road via Oaklands Crescent and the St Luke's Hospital service road. The site is bounded to the north by the small residential development of Four Oaks, which is a gated infill development of two storey homes built on land that previously formed part of the Highfield Plant Nursery. The cul-de-sac of Highfield Grove also adjoins the site midway along the northern boundary and is characterised by predominantly single storey terraced cottages, although there are dormer dwellings located immediately adjacent to the site. St Luke's Hospital forms the western boundary and buildings are generally in the range of two to three storeys. The east boundary is marked by the rear gardens of the two and a half storey, semi-detached and terraced dwellings on Sunbury Park, whilst the southern boundary is defined by the rear gardens of the two storey semi-detached dwellings on St. Kevin's Park.
- 1.3. St Kevin's Park, Sunbury Park, Highfield Road, and Highfield Grove are all designated as Residential Conservation Areas. There are various Protected Structures in the vicinity, notably on Highfield Road, Sunbury Gardens (which provides access to Sunbury Park) and within St Luke's Hospital. However, none of these are located proximate to the appeal site.
- 1.4. The nearest bus stops are located on Highfield Road, approximately 230m to the north (Go Ahead Ireland service S4), Palmerston Road, approximately 450m to the north east (Dublin Bus service 140), and Dartry Road, approximately 500m to the east (Dublin Bus service 142 and Go Ahead Ireland service S4). The nearest Luas stop is located at Cowper, which is a 1,300m walk to the east.

2.0 Proposed Development

- 2.1.1. Planning permission is sought for the demolition of the existing derelict glasshouses and related structures, and the redevelopment of the site to provide a four storey building accommodating a 120 bedroom nursing home. The proposal includes all associated ancillary development, including roof plant and equipment, hard and soft landscaping, external amenity space, boundary treatments, and internal roads and pathways.
- 2.1.2. The proposed building form would be an inverted 'h' shape, incorporating two communal landscaped courtyards. The top floor would be slightly setback on the north and east facades and a green roof would be provided. An access road would be provided around the periphery of the site, providing access to 47 car parking spaces. A set down and servicing area would be provided adjacent to the west façade and within the south west corner of the site respectively. Vehicular access would be via the existing vehicular access from Oakland's Crescent and St Luke's Hospital service road to the west. An additional dedicated pedestrian/bicycle access is proposed via Highfield Grove to the north.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. Notification of the Decision to Grant Permission was issued by Dublin City Council on the 13th October 2022. Permission was granted subject to 14 conditions as follows:
1. Compliance with plans, particulars, and specifications.
 2. Development contributions.
 3. Payment of a bond.
 4. Drainage requirements.
 5. Compliance with National Quality Standards for Residential Care Settings for Older People in Ireland 2016.
 6. Materials.
 7. Restrictions on additional roof development.

8. Hours of work.
9. Noise levels.
10. Orderly development.
11. Environmental Health requirements (noise and air quality).
12. Landscaping.
13. Tree protection.
14. Transportation requirements (including a revised design of the main entrance to improve the shared surface, crossing and legibility, and details to restrict access to St Luke's Hospital from Oaklands Crescent).

3.3. Planning Authority Reports

- 3.3.1. The Planner's Report was issued on 13th October 2022 and confirms that the development would be acceptable in terms of zoning. The report notes that no CGI's were submitted with the application and states that to fully assess the impact of the proposal, CGI's should be submitted by way of Further Information. The rationale being that the visual impact of such a development in such an enclosed site is potentially of concern, particularly on the residents of Sunbury Park where their rear gardens are much more restricted, and that the scale of the development could be seen as overbearing and visually obtrusive. The Planning Authority requested this information, in addition to a Visual Impact Assessment, by way of Further Information. The subsequent details and level of impact were considered to be acceptable.
- 3.3.2. The Planner's Report states that the separation distances are acceptable. The report notes that specific design measures have been employed to ensure that overlooking does not occur from the development into neighbouring properties, and that the development would have minimal impact to the availability of daylight and sunlight on the surrounding homes and amenity spaces. The Planning Authority is satisfied with the design, height, scale, and massing of the development and are content that there would be no significant amenity impacts.
- 3.3.3. Various transport issues were raised during the application and dealt with by Further Information to the satisfaction of the Transport Planning Division. These are set out in more detail in section 3.3.9 below.

3.3.4. In terms of Ecology, the report notes that information has been submitted that states that field assessments were carried out in 2018, 2019 and 2022, and that site clearance works have taken place since the 2018 and 2019 surveys. The habitat assessment is based on the 2022 survey. The vast majority of the proposed development consists of an area of recolonising bare ground and no species of conservation importance were previously noted on site. The report does note that an area of the site has Japanese Knotweed and is undergoing treatment.

3.3.5. The report states that the applicant submitted an updated Bat Survey as the previously submitted survey was undertaken in September 2019. This was concluded as having no impact on the conclusions of the previously submitted Appropriate Assessment Screening Report or the Ecological Impact Assessment submitted as part of the original application.

3.3.6. **Other Technical Reports**

3.3.7. **Drainage Division:** No objections, subject to conditions.

3.3.8. **Environmental Health:** No objections, subject to conditions.

3.3.9. **Transportation Planning:** Whilst the Transport Planning Division considered the development to be acceptable in terms of car and cycle parking, they have taken note of the large number of submissions received regarding the suitability of accessing the site via Oaklands Crescent. Further Information was therefore requested with regards to the following:

- To submit an independent Road Safety Audit, undertaken in accordance with the City Council's procedures, assessing the access routes and all associated proposed shared surfaces and junctions.
- To review the access routes via Oaklands Crescent, St Luke's Hospital service road, and Highfield Grove based on the RSA and address any hazards identified.
- To submit details of proposed mitigation measures and revised drawings of any proposed improvement works on Oaklands Crescent, including the junction with St Luke's service road (within the blue line boundary).
- To provide details of how the use of Oaklands Crescent as an alternative access route to the hospital will be prevented.

- To submit a revised Traffic and Transport Assessment, which includes assessment of the peak traffic impact of the development and hospital.
- To submit details for the pedestrian/cyclist entrance onto Highfield Grove, demonstrating visibility for oncoming traffic and security matters.
- To review the design and provide revised drawings of the internal roadway and junction at the main entrance of the site where the shared pedestrian/vehicular surface should be differentiated from the general road surfacing across the site.
- To submit details on the allocation of car parking spaces to staff, visitors, residents and details on EV charging facilities should also be provided.

3.3.10. This information was submitted to the Planning Authority on the 16th September 2022 and reviewed by the Transport Planning Division who considered the information acceptable to address the concerns raised. The Transport Planning Division therefore recommended that permission be granted, subject to conditions.

3.4. Prescribed Bodies

3.4.1. Uisce Éireann were consulted but no response was received.

3.5. Third Party Observations

3.5.1. A total of 55 observations were submitted on the planning application. These observations generally raise similar issues to the grounds of appeal and observations made on the appeal, which are set out at sections 6.1 and 6.4 below.

4.0 Planning History

4.1.1. **ABP Ref 305148-19/Planning Authority Ref 2010/19:** In December 2019, the Board overturned the decision of Dublin City Council to grant planning permission for the demolition of structures and the construction of 14 dwellings. Permission was refused for the following reasons:

1. On the basis of the information submitted with the planning application and appeal, it was noted that the proposed development would be reliant on works to provide access arrangements which are outside of the appeal site

(red line) boundary. The Board considered that the proposed development would endanger public safety by reason of a traffic hazard as it has not been demonstrated that safe access to the proposed development would be provided.

2. Having regard to the location of the site within easy walking distance of high-quality transport in an existing fully serviced area, the Board considered that the proposed development with a density of 22 units per hectare and the preponderance of four-bed house types, would not provide for an acceptable efficiency in serviceable land usage and that therefore the density proposed would be contrary to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of Environment, Heritage and Local Government in May 2009, as they relate to cities and towns. The proposed development would, therefore, be contrary to these Ministerial Guidelines and contrary to the proper planning and sustainable development of the area.

- 4.1.2. The core issue on the first reason for refusal was the fact that the development relied on removing bollards, lowering a wall to improve visibility, and removing two parking spaces which were on land outside of the applicant's control.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The planning application was considered by the Planning Authority for compliance with the policies and objectives of the Dublin City Development Plan 2016 – 2022, which was the relevant policy document in force at the time. A new City Development Plan came into effect on 14th December 2022 for the period 2022 – 2028, which will be considered herein.

Dublin City Development Plan 2022-2028

- 5.1.2. The site is zoned Z1, the stated objective of which is “to protect, provide and improve residential amenities”.

- 5.1.3. Chapter 2: Core Strategy, the purpose of the core strategy is to guide the spatial direction of future development and regeneration in the city in line with the principles of compact growth.
- 5.1.4. Chapter 3: Climate Action, contains the Council's policies and objectives for addressing the challenges of climate change through mitigation and adaptation.
- 5.1.5. Chapter 4: Shape and Structure of the City, sets out the Council's strategy to guide the future sustainable development of the city. The objective is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. Policies from this chapter that are of specific relevance include:
- SC5: Urban Design and Architectural Principles – seeks to promote the urban design and architectural principles set out in Chapter 15, and in the Dublin City Public Realm Strategy 2012, in order to achieve a climate resilient, quality, compact, well-connected city and to ensure Dublin is a healthy and attractive city to live, work, visit and study in.
 - SC11: Compact Growth - In alignment with the Metropolitan Area Strategic Plan, to promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors.
 - SC16: Building Height Locations - recognising the potential and need for increased height in appropriate locations.
 - SC19: High Quality Architecture – seeks to promote development which positively contributes to the city's built and natural environment, promotes healthy placemaking and incorporates exemplar standards of high-quality, sustainable and inclusive urban design and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods.
- 5.1.6. Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable communities in the compact city is a key issue for citizens and ensuring that Dublin

remains competitive as a place to live and invest in. Relevant policies from this chapter include:

- QHSN10: Urban Density - to promote residential development at sustainable densities throughout the city in accordance with the Core Strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- QHSN12: Neighbourhood Development - To encourage neighbourhood development which protects and enhances the quality of our built environment and supports public health and community wellbeing.
- QHSN17: Sustainable Neighbourhoods - To promote sustainable neighbourhoods which cater to the needs of persons in all stages of their lifecycle, e.g. children, people of working age, older people, people living with dementia and people with disabilities
- QHSN18: Needs of an Ageing Population - To support the needs of an ageing population in the community with reference to housing, mobility and the public realm having regard to Age Friendly Ireland's 'Age Friendly Principles and Guidelines for the Planning Authority 2020', the Draft Dublin City Age Friendly Strategy 2020-2025 and Housing Options for our Aging Population 2019.

5.1.7. Chapter 8: Sustainable Movement and Transport, seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling congestion and reducing transport related CO₂ emissions. Policies of specific relevance from this chapter include:

- SMT1: Modal Shift and Compact Growth - To continue to promote modal shift from private car use towards increased use of more sustainable forms of transport such as active mobility and public transport, and to work with the National Transport Authority (NTA), Transport Infrastructure Ireland (TII) and other transport agencies in progressing an integrated set of transport objectives to achieve compact growth.

- SMT4: Integration of Public Transport Services and Development, seeks to support and encourage intensification and mixed-use development along public transport corridors and to ensure the integration of high quality permeability links and public realm in tandem with the delivery of public transport services, to create attractive, liveable and high quality urban.
- SMT18: The Pedestrian Environment - The Pedestrian Environment To continue to maintain and improve the pedestrian environment and strengthen permeability by promoting the development of a network of pedestrian routes including laneway connections which link residential areas with recreational, educational and employment destinations to create a pedestrian environment that is safe, accessible to all in accordance with best accessibility practice.

5.1.8. Chapter 9: Sustainable Environmental Infrastructure and Flood Risk, aims to address a broad range of supporting infrastructure and services including water, waste, energy, digital connectivity, and flood risk/surface water management.

5.1.9. Chapter 10: Green Infrastructure and Recreation, recognises that the city's natural assets are an essential resource for conserving biodiversity and for creating a healthy, low carbon, resilient and connected city. They include our parks, open spaces, landscapes, watercourses, coastline, and urban tree canopy. Protecting and enhancing the quality of Dublin City's natural assets and ensuring green, sustainable and climate resilient development will be central to ensuring the liveability of the city and its attractiveness as a place to live, work and visit into the future.

5.1.10. Chapter 11: Built Heritage and Archaeology, recognises that the city's heritage contributes significantly to the collective memory of its communities and to the richness and diversity of its urban fabric. It is key to the city's character, identity and authenticity and is a vital social, cultural, and economic asset for the development of the city. The Development Plan plays a key role in valuing and safeguarding built heritage and archaeology for future generations. The plan guides decision-making through policies and objectives and the implementation of national legislation to conserve, protect and enhance our built heritage and archaeology.

5.1.11. Chapter 15: Development Standards, contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed both in terms of how they

contribute to the achievement of the core strategy and related policies and objectives. Sections of this chapter that are of specific relevance include:

- 15.4.2: Architectural Design Quality
- 15.5.2: Infill Development
- 15.5.4: Height
- 15.5.6: Plot Ratio and Site Coverage
- 15.13.7 Nursing Homes/Assisted Living

5.2. **Regional Policy**

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031

5.3. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP), and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban growth by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens. The RSES seeks to build a resilient economic base and promote innovation and entrepreneurship ecosystems that support smart specialisation, cluster development and sustained economic growth.

5.4. **National Policy**

The National Planning Framework - Project Ireland 2040

5.4.1. The government published the National Planning Framework (NPF) in February 2018. Objective 3a is to deliver 40% of all new homes nationally, within the built-up footprint of existing settlements. Objective 11 is to prioritise development that can encourage more people to live or work in existing settlements whilst Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 is to increase residential density in settlements through a range of measures including

restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.5. **Section 28 Ministerial Guidelines**

5.5.1. Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011). Section 13.8 of the guidelines relates to development affecting the setting of a Protected Structure or an architectural conservation area.
- Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024). The guidelines allow greater flexibility in residential design standards and cover issues such as open space, car and cycle parking, and separation distances.

5.6. **Natural Heritage Designations**

5.6.1. The site is an urban brownfield site and is not located within any designated site. The following sites are noted:

- South Dublin Bay SAC (& pNHA) (site code 00210), 4km to the east.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024), 4.2km to the north-east.
- North Dublin Bay SAC (& pNHA) (Site Code 000206), 6.3km to the north east.
- North Bull Island SPA (Site Code 004006), 6.3km to the north-east.

5.7. **EIA Screening**

5.7.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Three Third Party appeals have been submitted as follows:

1. Andrew Hersey Planning, for and on behalf of:
 - Paula Fyans/Daniel Coulcher of no. 40 St Kevin's Park, Dartry, Dublin 6.
 - Pádraig Hartigan of no. 10 St Kevin's Park, Dartry, Dublin 6.
2. Marston Planning Consultancy, for and on behalf of:
 - Geraldine Egan of 13 Sunbury Park, Dartry, Dublin 6.
 - Sinead McHugh of 14 Sunbury Park, Dartry, Dublin 6.
 - Yee Cent Wong of 16 Sunbury Park, Dartry, Dublin 6.
 - Peter Walsh of 17 Sunbury Park, Dartry, Dublin 6.
3. Marston Planning Consultancy, for and on behalf of:
 - Richview Management RAC of 22 Oaklands Crescent, Rathgar, Dublin 6. This appeal includes a Traffic and Transport Technical Note prepared by Martin Peters Associates.

6.1.2. The grounds of appeal can be summarised as follows:

6.1.3. Procedural Matters

- Permission was granted on the 13th of October 2022, but formal notification was not received by post until the 24th of October. An email notification of the decision was received on the 18th of October, but the online documentation was unavailable until the 22nd of October. This reduced the time available to make a comprehensive appeal.

6.1.4. Design

- The form, scale and quantum of development is excessive in nature and the development would be dominant, obtrusive, and visually overbearing.

- Screening measures for overlooking only exacerbate the negative visual impact and austere form and mass of the development.
- The proposed building is out of scale with other buildings in the area and the materials are out of context, specifically the conservation areas.
- Separation distances are insufficient and amenity impacts are compounded by the change in levels. The building would therefore appear higher and more domineering than the height indicates.
- The development has been designed to maximise floorspace and bears no relationship to its context.
- The precedent examples provided by the applicant are not comparable to the proposed development/site.

6.1.5. Heritage and Visual Impact

- The development would adversely affect the setting, character, and context of adjacent conservation areas, due to the excessive scale, height, massing, bulk, and inappropriate modern design.
- The Visual Impact Assessment and photomontages are inadequate. They do not show the true extent of visual impact, which will be more imposing and overbearing and even more significant from the rear gardens of the houses on the north side of St Kevin's Park and on Sunbury Park.
- The Townscape and Visual Assessment designates views from Z2 Residential Conservation Areas as being medium sensitivity receptors. This is unfounded and not supported by policy as the CDP does not distinguish between conservation area type.
- The setting and views of conservation areas should be regarded as a high sensitivity receptor.

6.1.6. Residential Amenity

- There would be significant impacts on the amenity of the properties at nos.5-12 and 39-48 St Kevin's Park, 10-17 Sunbury Park, and 27/28 Highfield Grove in terms of overlooking, loss of privacy, loss of views, daylight/sunlight, overbearance, and a loss of visual amenity.

- There would still be a significant degree of overlooking, despite the mitigation measures proposed such as angled windows and timber screens.
- No mitigation measures to prevent overlooking have been proposed for the south east elevation, despite being proposed on other elevations.
- The access road surrounding the building would result in noise to future residents and existing neighbours.
- The development would reduce property values.

6.1.7. Quality of Accommodation

- Outdoor spaces are poorly considered in terms of quality and quantum and are inaccessible for the mobility impaired and those living above ground floor level.
- The outdoor seating spaces are close to the proposed vehicle parking spaces, and this would limit the air quality available.
- The design of the building does not appear to be optimal or suitable for the intended use. Only a small number of rooms comply with HIQA requirements for people with limited mobility and there is a severe shortage of outside space to accommodate the needs of 120 residents.
- The design to mitigate overlooking would result in poor quality living spaces with restricted light and poor contact with the outside world.

6.1.8. Traffic

- The development would result in significant volumes of traffic and vehicle movements on surrounding roads and key junctions.
- The proposal would result in higher levels of traffic than the previously refused scheme and traffic impact has not been accurately assessed.
- There is no evidence to suggest donor sites are sufficiently similar to allow their use in determining likely traffic generation. Overspill parking at donor sites will not have been recorded in the surveys.
- There are discrepancies in vehicle trips and no justification for the values used in junction capacity assessments.

- Using TRICS doubles the number of trips compared to the applicant's TTA and are almost three times the previously refused residential scheme, which was determined to cause a traffic hazard.
- Removal of the bollards may lead to a redistribution of traffic within the hospital site as there would be nothing stopping access and egress via Oaklands Crescent, creating a rat run.
- The provision of signage does not physically prevent a driver from rat running.
- Traffic using Oaklands Crescent will potentially be at higher speeds and no traffic calming measures are proposed.
- Important decision regarding traffic and access are being left to conditions without local residents or third parties having the opportunity to review material and make submissions, this goes against the Aarhus Convention.
- It is requested that traffic safety, access arrangements, and parking standards are enforced and not relaxed. The Board are also requested to impose a condition restricting further height increases.

6.1.9. Access

- Access arrangements remain flawed, and this is recognised in the Road Safety Audit.
- The development has not addressed the previous reasons for refusal regarding access and the Planning Authority have not addressed this. The reason for refusal remains valid.
- Access to the site is severely constrained, circuitous, and narrow and will lead to conflict with other road users and will impact on pedestrian and traffic safety. This would result in a serious traffic hazard, relying on reversing and other manoeuvres.
- Large service vehicles would find it difficult to navigate the access due to the restricted width of the roads and the presence of parallel parking on both sides. The route is only wide enough for one vehicle to pass at a time.
- The swept path analysis indicates clear conflicts in relation to refuse vehicles. Due to the nature of the use, refuse and other service vehicles will be required to access the site on a daily basis. The analysis fails to show there would be no conflicts.

- The swept path analysis fails to recognise the parking on St Luke's Access Road which means the road is more restricted than shown.
- The swept path analysis and access cannot be achieved as Oaklands Crescent is a private road and the management company will not give consent to changes to the parking regime.
- The swept path analysis is inadequate, relatively small vehicles have been used and the analysis does not show completion of the manoeuvres.
- No consideration is given to large vehicles meeting on the narrow section of the hospital access road that would require reversing.
- The crossing desire line between Oaklands Crescent and St Luke's Access Road is contrived and does not respect the previous desire line. It is likely to be ignored and pedestrians will cross in the middle of the junction raising safety issues.
- Junction layout is confusing and will be detrimental to highway safety. Appropriate levels of intervisibility are required.
- Visibility is constrained at the junction of Oaklands Crescent/St Luke's and would be particularly difficult for people who do not have full physical mobility to look over their shoulder.
- Parking impacts on visibility and parking cannot simply be removed.

6.1.10. Legal Interests

- The applicant has not provided evidence to support their claim that they own Oaklands Crescent.
- There are other legal interests within Oaklands Crescent other than those alleged to have been acquired by the applicant.
- The applicant's need to undertake work within Oaklands Crescent where they do not have a legal right to do so is indicative of the inappropriate nature of the access.

6.1.11. Car Parking

- If insufficient car parking is provided then visitors will park haphazardly in surrounding residential streets, resulting in traffic safety and congestion implications for residents.
- The revised parking arrangements under Further Information have been undertaken without any consultation with local residents.
- The applicant has failed to address that there are six parking spaces on St Luke's roadway and no account of this has been given in the analysis.
- The comparison parking survey was carried out midweek in November which may not demonstrate peak demand.
- It is not clear if the donor sites measured demand or capacity and google earth images show cars parked on surrounding streets which could be overspill parking.
- The donor sites have not been demonstrated to be sufficiently similar to the proposal site in parking requirements.
- The donor site has high quality public transport and cycle routes compared to the proposal site. It would therefore be expected that car usage would be lower.
- The donor site has two vehicle accesses and car parks, and it is not clear what has been factored into the survey.
- There is little ability for the proposed site to accommodate overspill parking, this will place additional vehicle movements on surrounding streets as well as overspill parking.
- The methodology and surveys used in the TTA do not give sufficient confidence that that proposed parking quantum is correct.
- No details of staff numbers are provided. Parking is insufficient and there is an under provision for staff. Additional demand will be experienced at shift changeover.

6.1.12. Pedestrian/Cycle Access

- The argument that the primary access for pedestrians and cyclists will be from Highfield Grove is flawed. Pavements are narrow and vehicles park on the pavement, forcing residents onto the road. This is particularly a problem for mobility impaired and those requiring assistance.

- There is also potential for workers and patients to use the application site as a shortcut to St Luke's when visiting from Rathmines.
- The pedestrian access through Highfield Grove will be redundant as the main vehicular access provides a more direct link to Rathgar. Pedestrians and cyclist will use the more direct routes to the nearest urban villages, and this will lead to conflict and safety issues with vehicular traffic along the access route which does not have footways.
- The additional traffic and pedestrian movements associated with the development would result in unacceptable reductions in highway and pedestrian safety.
- The RSA recommended that the footpath on Oaklands Crescent be extended south to provide a safer zone for pedestrians. The applicant has argued that a shared space is sufficient mitigation to allay these concerns, but this is predicated on trip generation figures which are seriously questioned.
- The provision of a dedicated pedestrian and cycle access via Highfield Grove could be detrimental to road safety as it will provide a shorter walking route between residential areas to the north and east of the site and St Luke's Hospital. This would increase the number of pedestrians using the sub-standard St Luke's Hospital service road, risking pedestrian safety and security concerns.

6.1.13. Use

- The need for such a facility in this location has not been proven and the applicant did not submit an audit of existing facilities in the area.
- The development would not benefit or enhance the community as most residents are unlikely to be from the local area.
- Residential use that local house owners can downsize to would be a more appropriate use of the site, would enhance the community, and would result in larger family homes becoming available to families as well as more appropriate access arrangements and building scale.

- It hasn't been demonstrated how the development would contribute to the range of supporting local infrastructure and it is located too far from local services and facilities for future residents.
- If the intended use of the site is for an adjunct treatment facility for St Luke's Hospital, then it would further reduce any potential value of the development to the local community compared to alternative uses for this site.
- There are concerns that if the proposed development is granted, it will be the first step in the applicant seeking permission for other uses on site and a higher building than proposed, including concerns that it may become a short term care facility for St Luke's Hospital which would have additional amenity impacts. The specific use should be conditioned.

6.1.14. Unauthorised Works

- Bollards and sections of wall have been removed, as have two parking spaces. These works are mentioned in the Traffic and Transportation Assessment which states that these works now enable passage for all road users between the Hospital Service Road and Oaklands Crescent. These works effectively create a route to the development site and were carried out without permission.
- The Council have stated that they are not unauthorised, but they clearly constitute development, and it is not confirmed that they are exempt. These works have resulted in endangerment to public safety by reason of a traffic hazard.
- The proposed development cannot be considered until these works are regularised.

6.2. **Applicant Response**

6.2.1. A First Party response has been submitted by Tom Phillips Associates of 80 Harcourt Street, Dublin 2, for and on behalf of Prime GP 1 Limited (the applicant). Two separate responses were submitted, one responding to the appeals by Marston Planning Consultants and another responding to the appeal by Andrew Hersey Planning. I consider that they can be summarised together as follows:

6.2.2. Design

- The design uses materials, proportions, and features that respect and enhance the local setting, in a contemporary way. Scale, massing, density, proportions, and well balanced forms reflect the different characteristics.
- The site is a vacant, underutilised, and unattractive brownfield site.
- The building responds to the local vernacular, contrasting with a contemporary design which enhances the surrounding conservation area.

6.2.3. Scale, Height, Massing

- There are a mix of building heights in the area and the surrounding buildings are mainly semi-detached 2/3 storey houses.
- There are high density developments to the to the east and south west rising to six storeys in height.
- Proposed height and massing have regard to the prevailing character and the architectural conservation designation of the area as well as surrounding amenity.
- The development has been designed to not be unduly obtrusive and respects the scale, pattern and character of the surrounding streets and the conservation areas.
- The heights deemed appropriate by the appellants are primarily focused on the domestic scaled development in the area and are not representative of the prevailing character of the wider conservation area.
- The top floor is recessed in strategic locations and the building has appropriate set backs.
- The building would be 13.7 metres tall at its highest and the design ensures it would not be visually overbearing and would be consistent with the pattern of development.
- Further Information was submitted in terms of CGI's which demonstrate acceptable impacts when viewed from St Kevin's Park, Four Oaks, Sunbury Gardens and Highfield Grove.
- The development would not appear over-scaled, overbearing, out of place, nor would it result in overlooking issues.
- The scale, height and massing of the development is not imposing, the finish, material palette architectural detailing and design are high quality.

- Whilst the development would add to the intensity of built development in the area, it would not result in any significant visual impacts.
- Due to the findings of the TVIA, no further ameliorative measures were proposed to reduce the massing of the north east elevation as no unacceptable visual impact on the neighbouring properties was found.

6.2.4. Impacts on Residential Amenity

- Generous separation distances to the site boundaries have been proposed to mitigate potential overlooking issues.
- Guidance notes that 22m separation distance may be impractical and incompatible with infill development.
- Separation distances on St Kevin's Park are such that mitigation against overlooking is not required.
- Council guidelines note that this distance can be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers.
- Further screening in the form of a perforated metal screen is provided at top floor and a green buffer is proposed along the eastern boundary.
- The level difference to Sunbury Park is one metre, not two metres.
- Images provided as part of the appeal demonstrating overlooking to Sunbury Park are incorrect as they do not show the proposed mitigation measures.
- As detailed in the Daylight and Sunlight Assessment, the development would not result in any significant impacts on neighbouring windows and gardens.
- Internal daylighting of the proposed units was assessed using ADF and the recommended targets were met.
- The appellants have not demonstrated how the development would impact on the value of their property.

6.2.5. Poor Quality Design for Future Occupants

- The scheme has been designed to an exceptionally high standard. The courtyards are lush, green, sensory positive spaces within an urban context that provides for the needs of residents.

- Tree and shrub planting supports and promotes positive net gain for biodiversity, enhancing ecology and creating habitat and environmental diversity.
- Courtyards have been carefully designed to encourage social interaction and a connection with nature, promoting health and wellbeing through active and passive measures.
- Level thresholds are provided throughout, and the space has been designed with consideration for the needs of all residents, including those with dementia.
- Tree planting will provide appropriate screening and an appealing buffer.

6.2.6. Traffic

- The potential for traffic impacts was integral to the advancement of this proposal.
- A comprehensive Transport and Traffic Assessment, Mobility Management Plan and a Construction Management Plan were submitted. A Road Safety Audit was submitted as part of Further Information.
- The development would not result in significant additional traffic movements. The TTA demonstrates that the traffic impact of the development at peak hours would have a negligible impact on capacity and operational performance of key junctions.
- Using a comparable nursing home to estimate traffic generation conforms with best practice and offers an accurate and robust assessment.
- Even in a worst case scenario using the TRICS based analysis provided by the appellant, the results suggest only one additional vehicle on average every five minutes. This would have no material impact upon the operational performance or safety of the external road network.
- In terms of trip generation, the proposed methodology conforms to best practice. Four donor sites were used for robustness. TRICS was discounted due to the relative lack of comparable developments.
- Another benefit of using donor sites is that one of the sites is operated by the firm that would operate the development and characteristics of shift times, staffing levels and visiting times are reflected in the data.

- The appellant's exercise is based on one Irish site, four English sites and one Scottish site. None of which are directly comparable to the appeal site.
- The development would give rise to a low volume of HGV's and there is potential for combining hospital servicing with the nursing home, particularly for waste collection and deliveries. This would minimise additional HGV service traffic.
- The development would have a daily requirement for up to two HGV movements on Oaklands Crescent at most, which is extremely low in the context of existing and proposed traffic movements, even considering the TRICS figures.

6.2.7. Access

- The mitigation to Oaklands Crescent has been identified in agreement with DCC and independent Road Safety Auditors.
- Visibility is sufficient to enable vehicle drivers to have clear visibility of approaching opposing vehicles and to wait for them to pass until clear of any opposing vehicles. This arrangement is already evident on Oaklands Crescent.
- DMURS advocates the traffic calming benefits of such arrangements.
- The appellants note that currently, waste collection HGV's have to reverse down Oaklands Crescent as there is no room to turn. The development provides the opportunity for the vehicle to turn either at Oaklands Crescent/St Luke's Access Road or by entering the site and using the one way loop to safely regain access to Oaklands Crescent without having to reverse.
- The RSA did not identify an issue with traffic speeds, but additional traffic calming could be secured by condition.

6.2.8. Pedestrian/Cycle Access and Safety

- The provision of two separate access/egress points for active travel users provides viable, safe options and good permeability to the external pedestrian, cycle, and public transport networks.
- Pedestrian and cycle traffic will use the access at Highfield Grove as this is more convenient for high frequency bus services, the LUAS, and the Dodder Greenway, which are all located to the east and closer to the Highfield Grove entrance.

- Whilst some pedestrians may still use Oaklands Crescent, the volume is not predicted to be significant and this low speed, lightly trafficked environment, as per DMURS guidance, would continue to provide a safe route for all users.
- The mitigation measures proposed for the hospital service road and Oaklands Crescent were discussed at length and identified in agreement with DCC roads officers and the independent Road Safety Auditors.
- Appropriate design measures recommended by the Road Safety Auditors have been incorporated which include:
 - Formally marking out parking on Oaklands Crescent and creating three new formal safe zones for pedestrians between these parking bays in line with DMURS.
 - New shared space signage and road markings to be provided on Oaklands Crescent as well as advisory speed limit of 20kph.
 - Information signs informing road users that no access to St Luke's Hospital is provided via Oaklands Crescent.
- Whilst outside the control of the applicant, the works to the junction of Highfield Road/Oaklands Crescent to provide an uncontrolled pedestrian crossing with dropped kerbs and tactile paving would be carried out as agreed by the applicant and as requested by DCC via a planning condition.

6.2.9. Previous Refusal

- The previous reason for refusal related to the legal right to undertake off-site mitigation works. This issue has been addressed and the mitigation has been carried out.
- The works were undertaken on private land and did not require a formal application to the Planning Authority.

6.2.10. Parking

- Indiscriminate parking identified by the appellants is a result of the low traffic and low enforcement nature of the site. Once operational, this would be replaced by high profile, active enforcement that will become the norm and respected by drivers.

- Illegally parked vehicles on Oaklands Crescent on existing double yellow lines does not constitute parking bays and the continued implementation of existing double yellow lines does not constitute removal of parking.
- Parking is below the maximum threshold; levels are considered sufficient to cater for the development and will not result in visitors parking haphazardly in the surrounding streets.
- Measures outlined in the Mobility Management Plan will encourage sustainable travel modes.
- 47 spaces are provided which is 13 below the maximum allowable under the CDP and is appropriate having regard to the Car Parking Management regime, the Mobility Management Plan, high level of accessibility by sustainable travel options and the parking demands of the donor site.
- Five on-site parking spaces for staff will maximise visitor parking availability.
- Parking provision is 24% above predicted demand.

6.2.11. Swept Paths

- Achieving the swept path movements at Oaklands Crescent/St Luke's Access Road does not require the removal of parking but the enforcement of yellow lines, two parking bays are therefore not being removed.
- The swept path analysis shows that if vehicles meet, they can safely pass one another.

6.2.12. Unauthorised Works

- The appellants are incorrect to suggest that the works undertaken to remove bollards, lowering walls and changing road markings are unauthorised. These works are exempted development.
- No works were carried out on Oaklands Crescent by the applicant, these were carried out by another third party and the applicant cannot comment on them further as they were not a party to them.
- DCC have confirmed that the works were not unauthorised, and the Enforcement File was closed.

6.2.13. Legal Interest

- The applicant, Prime GP 1 Limited, owns the roadway known as Oaklands Crescent.

6.2.14. Principle of Development

- A nursing home is an appropriate use for the site and is a permissible use under the zoning objective.
- Negative bias towards a nursing home and future residents potentially not being from the local area are inappropriate.
- There is a particular shortage of accommodation for the aging community and there is strong growth in the population of this group, including those whose care needs require long term residential care.
- It's important to provide this housing in appropriate locations to ensure that older people are not segregated or isolated from the community.
- Reports state that the nursing home sector is no longer keeping pace with increasing demand. There is clearly a need for nursing home accommodation in Dublin and the site is suitable for this use.
- The site is well located for this use in terms of access, public transport, local services and facilities.

6.2.15. Use

- Material changes to the proposed development would require planning permission.
- The suggestion that the applicants will seek permission for a much larger building is not evidence based and these points are irrelevant to the consideration of the current proposal.

6.3. **Planning Authority Response**

6.3.1. No response on file.

6.4. **Observations**

6.4.1. A total of four observations have been received in response to the appeal from the following:

- Highfield Grove Residents Association.
- Rathgar Residents Association.
- Ursula Barry of 28 Highfield Grove, Rathgar, Dublin 6.
- Kathleen Ryan of 1 Highfield Grove, Rathgar, Dublin 6.

6.4.2. The observations generally raise similar issues to the grounds of appeal. Issues raised in addition to those on the appeal include:

6.4.3. Heritage and Views

- The development would result in the loss of the small garden to No. 28 Highfield Grove to provide a pedestrian passageway, the garden is an important feature of this house and the conservation area.
- The Visual Impact Assessment presents views that are taken from favourable locations and obscured behind trees.

6.4.4. Design

- The development should be reduced in height and set back at top floor.
- A flat roof is inappropriate and lends itself to upward expansion. An apex roof would be more in keeping with the area.
- Outdoor balconies at third floor level are not supported.
- The building is a fire risk for the mobility impaired, due to its height.

6.4.5. Ecology/Biodiversity

- Impacts on wildlife due to destruction of habitat.
- The large Willow tree behind 43 St Kevin's Park provides significant screening and should be retained.
- There should be a protected tree zone around the site perimeter.

6.4.6. Amenity

- Roof gardens should not be accessible except for maintenance.
- There would be a risk of structural damage and subsidence to existing property due to the use of Oaklands Crescent as an access, risk of vehicle collisions, and vibrations.
- A Noise Impact Assessment should be submitted.
- The proposal would be contrary to zoning.

6.4.7. Miscellaneous

- The Further Information requested by the Council has failed to address previous concerns.
- Insufficient public notices.
- It is unclear who the actual applicant is.

6.4.8. Access

- A Vehicular and Pedestrian Impact Assessment is required.
- The vehicular access will have oppressive environmental, health and safety impacts on residents as it will turn a cul-de-sac into a through road.
- There is no historic precedent for the traffic levels now being proposed.
- No tracking of construction vehicles from Highfield Road has been provided.
- No consideration of the condition and potential damage that could be caused to Oaklands Crescent or the buildings that site on it and no measures to reduce traffic noise are mentioned.
- Speed limit of 20kph would not be safe for manoeuvring HGV's on a narrow residential road.
- The constrained access would impact on access for emergency services and potential evacuations.
- The provision of a shared surface would not be safe, and the RSA is inadequate.
- Lack of appropriate visibility at the junction between Oaklands Crescent/St Luke's Hospital service road and Oaklands Crescent/Highfield Road.
- Permission should be refused until a shared surface is agreed with residents.
- Works to Highfield Grove are outside the applicant's ownership and require planning permission.

6.4.9. Parking

- The development would lead to increased car parking in Highfield Grove.

6.4.10. Pedestrian/Cycle Access and Safety

- No attention given to the safety issues of having a pedestrian/cycle pathway in Highfield Grove, including lighting issues, locked gates and other safety concerns. Access to Highfield Grove should be omitted.
- Increased pedestrian and cycle traffic in Highfield Grove would reduce amenity.
- Pedestrian and cycle access should be through St Luke's.
- Non-residents accessing the site via Highfield Grove would remove the ability to let children play freely.
- Wheelchair access cannot be provided via Highfield Grove.
- The removal of the bollards has created a hostile environment for children, pedestrians and residents with increased traffic and speeding vehicles.
- The Mobility Management Plan is deficient, and its objectives are unrealistic.
- The development does not promote permeability, the site should be opened up to the hospital.

6.4.11. Infrastructure

- The development would overload the current sewage system. An upgrade is needed prior to development and works to the sewer are outside the applicant's control.
- There would be environmental impacts in terms of drainage and flooding.

6.5. Further Responses

6.5.1. Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin 18, for and on behalf of:

- Geraldine Egan of 13 Sunbury Park, Dartry, Dublin 6.
- Sinead McHugh of 14 Sunbury Park, Dartry, Dublin 6.
- Yee Cent Wong of 16 Sunbury Park, Dartry, Dublin 6.
- Peter Walsh of 17 Sunbury Park, Dartry, Dublin 6.

6.5.2. This response was accompanied by a further set of verified views prepared by G-Net 3D of NSC Campus, Mahon, Cork, to demonstrate the visibility of the development from points in Highfield Grove, St Kevin's Park and within the rear gardens of the

dwellings on Sunbury Park. The response considers that these views show that the development would be overbearing and would result in overlooking.

7.0 Assessment

7.1.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

- Zoning and Quantum of Development
- Design and Heritage
- Amenity
- Quality of Accommodation
- Transport
- Other Matters
- Appropriate Assessment

7.2. Zoning and Quantum of Development

7.2.1. Concerns raised in the appeal are that the development would be contrary to the zoning objective, that the need for the nursing home has not been demonstrated in this location, and that it would not be beneficial to the local community.

7.2.2. The appeal site is zoned Z1: Sustainable Residential Neighbourhoods, the stated objective of which is to protect, provide, and improve residential amenities. Section 14.7.1 of the CDP sets out the list of permissible uses on Z1 lands. Included in the list of permissible uses are buildings for the health, safety and welfare of the public.

7.2.3. Appendix 15, Section 1 of the CDP confirms the various land use definitions. Buildings for the health, safety and welfare of the public are defined as:

Use of a building, or part thereof, as a health centre or clinic or for the provision of any medical or health services (but not the use of a house of a consultant or

practitioner; or any building attached to the house or within the curtilage thereof, for that purpose), hospital, nursing home, day centre and any other building for:

- *The provision of residential accommodation and care to people in need of care (but not the use of a dwelling house for that purpose);*
- *The use as a residential school, college or training centre.*

7.2.4. Neither the zoning objective nor the CDP caveat the proposed use as being subject to a demonstration of need, although the applicant contends that there is a particular shortage of accommodation for the aging community and that there is strong growth in the population of this group, including those whose care needs require long term residential care.

7.2.5. Data from the Central Statistics Office (CSO) indicates that the population of the over 65 age group is expected to increase significantly up to 2051. The National Planning Framework also predicts a rise in this age group and states at Section 6.4: Age Friendly Communities, that ESRI projections indicate that the numbers of people aged over 65 will more than double to 1.3 million people by 2040, making up approximately 23% of the population. This compares to 13.5% in 2016. In addition, it is expected that the population aged over 85 will quadruple.

7.2.6. Section 15.13.7: Nursing Homes/Assisted Living of the CDP recognises that there is a continuing and growing need for nursing homes, due to the aging population. The CDP states that such facilities should be integrated, wherever possible, into the established residential areas of the city and be located in established neighbourhoods/residential areas that are well served by community infrastructure and amenities. Whilst the principle of a nursing home on this site is not predicated on an assessment of demand, I consider that there is sufficient evidence demonstrating demand for nursing home accommodation and that this is reflected in nursing homes being considered a permissible use on Z1 zoned lands. I am therefore satisfied that the development would be acceptable in terms of land use and the zoning objective of the site, and that the provision of a nursing home would not be contrary to the zoning objective. I will address amenity separately below.

Alternative Uses

- 7.2.7. The grounds of appeal state that if approved, the development would be the first step in seeking permission for other uses and a higher building than currently proposed. Other concerns are that it would be an adjunct facility for St Luke's Hospital, and that a more appropriate use of the site would be for low density housing or allotments. The appeal before the Board is for a standalone nursing home. It is not connected to or ancillary to St Luke's Hospital and is entirely acceptable in land use and zoning terms. Concerns that permission would unlock the site for an alternative use or a taller building are speculative and material changes to any approved development on this site, either in terms of use or for an alternative design/scale, would be subject to the formal planning process and considered on its merits.
- 7.2.8. The provision of a low density scheme would be counter to national guidance that seeks more compact forms of development at higher densities on accessible and serviced urban sites, as borne out in the Board's previous refusal on this site.

Quantum of Development

- 7.2.9. It is argued that the quantum of development would be excessive. Higher density development allows land to be used more efficiently. The CDP states that new development should achieve a density that is appropriate to the site conditions and surrounding neighbourhood, respecting the existing character, context, and urban form of an area, and seeking to protect existing and future amenity.
- 7.2.10. Density calculations are based on traditional residential developments and are not, in my opinion, directly applicable to developments such as the proposed nursing home. I will consider scale, form, and massing in the design section later in this report, however, in terms of the broad acceptability of the proposed quantum of development on this site I consider it relevant and appropriate to take account of plot ratio and site coverage.
- 7.2.11. Appendix 3 of the CDP sets out the indicative plot ratio and site coverage for different areas of the city. Given the location of the site being surrounded on its north, east and south sides by residential conservation areas, I consider it appropriate to adopt the indicative ranges for conservation areas as detailed in Table 2 of Appendix 3. This states that for conservation areas, the indicative plot ratio is between 1.5-2 and site coverage should be between 45%-50%. The proposed development would have a plot ratio of 1.15 and a site coverage of 30% which is well below the ranges in Table 2. I

am therefore satisfied that broadly, the quantum of development is acceptable and would not be excessive, subject to appropriate design, scale and massing.

7.3. Design and Heritage

7.3.1. The grounds of appeal raise various issues regarding the design of the building, including that the form, materials, scale, and quantum of development is excessive in the surrounding context. It is argued that the building would have an unacceptable impact on the architectural and visual quality of the St Kevin's Park, Sunbury Park, and Highfield Grove conservation areas by reason of the design, height, bulk, and massing. The appeals also state that the development would be dominant, obtrusive and visually overbearing.

7.3.2. The applicant contends that the building's design, materials, proportions, and features, respect and enhance the local setting in a contemporary way. It is stated that the developments scale, massing, density, proportions, and well balanced forms reflect the different characteristics of the area. The applicant also considers that the building responds to the local vernacular, contrasting with a contemporary design which enhances the surrounding conservation area.

Elevational Quality

7.3.3. The surrounding context is varied, as is the range of materials used. The proposal is for a contemporary building, which in my opinion is of a high architectural standard, with an appropriate expression of form, well-articulated façades, and the employment of suitably high quality, robust and tactile materials. The facades are visually engaging, and the ground floor of the building is an appropriate response to the site and its surroundings, with the entrance and amenity spaces given fitting prominence.

Height, Scale, and Massing

7.3.4. The development would have a general height of 13.7m, although I note that there would be some isolated increases to approximately 14.4m and 16m in order to accommodate lift overruns and plant respectively. Heights in the surrounding area range from 9.8m on Sunbury Park, to 11.8m on St Kevin's Park. Buildings on the hospital site range in height from two to three storeys. I am therefore satisfied that the height is not significantly above prevailing heights in the area. The proposed building would be located centrally within the site and separation distances from the building

to the nearest boundary lines range from 8.5m to 28.6m which I consider to be acceptable in terms of visibility of the building from surrounding streets and the wider area. In my opinion the building would not be obtrusive or incongruous from public areas, although I will address views and residential amenity separately below.

Heritage and Visual Impact

7.3.5. The appeal site is surrounded on its north, east and south boundaries by the residential conservation areas of Highfield Grove, Sunbury Park and St Kevin's Park respectively. As part of the Further Information request made by the Planning Authority, the applicant submitted a Townscape and Visual Impact Assessment in order to quantify the visual impact of the development on four key areas:

- Sunbury Park (from in front of nos. 13 and 14)
- St Kevin's Park (from in front of no. 45)
- Four Oaks (from in front of no. 2)
- Highfield Grove (from the front of nos. 28 and 27)

7.3.6. Ten viewpoints were therefore assessed across the four locations identified above. I am satisfied that TVIA is sufficient in terms of its scope and that the selected viewpoints are appropriate. VP1 and VP2 consider the view from in front of 13-16 Sunbury Park and on the approach to Sunbury Park. Whilst the development would be visible in the gap between the houses, it would not be overbearing from the street, and I do not consider that it would have a significant adverse visual impact or that it would be overbearing or intrusive on the streetscene.

7.3.7. VP3 takes in the view from in front of 45-46 St Kevin's Park. Again, the development would be visible from the street, but only slightly, and I have no concerns regarding its impact on the streetscene or the wider conservation area.

7.3.8. VP4 assesses the view from Four Oaks, it presents a view directly towards the development from the site entrance. Whilst the development would be highly visible, I do not consider that it would be injurious to the streetscene or visual amenity, appearing above the roofline of the single storey garages and to the side of the existing dwellings.

- 7.3.9. VP5 and VP6 consider the view from Highfield Grove. VP5 shows the roof of the development being visible above the roofline of nos. 28 and 29 Highfield Grove, with the remainder of the development visible above the boundary wall marking the end of the street. Whilst it indicates an increased intensity of development, I do not consider that it is harmful on the streetscene and would not be overly imposing.
- 7.3.10. VP6 is taken from the centre of the open space in Highfield Grove. In this view the development would be highly visible, appearing above the roofline of the dormer roof of no. 28 Highfield Grove and partially above the single storey cottages adjoining. In my opinion this is a dynamic view which would change significantly as you move east to west along the street, rather than a static view that terminates the end of a throughfare. I acknowledge that this would present a marked increase in built form behind the existing houses, but the massing is generally limited to the flank of the northern arm of the development, approximately 15m in width which mitigates the small increased sense of enclosure on this view. Overall, I do not consider that the development would be significantly overbearing or intrusive on the view and I do not consider that it would result in a significant adverse visual impact that would compromise the character or setting of the conservation area.
- 7.3.11. The remainder of the viewpoints (VP7-VP10) demonstrate that the development would not be visible. Having considered the various viewpoints presented, I am satisfied that the development would not have a significant impact on the surrounding conservation areas or the streetscene and would not appear overbearing, intrusive, or incongruous from these streets.
- 7.3.12. The materials proposed for the development are suitably high quality, predominantly comprising brickwork for the elevations, composite wood cladding around the fenestration on upper floors and seamed zinc for the top floor and roof. The colour of the brick and the use of zinc provide an appropriate response to the site as well as a suitable contrast to the surrounding built form which does not have a consistent architectural character. Across the three conservation areas there are a range of materials used, such as stock brick on Highfield Grove, brown brick and painted render on Sunbury Park, and red brick on St Kevin's Park. I am satisfied that the building would be an appropriate contextual response to the surrounding conservation areas in terms of design and materials.

7.4. Amenity

- 7.4.1. Various residential amenity concerns are raised in the grounds of appeal, notably that the development would result in overlooking/loss of privacy, a loss of daylight and sunlight, increased noise disturbance to residents, and that property values would be decreased. Extensive concerns have been raised that the development would be overbearing.

Overbearance

- 7.4.2. On the St Kevin's Park boundary, the development would be set back from the site boundary by between 8.6m and 10.4m. This separation distance taken together with the form of the building on this boundary and the minimum 13m depth of the rear gardens is sufficient, in my opinion, to ensure that the development would not be overbearing. I am also satisfied that separation distances and building form are sufficient to ensure that there would be no overbearing impact either on the properties bounding the site to north at Four Oaks or those to the north east on Highfield Grove.
- 7.4.3. The eastern boundary of the site is shared with the dwellings on Sunbury Park. The building would be set back from this boundary by a minimum of 12.4m. Unlike the other boundaries, the form of the building adjacent to Sunbury Park is a continuous façade with a total height of 13.7m. I note that the top floor is set back further but this is minimal, in the region of 2m. The rear gardens of the dwellings on Sunbury Park are shallower than those on St Kevin's Park, being in the region of 5m-7m deep at the southern end of the terrace. I note that there is a difference in levels of approximately 1m between the lower Sunbury Park and the higher appeal site. In assessing this issue, I have given consideration to the additional verified views submitted as a further response to the appeals, detailed in Section 6.5 above.
- 7.4.4. The issue of whether or not the proposed building would be overbearing on these properties and garden ground is, in my opinion, finely balanced. Particularly in the context of the building's acceptable set back from the site boundary, the absence of overlooking impacts, and the otherwise high quality design. However, given the continuous façade which extends the length of this boundary at 13.7m in height, in addition to the change in levels increasing this height to approximately 14.7m, and the relatively shallow gardens of Sunbury Park in the proposed context, I consider that the

building would, on balance, be overbearing on these properties and that the gardens in particular would feel very enclosed.

- 7.4.5. In my view this could be overcome by increasing the set back on the top floor. Pulling the top floor facade back as far as the circulation corridor would, in my opinion, fully address the overbearing nature of the development on Sunbury Park. I have considered whether this could be achieved by way of an amending condition, however, it would require reconfiguration of the internal spaces and stairwells as well as requiring rooftop plant to be relocated and would, therefore, result in additional consequent amendments to the elevations which in my opinion would amount to a material alteration.
- 7.4.6. As such, I consider that the proposed development would be overbearing on the dwellings and garden ground of the properties on Sunbury Park, particularly those located centrally within the line of dwellings, and that this would adversely affect their residential amenity.

Overlooking

- 7.4.7. Separation distances are considered in section 15.9.17 of the CDP in the context of the relationship between residential properties, and a minimum distance of 22m from opposing first floor habitable room windows is recommended. Whilst the proposal is for a nursing home as opposed to traditional residential, I consider that the principle of the separation distances is applicable given the residential nature of the proposed accommodation. Similarly, the Compact Settlement Guidelines consider separation distances and recommend that a minimum distance of 16m be achieved between opposing first floor habitable room windows at the rear.
- 7.4.8. The proposed development would achieve a separation distance of between 8.6m and 10.4m to the boundary with the dwellings on St Kevin's Park. This relates to the east and west arms of the building where the only windows would be those serving the access corridor. The closest habitable rooms of the development facing St Kevin's Park would be in the central section of the building which would be approximately 23m from the shared boundary. Taken together with the deep gardens on St Kevin's Park that are in the region of 13m deep to the closest rear wall of the dwellings, I am satisfied that there would be no overlooking and no need for any additional mitigation.

- 7.4.9. The only windows facing towards Highfield Grove are the corridor windows on the north arm of the building and this would not result in any overlooking, with the minimum 16m distance being satisfied in any event. Windows facing onto Four Oaks are not directly opposed and whilst oblique views would be possible, the separation distance would be between 18m and 22m which I consider sufficient to prevent overlooking.
- 7.4.10. On Sunbury Park, the separation distance from the building façade to the rear wall of the dwellings would be between 18m and 20m which is sufficient to prevent overlooking, particularly given the design mitigation proposed that would angle the windows on floors 1 and 2 to look away from the adjacent dwellings, therefore preventing any directly opposing windows. I note that the windows on the top floor would not be angled and as such would directly face these dwellings. However, the top floor would be slightly set back, increasing the separation distance between windows to 19m-21m with the added benefit of a perforated metal screen that would further mitigate any overlooking. This area would not be used as an amenity space, access would be for maintenance purposes only and this could be secured by condition. I am therefore satisfied that the development would not result in any overlooking or loss of privacy to the detriment of residential amenity.

Daylight, Sunlight and Overshadowing

- 7.4.11. Daylight and sunlight impacts have been raised by observers, including impacts on adjacent properties and garden ground. The applicant states in the grounds of appeal that the daylight and sunlight assessment demonstrates that there would be no significant overshadowing impact on neighbouring properties. A daylight and sunlight report has been submitted that assesses the scheme based on the Building Research Establishments (BRE) guidelines on daylight and sunlight. The BRE sets out the detailed daylight tests. The first is the Vertical Sky Component test (VSC) which considers the potential for daylight by calculating the angle of vertical sky at the centre of each of the windows serving the buildings which look towards the site. The target figure for VSC recommended by the BRE is 27% which is considered to be a good level of daylight and the level recommended for habitable rooms. The BRE have determined that the daylight can be reduced to 0.8 times its former value (a 20% reduction) before the loss is noticeable.

- 7.4.12. The second test used is Average Daylight Factor (ADF) which measures the illuminance of the room. Recommended ADF levels include 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Shared living spaces should achieve 2%. As with VSC, this level can be reduced by 20% before the loss is noticeable.
- 7.4.13. In terms of VSC, 69 windows were assessed across the 18 residential properties that surround the site on Highfield Grove, Oaklands Crescent and Sunbury Park. St Kevin's Park sits to the south of the development with a significant separation distance between facades and as such would not be affected. A total of 66 windows would meet the BRE standards for VSC. The remaining three windows would experience a loss of VSC greater than 20% of their former value (28A Highfield Grove, 15 Sunbury Park, 16 Sunbury Park). However, the losses would be in the range of 21% to 24% which is not significantly above the 20% threshold. Additionally, the retained VSC levels at these windows would be between 22.83% and 24.84% which I consider to be acceptable in an urban area.
- 7.4.14. In terms of sunlight, 128 windows were tested for Annual Probable Sunlight Hours and Winter Probable Sunlight Hours, with pass rates of 97% in both cases and only four windows in each assessment falling below the advisory standards. As such, the applicant has further tested the internal spaces adjoining these windows to assess ADF and compliance with European Standard EN17037 (Lux levels). These rooms are located within nos. 15 and 16 Sunbury Park and 28A Highfield Grove and each room assessed would surpass the minimum standards. I note that no. 2 Oaklands Crescent was not included in this additional assessment, however, only one of the 12 windows serving no. 2 Oaklands Crescent would fall below the advisory standard and even then, it would only be 2.19% above the maximum threshold which I consider to be acceptable on balance.
- 7.4.15. The overshadowing assessment illustrates sun hours on the ground for the 21st March and demonstrates that the development would have minimal additional impact on overshadowing to adjacent garden ground throughout the day. There would be some additional overshadowing to Highfield Grove between the hours of 10:00 - 12:00, and some additional overshadowing to the rear gardens on Sunbury Park between 15:00 – 16:00.

7.4.16. Given the site's location in an established area on an inner suburban location, some overshadowing impacts are somewhat inevitable. Taking account of the daylight, sunlight and overshadowing assessments that have been completed and the high proportion of compliance, I am satisfied that the level of change in daylight/sunlight/overshadowing provided for under the BRE guidelines, which are advisory, would be achieved and a refusal of planning permission for reasons relating to overshadowing to neighbouring properties would not be warranted. I am therefore satisfied that there would be no significant adverse impacts in this regard.

Noise and Disturbance

7.4.17. Concerns have been raised regarding noise impacts. I acknowledge that disturbance can occur during construction, particularly with regards to noise and dust. However, I am satisfied that these temporary issues could be adequately addressed and managed by way of a Construction Environmental Management Plan which could be secured by way of a condition, should the Board be minded to grant permission. Once operational, I do not consider that the development would be likely to result in excessive noise impacts on surrounding dwellings. Whilst I note the peripheral nature of the on-site access road, I do not agree that this would result in excessive noise disturbance as the number of vehicles using this route would be low, with the purpose of the route being to access parking spaces. Additionally, it would be a low speed environment and there would be appropriate boundary treatments to enclose the space, which would further mitigate noise transfer.

28A Highfield Grove

7.4.18. 28A Highfield Grove is under the control of the applicant. Observations on the appeal raise concerns regarding the loss of the small side garden to No. 28A Highfield Grove in order to facilitate the pedestrian/cycle access, on the basis that the garden is an important feature of this house and the conservation area. I am of the opinion that the area of garden being lost is minor, and sufficient rear and side garden ground would be left to serve the dwelling. The strip of garden in question is concealed at the far end of the cul-de-sac and does not make any measurable beneficial contribution to the character or setting of the conservation area. I am satisfied that its conversion to a pedestrian access would not compromise the residential amenity of 28A Highfield Grove or the visual amenity of the conservation area.

Property Values

7.4.19. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that it would adversely affect the value of property in the vicinity.

7.5. Quality of Accommodation

7.5.1. Various issues have been raised in the grounds of appeal that the proposed accommodation would not be of a sufficient standard. These concerns are largely on the basis that outdoor spaces are poorly considered in terms of quality and quantum, that the design of the building does not appear to be optimal or suitable for the intended use, that only a small number of rooms comply with HIQA (National Standards for Residential Care Settings for Older People in Ireland) requirements for people with limited mobility, and that the measures employed to mitigate overlooking would result in poor quality living spaces with restricted light and outlook.

7.5.2. The Planning Authority have imposed a condition requiring compliance with HIQA standards, which I consider to be appropriate. The HIQA standards do not set out a prescriptive list of requirements and I am of the view that the proposed provision of a mix of fully accessible, adaptable, and standard rooms is acceptable. I note that all rooms would meet the minimum space standards provided in the guidance, and that level access would be provided throughout the building and amenity spaces. All bedrooms would achieve the minimum ADF standards and acceptable outlook would be provided, including in those rooms where windows are angled to mitigate overlooking. The location, quantum and quality of communal facilities is also acceptable, and I am satisfied that the development would provide a satisfactory standard of living accommodation.

7.5.3. Two areas of communal open space would be provided in the form of external courtyards. The CDP public open space requirement of 10% of the site area relates to traditional residential development and is therefore not directly applicable to the proposal. Notwithstanding, the proposed open space would equate to 638sqm against a site area of 6,716sqm which would only be 33sqm below the 10% requirement and would amount to a provision of 9.5%, which I consider to be acceptable and

commensurate to the scale of development and the proposed use. Additionally, I consider the courtyards to be well designed and they would offer an acceptable standard of external amenity space. Issues raised in the appeal and observations that these spaces would be compromised by the on-site access road and noise/air quality due to vehicles parking are, in my opinion, unfounded.

7.6. Transport

- 7.6.1. The core issue raised across all three appeals relates to the transport impacts of the development, notably raising issues with regards to traffic generation, inappropriate and constrained access, insufficient car parking, and issues related to the provision of a dedicated pedestrian and cycle access. Broadly, the grounds of appeal consider that the development, by way of traffic generation and constrained access routes, would ultimately lead to compromised highway safety and unsafe conflict between vehicles, pedestrians, and cyclists, in addition to disturbance to existing residents.

Title Issues and Unauthorised Development

- 7.6.2. Before considering the wider transport issues raised in the appeals, I would advise the Board that various conflicting claims have been made regarding ownership and title to Oaklands Crescent. The applicant has provided a letter from RDJ LLP law firm confirming that the applicant (GP1 Prime Ltd) owns the freehold interest on Oaklands Crescent, although the appellants dispute this. This is not an issue that the Board can adjudicate on, these are essentially civil matters between the parties and are not strictly matters for determination within the scope of planning legislation. In this regard I would refer the parties to Section 34(13) of the Planning and Development Act 2000 (as amended), which states: "A person shall not be entitled solely by reason of a permission under this section to carry out any development."
- 7.6.3. Additional concerns raised are that works to remove bollards, reduce the height of the wall at the bottom of Oaklands Crescent, and remove parking spaces from the St Luke's Hospital service road, have been undertaken without planning permission. I note that jurisdiction over enforcement matters lies with Dublin City Council who do not consider that there has been a breach of planning control.

Traffic Generation

- 7.6.4. At the outset, I acknowledge the concerns raised in the technical note prepared by Martin Peters Associates that the donor sites are not sufficiently similar to the appeal site to justify their use in estimating traffic generation, that TRICS indicates increased vehicle trips, and that there are discrepancies in the trip generation figures presented in the applicant's Traffic and Transport Assessment (TTA) between those presented in the report and those presented in Appendix A.
- 7.6.5. In estimating traffic generation for the proposed nursing home, the applicant has assessed the current traffic generation of four nursing home donor sites which include:
- Belmont House Nursing Home, Stillorgan Road, Co. Dublin, (160 bed).
 - Maryfield Nursing Home, Old Lucan Road, Chapelizod, Dublin 20, (69 bed).
 - Northwood Nursing Home, Old Ballymun Road, Santry, Dublin 9, (118 bed).
 - Rathborne Nursing Home, Duninsea Lane, Ashtown, Dublin 15, (120 bed).
- 7.6.6. The average traffic generation was calculated from the four donor sites and applied to the 120 bed subject proposal. I have considered the size of the donor sites as well as their location in terms of the road network and their access to public transport. With the exception of Rathborne Nursing Home, I consider them to be sufficiently similar to the subject proposal/site, such that their inclusion as donor sites is appropriate and acceptable. Rathborne Nursing Home is located at a significant distance from public transport, but I have no issue with its inclusion as its increased dependency on cars would push up the average trip generation and as such would not offer any advantage to the applicant in terms of the traffic survey.
- 7.6.7. I note the reasoning given by the applicant for not using the TRICS database, including the lack of comparable sites and I am of the opinion that this is reasonable, particularly in the context of the up to date and directly comparable local data offered by the donor sites. Notwithstanding, I have considered the increased trip rates presented in the appellant's TRICS analysis and I have also adopted the higher trip figures set out in Appendix A of the TTA.
- 7.6.8. The TTA concludes, based on the average of the donor sites, that traffic generation in the morning peak would be a combined 16 two way trips (10 arrivals and six departures), with the evening peak having 19 two way trips (seven arrivals and 12 departures). The applicant has adopted a morning peak time of 08:00-09:00 and an

evening peak time of 15:15-16:15. I note that the average trip generation from the donor sites peaks between 19:00 and 19:30 and applying that rate to the subject site would result in 20 two way trips, which is only marginally above that presented above. Overall, I consider the estimated trip generation figures to be reasonable and I am not of the opinion that they would have a significant impact on the local road network.

7.6.9. Applying the figures from the TRICS analysis, referred to by the appellants, would result in increased trip generation, with peak generation occurring around 2pm with 36 two way vehicle movements and the majority of the rest of the day being below 25 two way vehicle movements. This would, in my opinion, reflect a worst case scenario and in any event, I do not consider that these figures would result in a significant material impact on the road network, particularly in the context of what I would consider to be more applicable data from the donor sites.

7.6.10. The TTA also considers impacts on surrounding junctions. Seven key junctions have been assessed. Five of these junctions would have minimal additional vehicle movements, with the development resulting in increases of between 0% and 2.02% in the morning peak, and 0% - 2.9% in the evening peak which is minor in my opinion and translates to an upper threshold of 11 additional movements in the morning peak and 13 additional movements in the evening peak.

7.6.11. The remaining two junctions, Oaklands Crescent/St Luke's service road and site access/St Luke's service road, would see large percentage increases in vehicle movements ranging from 84.09% to 99.38% in the morning peak and 95.5% and 121.6% in the evening peak. However, this large percentage increase is a result of the current very low baseline traffic at these junctions and the actual additional vehicle movements would equate to 16 in the morning peak and 13 in the evening peak for each junction. I am therefore satisfied that the development would not result in a significant increase in traffic, and that the impact on the local road network and junctions in terms of vehicle movements would be acceptable.

Vehicular Access

7.6.12. The appeals and observations raise extensive issues regarding the constrained nature of the access to the site, including issues regarding the narrow nature of Oaklands Crescent, potential for vehicles to travel at speed, visibility at junctions, and vehicle movements compromising highway and pedestrian safety.

- 7.6.13. Oaklands Crescent provides the main vehicular access to the appeal site from Highfield Road. The carriageway of Oaklands Crescent is approximately 5m in width at the entry from Highfield Road. Parking is restricted by double yellow lines for the first 100m of its length with on-street parking permitted for the remainder, subject to standard parking restrictions on corners. There is a narrow footpath from Highfield Road which terminates at the end of the line of dwellings around the main crescent. The southern 70m of Oaklands Crescent has no footpath and parking is permitted on-street but the carriageway width is generally increased to approximately 5.7m.
- 7.6.14. Oaklands Crescent is a straight road with good visibility down the length of the carriageway. Whilst I acknowledge the constraints regarding width, boundary treatments and on-street parking, I consider the road to be a low speed environment and the southern end, where there is no pedestrian footpath, very much operates as a shared surface. The narrow nature of the road and the on-street parking contributes to its low speed nature, and even if oncoming vehicles were to meet, there are adequate passing places to allow these movements to take place. This reflects the current arrangement and is typical of many urban streets where car parking takes place on-street.
- 7.6.15. At the junction with St Luke's service road, the previous bollards blocking through access have been removed, a portion of wall has been removed to improve visibility, and parking spaces/pedestrian crossing on the St Luke's service road have been removed/reconfigured in agreement with St Luke's Hospital. Part of the Board's previous refusal related to the proposed development being reliant on works to provide access arrangements which are outside of the appeal site (red line) boundary. These works (detailed above) have since been completed and access is now possible from Oaklands Crescent through to the appeal site, using the existing right of way over the St Luke's service road.
- 7.6.16. Three options have been put forward for the configuration of this four point junction. Option 1 is the applicant's preferred option, which provides for stop lines on the west approach to the junction from the St Luke's service road and the east approach to the junction from the north east arm of Oaklands Crescent, where it provides access to Four Oaks, effectively making Oaklands Crescent a through road direct to the site.

- 7.6.17. Option 2 would have stop signs at all four of the junction entry points and would, in my opinion, offer the most beneficial layout, particularly given the shared nature of the space. The requirement for all vehicles to stop at the junction would minimise vehicle speeds and enable full consideration to be taken of onward passage and clearance prior to entering the junction, offering the safest configuration for all road users. Option 3 has an irrational layout that would not be beneficial in my view. Should the Board be minded to grant permission, I would advise that Option 2 should be the conditioned layout.
- 7.6.18. I am satisfied that visibility on Oaklands Crescent and at the junction with St Luke's Hospital Service Road is acceptable and whilst I note the concerns raised in the observations that vehicular parking impedes visibility and vehicle movement paths, I would note that the parking referred to is unauthorised, with vehicles being parked on double yellow lines. I would agree with the applicant that indiscriminate parking is a result of the low traffic and low enforcement nature of the site as it currently stands. Once the development is operational, the applicant suggests that this would be replaced by high profile, active enforcement that will become the norm and respected by drivers. I am satisfied that this is an appropriate response to the issue and that the swept path analysis is acceptable.
- 7.6.19. In terms of the proposed vehicular access within the development site itself, I consider this to be an acceptable and rational layout. The circular route around the building provides access to the car parking which is dispersed around the site. There is provision for a drop off facility at the entrance to the new building which would minimise cars having to use the peripheral route as it would allow vehicles to exit the site by using the drop off loop.
- 7.6.20. As pointed out by the appellants, refuse vehicles currently have to reverse down the full length of Oaklands Crescent as there was previously no facility to turn the vehicle. As indicated by the applicant, the development would provide the opportunity for refuse vehicles to turn either at Oaklands Crescent/St Luke's service road, or by entering the site and using the one way drop off loop to safely regain access to Oaklands Crescent without having to reverse. This would be an improvement on the current situation and would remove the need for HGV's to reverse the entire length of Oaklands Crescent.

7.6.21. Other access concerns by the observers are that the removal of the bollards may lead to a redistribution of traffic within the hospital site as there would be nothing stopping access and egress via Oaklands Crescent, creating a rat run. The removal of the bollards effectively reinstated an existing right of way. The local road layout is such that Oaklands Crescent would not offer any advantage to vehicles seeking to enter or exit the hospital and as such I do not consider that it would create a rat run. The provision of signage advising drivers that there is no access to St Luke's Hospital would help mitigate this issue and is provided for in the application documents/conditions.

7.6.22. I note the various RSA recommendations and that the solutions brought forward by the applicant have been accepted by the auditors. Overall, I consider the proposed vehicle access to and within the site to be acceptable for all vehicles, including access for emergency services, the limited number of HGV's entering the site and use by pedestrians and cyclists. The development also provides for resurfacing works to Oaklands Crescent which would improve the road condition.

Pedestrian and Cycle Access

7.6.23. The proposed development provides for a dedicated pedestrian and cycle access and egress from Highfield Grove. The grounds of appeal argue that pedestrians and cyclists are likely to still use the Oaklands Crescent access as it offers a more direct route to Rathgar, and that this would risk pedestrian safety. Conversely, the appeals also argue that the Highfield Grove access could become a shortcut to St Luke's for people coming from Rathmines. Issues raised with Highfield Grove are that pavements are narrow and vehicles park on the pavement, forcing residents onto the road. This is particularly a problem for mobility impaired and those requiring assistance.

7.6.24. The aim of providing a dedicated pedestrian/cycle access is to provide an additional access for pedestrians and cyclists as opposed to entirely restricting movement of pedestrians and cyclists to one access point. The provision of two separate access/egress points (one primarily for vehicles and one restricted to active travel users) provides viable, safe options and good permeability to the external pedestrian, cycle and public transport networks. Whilst I accept that some pedestrians and cyclists would continue to use the St Luke's Hospital service road/Oaklands Crescent access,

I would agree with the applicant that the numbers would likely not be significant, given the more direct link to public transport via Highfield Grove.

- 7.6.25. In any event, I do not consider that the use of Oaklands Crescent by pedestrians and cyclists would result in compromised safety given the low speed and low traffic nature of the street, the shared surface arrangements, and the recommendations put forward in the Road Safety Audit, which the applicant would implement. These measures include formally marking out vehicle parking on Oaklands Crescent and creating three new formal refuge spaces for pedestrians between parking bays in line with DMURS, providing new shared space signage and road markings on Oaklands Crescent as well as an advisory speed limit of 20kph, and the provision of information signs informing road users that no access to St Luke's Hospital is provided via Oaklands Crescent. I consider these measures to be acceptable.
- 7.6.26. I note the point raised by observers that the RSA recommended works to the junction of Highfield Road/Oaklands Crescent to provide an uncontrolled pedestrian crossing with dropped kerbs and tactile paving, and similar works to a very small section of Highfield Grove, and that these sit outside of the applicant's ownership. These relate to works on land controlled by DCC, who have indicated they would be acceptable and have secured them by planning condition. Given that DCC control this land and have indicated acceptance of the works, I am satisfied that they could be completed by agreement with the Council. The overall acceptability of the development in planning terms is not entirely reliant on these minor works.
- 7.6.27. I also note the concerns raised by observers that the condition of Highfield Grove is not suitable for pedestrians, cyclists and the mobility impaired and that vehicles park on the pavement. Issues of vehicles parking on the pavement is a matter of wider traffic management and I consider that the use of Highfield Grove as a pedestrian/cycle access would not result in an unsafe environment. Highfield Grove is a cul-de sac and is by its nature a low speed and low traffic environment. Further concerns raised that additional pedestrians and cyclists passing through Highfield Grove would impede child safety are unsubstantiated.
- 7.6.28. Further concerns raised in the grounds of appeal and by observers are that the crossing desire line between Oaklands Crescent and St Luke's Access Road is contrived and does not respect the previous desire line. It is stated that this is likely to

be ignored and that pedestrians will cross in the middle of the junction, raising safety issues. The works undertaken to St Luke's service road subsequent to the previous refusal of planning permission moved the pedestrian crossing to the west. The current location of the marked crossing is somewhat problematic due to the fact that it now terminates at the boundary wall of the dwelling at no. 30 Oaklands Crescent. However, these works are outside the application red line and as such there is no recourse via the appeal to realign this crossing. Notwithstanding, as previously mentioned, given the level of traffic using this space, the limited speed environment, the shared nature of the space, and the level of visibility available, I do not have significant concerns that pedestrians crossing at the junction would be compromised in terms of safety.

Car Parking

- 7.6.29. The development would provide a total of 47 car parking spaces on-site. The grounds of appeal and observations argue that this is an insufficient number of parking spaces and that it would result in overspill parking, resulting in traffic safety and congestion implications for residents. Other concerns raised are that the donor sites have not been demonstrated to be sufficiently similar to the proposal site in parking requirements, that the parking surveys were undertaken outside of peak demand and that google earth pictures of the donor sites show vehicles parked on surrounding streets and that this could be overspill parking not quantified in the survey. There are concerns that no details of staff numbers have been provided and that additional demand will be experienced at shift changeover.
- 7.6.30. I have previously addressed the matter of the suitability of the donor sites, and I consider that they are comparable to the appeal site in terms of their accessibility, size, and access to public transport and I am satisfied that they are an appropriate comparator. As indicated by the applicant, a benefit of using donor sites is that one of the sites is operated by the firm that would operate the development and characteristics of shift times, staffing levels and visiting times have been reflected in the data. The claim that Google Earth images show overspill parking at donor sites is, in my opinion, based on conjecture. The same image shows the availability of car parking on-site within the car park. The surveys were undertaken over a 24 hour period and I am satisfied that they have captured the peak demand on the survey days (Monday/Tuesday).

7.6.31. Table 2 of Appendix 5 of the Dublin City CDP sets out the maximum parking standards for various uses. For the site location, a nursing home would have a maximum parking standard of one space for every two residents. The Compact Settlement Guidelines also state a maximum level of parking provision as opposed to a minimum, and I note that the general thrust of the Guidelines is that parking should be reduced at all urban locations, particularly in locations that have good access to public transport and urban services. Whilst this guidance is generally more specific to residential development, I do consider that it has relevance to the subject proposal as well.

7.6.32. The level of parking provision proposed is 13 spaces below the maximum provision allowed for in the CDP but equates to a 24% overprovision based on the data from the donor sites. Given the site's good access to public transport, I consider that this level of parking provision is acceptable and proportionate, particularly when having regard to the provisions of the Mobility Management Plan, the high level of accessibility by sustainable travel options, and the parking demands of the donor site. I acknowledge that there may be some isolated instances of overspill parking, but I do not consider that this would be significant. In my opinion it would likely be temporary and restricted to the very early stages of the operational development, in advance of the measures outlined in the Mobility Management Plan taking effect for staff. I am therefore satisfied that parking provision is acceptable.

7.7. Other Matters

Procedural Matters

7.7.1. The grounds of appeal raise concerns that notification of the decision was delayed and that this reduced the time available to make a comprehensive appeal. Concerns are also raised that site notices were insufficient.

7.7.2. Having considered the matter, I note based on the quantity of third-party submissions that it is evident that the local public were well informed of the application on the site and, as evidenced by the submissions received and the subsequent appeals, have not been disenfranchised from taking a full part in the planning process.

Ecology

7.7.3. Observations on the appeal state that there would be an impact on wildlife due to destruction of habitat. Further issues raised are that there should be a tree protection

zone around the site perimeter and that the large willow tree behind 43 St Kevin's Park should be retained.

7.7.4. An Ecological Impact Assessment was submitted with the application. Flora and fauna surveys were carried out and an updated bat survey was submitted. The report notes the disused nature of the site and that it consists primarily of recolonising bare ground and a small area of scrub. No species (plant, mammals, amphibians) of conservation importance were noted on site. Two bats were observed on site in the 2019 survey (one foraging and one passing overhead) but no evidence of any bat roosts was found and there are no trees or buildings of bat roosting potential on site. The updated 2022 survey also noted that there were no bats roosting on the site and no evidence of any past bat roosts, with only minor foraging noted on the site. In terms of birds, the habitats on site would not be deemed of importance to birds of conservation importance and the site would not be an ex-situ foraging site. I am satisfied that the development would not have a significant impact on the ecology of the site, the habitats being lost are of low biodiversity importance and the proposed development would provide for the creation of biodiversity gain.

7.7.5. In terms of the removal of trees I note that the Planning Authority have imposed a tree protection condition relating to all the trees shown to be retained on site. However, no tree survey or equivalent information showing what trees are being retained/removed has been submitted. At the time of my site inspection, I did not view any trees that were of exceptional quality. I have no objections to tree removal on site in order to enable the development, and I consider that the proposed replanting scheme would provide appropriate mitigation. However, should the Board be minded to grant permission, I would advise that the tree protection condition imposed by the Planning Authority should be amended from tree protection, to the provision of a tree survey outlining existing trees on the site, those to be removed and those to be retained.

Infrastructure

7.7.6. Observations consider that the current sewage system is overloaded, that an upgrade is required, and that work's to the sewer are outside of the applicant's control. Uisce Éireann were consulted on the application but no response was received. Planning permission does not guarantee a connection to the Uisce Éireann network. Any development seeking a connection must obtain agreement from Uisce Éireann for their

water and/or wastewater service connection. I am satisfied that the issues raised by observers could be appropriately dealt with by the imposition of pre-commencement conditions requiring the applicant to liaise with Uisce Éireann and obtain the relevant connection agreements/notices prior to development taking place.

Drainage and Flooding

- 7.7.7. It is stated in the observations that the development would result in impacts in terms of drainage and flooding. The site is located within Flood Zone C which has a low probability of flooding and appropriate mitigation is proposed to further protect against flooding, including SUDS, attenuation, provision of bio-retention areas, green roofs, permeable paving to manage run-off and flow rates, and design interventions to direct run-off from short intense rainfall events towards the open spaces. I note that the Council's Drainage Team raised no objections subject to conditions and I am satisfied with the provisions of the Site Specific Flood Risk Assessment, the Engineering Services Report, and that the development would not result in increased flooding or impacts on drainage.

Structural Issues

- 7.7.8. Concerns have been raised that there would be a risk of structural damage and subsidence to existing properties as a result of the development and the associated vehicle movements/vibrations. The proposed development is located well away from the site boundaries and the development would not result in a significant uplift in vehicle movements. If the Board were to grant permission, then the development would be subject to a Construction Environmental Management Plan that would address potential construction issues and impacts, including vibration. In any event, structural issues are civil matters to be resolved between the parties, having regard to the provisions of S.34(13) of the Planning and Development Act 2000 (as amended).

7.8. Appropriate Assessment

Compliance with Article 6(3) of the Habitats Directive

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

Background on the Application

- 7.8.2. The application is accompanied by Stage 1 AA Screening Report prepared by Altamar Marine and Environmental Consultancy dated 7th March 2022. It was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone 15km of influence of the development.
- 7.8.3. The report concluded that the proposed development poses no risk of likely significant effects on Natura 2000 sites either alone or in combination with other plans and projects and, therefore, does not require progression to Stage 2 Appropriate Assessment. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment- Test of likely significant effects

- 7.8.4. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.8.5. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief Description of the Development

- 7.8.6. The applicant provides a description of the project on page 4 of the screening report and is as described in section 2 above. In summary, the development comprises:
- Demolition of the existing glasshouses and clearance of the site.
 - Redevelopment to provide a 120 bedroom nursing home in a four storey building with connection to the public sewerage and water supply schemes.
- 7.8.7. The development site is described on page 4 of the screening report and is described in detail in section 1 above. In summary, the site is a vacant plant nursery with existing glasshouses in various states of disrepair and overgrown vegetation along the boundaries. Taking account of the characteristics of the proposed development in

terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

7.8.8. Construction Phase:

- Surface water run-off.
- Disturbance / displacement impacts.

7.8.9. Operational Phase:

- Surface water run-off.
- Foul effluent discharges impacting water quality in downstream Natura 2000 sites.
- Disturbance / displacement impacts.

Submissions and Observations

7.8.10. None received.

European Sites

7.8.11. The development site is not located in or immediately adjacent to a European site. The following sites are noted:

- South Dublin Bay SAC (& pNHA)(site code 00210), 4km to the east.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024), 4.2km to the north-east.
- North Dublin Bay SAC (& pNHA)(Site Code 000206), 6.3km to the north east.
- North Bull Island SPA (Site Code 004006), 6.3km to the north-east.

7.8.12. Qualifying interests and conservation objectives for each of the sites are listed on the National Parks and Wildlife Services (NPWS) website (www.npws.ie), the overall aim being to maintain or restore the favourable conservation condition of the identified qualifying interests.

Identification of Likely Effects

7.8.13. There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase nor are there any site attributes that would have the potential to result in likely effects. I note that there are

no watercourses in the vicinity of the site, with the River Dodder located in excess of 400m away. The site would connect to the existing municipal water supply and sewage system.

- 7.8.14. The measures to be employed at construction stage represent best practice measures for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites and do not represent mitigation.
- 7.8.15. There is an indirect, hydrological pathway between the application site and the European Sites of Dublin Bay via the combined sewer system and the Ringsend WWTP, where wastewater from the proposed development would be treated.
- 7.8.16. I am satisfied that the proposal would not generate significant demands on the existing municipal sewers for foul water. Whilst this project would marginally add to the loadings to the sewer, evidence shows that negative effects to European sites are not arising. I am satisfied that the distances are such that any pollutants post treatment from the Ringsend WWTP would be minimal and would be diluted and dispersed and, therefore, there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives. Phased upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under the EPA licencing regime that is subject to separate AA Screening.
- 7.8.17. The site does not support habitats of ex-situ ecological value for qualifying interest species of the identified SPA's with no such qualifying interests recorded in the survey. In addition, the site is not of known historical importance for waterbirds. On the basis of the foregoing and the separation distance, the potential for significant impacts on waterbirds that are qualifying species of the SPAs due to disturbance / displacement can be screened out.
- 7.8.18. In combination effects are addressed from page 28 of the screening report and takes into consideration a number of plans and projects in the vicinity. It concludes that there will not be any in combination effects on the European site discussed.

Mitigation Measures

7.8.19. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

7.8.20. The proposed development was considered in light of the requirements of section 177U of the Act of 2000. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects, would not have a significant effect on European sites, including (but not limited to) European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC) in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of an NIS) is not, therefore, required.

8.0 Recommendation

8.1. From my assessment above, I consider that the Board should refuse planning permission for the proposed development based on the reasons set out below.

9.0 Reasons and Considerations

1. Having regard to the height of the proposed development adjacent to the boundary with Sunbury Park, including the difference in site levels, and the context of the adjacent properties and rear gardens, it is considered that the proposed development would be overbearing on properties within the immediate vicinity and would seriously injure residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Terence McLellan

Senior Planning Inspector

17th February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála	ABP-315061-22		
Case Reference			
Proposed Development Summary	Demolition of greenhouses and related structures. Construction of a nursing home with 120 beds and all associated site works.		
Development Address	Former Highfield Plant Nursery located off Oaklands Crescent Road, Highfield Road, Rathgar, Dublin 6		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No			No EIAR or Preliminary Examination required
Yes	X	Class 10(b)(iv) - Infrastructure Projects. Threshold >10 hectares.	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315061-22	
Proposed Development Summary	Demolition of greenhouses and related structures. Construction of a nursing home with 120 beds and all associated site works.	
Development Address	Former Highfield Plant Nursery located off Oaklands Crescent Road, Highfield Road, Rathgar, Dublin 6.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for a residential nursing home, in an area that is largely characterised by residential use and a hospital. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants.</p>	No.
<p>Size of the Development Is the size of the proposed development</p>	<p>The size of the development would not be exceptional in the context of the existing environment.</p>	No.

<p>exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments.</p>	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would be located in a serviced area and would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impacts on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and the site itself is not located within an ACA or residential conservation area. Although RCA's bound the site there would be no significant adverse impacts on their character or setting.</p>	<p>No.</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____