



An
Bord
Pleanála

Inspector's Report

ABP-316151-23

Development	Change of use of the vacant crèche at the ground floor of Block G to 3 no. 1 bedroom apartments, and all associated development.
Location	Block G (Fernbank Hall), Fernbank, Churchtown Road Upper, Dublin 14
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D23A/0007
Applicant	IRPF Fernbank Limited Partnership.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party V Refusal.
Appellant	IRPF Fernbank Limited Partnership.
Observer(s)	None.
Date of Site Inspection	5 th July 2023.
Inspector	Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site comprises a vacant ground floor unit (approved as a crèche facility) within the three storey Block 'G' of the residential development of Fernbank House, which is located on Churchtown Road Upper, Churchtown, Dublin 14. Fernbank House is a protected structure that sits centrally within this residential development which comprises a total of 266 units across a converted Fernbank House and seven residential blocks ranging in height from three to six storeys (referenced A-G). Shared amenity spaces are provided throughout the site between the residential blocks and around the site frontages. Car parking is generally basement/undercroft car parking although some limited surface level car parking is provided.
- 1.2. The wider Fernbank House site is bounded to the north and east by Churchtown Road Upper and to the south by open space looking onto Finsbury Park. The western boundary is marked by Notre Dame High School and the associated hockey pitch. Block G sits between Fernbank House and the western site boundary. The vacant crèche within Block G measures approximately 208sqm and benefits from an allocated area of open space/play area between the crèche and the surface level car parking area, where nine car parking spaces are reserved specifically for use by the crèche. The surrounding area is generally residential in nature. Dundrum Village and Town Centre, as well as Luas Green Line connections, lie to the east. Bus services are available on Churchtown Road Upper.

2.0 Proposed Development

- 2.1. Planning permission is sought to change the use of the vacant crèche unit within Block G to residential in order to provide three one bedroom flats. This would include alterations to the elevations and façades to create the new residential units and private amenity space. The outdoor open space allocated to the crèche would be converted to additional communal open space for the wider development. Three of the nine car parking spaces allocated to the crèche would be reassigned to the new dwellings, with the remaining six spaces being designated as visitor parking for the wider development.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Notification of the Decision to Refuse Permission for the proposed development was issued on 1 March 2023. The reason for refusal is as follows:

1. The applicant has not sufficiently demonstrated that there is no local demographic or geographical need for a childcare facility on the site in the submitted Childcare Demand Assessment which fails to have regard to up to date data that accounts for the significant increases in population noted since 2016 and the significant planned future population increases, the experience of DLR Childcare Committee in noting a significant shortage of childcare places and the need for same and Circular Letter PL3/2016 which envisages an increase in demand for childcare spaces as a result of the expansion of the Early Childhood Care Education (ECCE) Scheme. The proposed development is thus contrary to Section 4.2.1.5, Policy objective PHP6 and Section 12.3.2.4 'Childcare Facilities' of the Dún Laoghaire Rathdown County Development Plan 2022-2028 as it would result in a large residential development without childcare facilities, significantly detracting from residential amenity of the immediate area and is contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The Planner's Report was issued on the 1st March 2023 and forms the basis of the Council's assessment and decision. The report states that the provision of homes would be consistent with the zoning objectives of the area (subject to overall compliance with relevant development plan policies). In relation to the change of use of the crèche, the planners report notes that the marketing for the creche lacks information, has not been sufficient in terms of length and that interest demonstrated from operators demonstrates market demand.

- 3.2.2. The report raises concerns with some of the data used to inform the application, specifically that Census 2016 and QNHS 2016 data may be outdated. Further concerns are that the application does not consider the Councils Housing Strategy or Housing Needs Demand Assessment and the projected growth contained therein. The report also notes that the Childcare Demand Assessment (CDA) fails to examine the emerging pattern of development in the area and consented residential schemes.
- 3.2.3. The concerns of the DLR Childcare Committee are noted, specifically that parents are significantly struggling to access childcare in the DLR area, and that demand outweighs current capacity, especially for the under 3's. It is also noted that a number of childcare services closed during the pandemic and the following year, placing more demand on services. Further demand on services is likely to come from the expanded Early Child Care and Education scheme (ECCE) and Budget incentives.
- 3.2.4. In terms of the provision of three new homes, the report notes that they would generally be acceptable in design, quality, and amenity terms, but that the provision of one bedroom units would result in a housing mix that was even further outside the requirements of the CDP than currently and that this would be unacceptable.
- 3.2.5. The report concludes that whilst the Planning Authority is generally supportive of the sustainable reuse of existing vacant buildings, the proposed change of use would not accord with policy in relation to childcare provision and the proposed housing mix would not be acceptable.
- 3.2.6. **Other Technical Reports**
- 3.2.7. **Childcare Committee Report (24.02.2023):** The response notes that parents are significantly struggling to access childcare in the County, with demand outweighing capacity, particularly for the under 3 age group. The response also states that during the pandemic and the following year, several childcare facilities closed, placing additional pressure on availability of places.
- 3.2.8. **Parks and Landscaping Services (14.02.2023):** No objection but concerns have been raised that the apartments would be shaded and overlooked by the apartments above.
- 3.2.9. **Surface Water Drainage (08.02.2023):** No objection.

3.2.10. **Transport Planning (06.01.2023):** Nine surface car parking spaces were reserved for the crèche. Reassigning three of these to serve the new apartments is acceptable and the remaining six should be designated as visitor spaces. These spaces are not included within the site boundary of the application. Further information should be requested to confirm the designation of six car parking spaces as visitor spaces, revision of the site boundary to include the car parking spaces, and confirmation that the cycle store can accommodate an additional three cycle parking spaces. Further information was not requested by the Planning Authority and Transport Planning recommended conditions to secure the car and cycle parking spaces, should permission be granted.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. An observation was submitted by Councillor Anne Colgan of 30 Ashlawn, Ballinteer, Dublin 16. The observation raised the following points:

- Crèche facilities are required under the CDP. There is a significant shortage of childcare spaces in the County and demand exceeds supply.
- The childcare requirements of the CDP are supported by Section 4.7 of the Design Standards for New Apartments Guidelines for Planning Authorities.
- The case has not been made that there is sufficient local provision for children resident in Ferndale. The assessment of existing facilities completed by the applicant provides no basis for a judgement that there is sufficient or ongoing capacity in the area to warrant exclusion of a crèche from Ferndale.
- The applicant has failed to make the case that there would not be a requirement from children resident in the development. The development is new, and it is a reasonable assumption that many of the families are younger couples who may not yet have children and as such the CSO data and resident profile cannot be relied upon as a basis for ongoing and longer term demand.

- The two and three bed units have the potential over the longer term, to accommodate a much larger number of children that may require childcare than estimated by the applicant, and planning must take a longer term view.
- One bedroom flats are not appropriate in this location where there is a need for larger family units.

3.4.2. An observation was submitted by Jonathan Hanley of The Willows, Rockfield, Dundrum, Dublin 16. The observation raised the following points:

- A crèche was included in the application as a condition of planning, due to the demographics of the community and residents who require this service.
- The site has never operated as a crèche nor has Fernbank ever attempted to employ an operator to run the crèche.
- The application could be considered an attempt to circumvent planning law by including it and then converting it once construction is completed.
- The lack of a crèche will affect general services within the development and put additional pressure on surrounding facilities.

4.0 Planning History

4.1.1. There is a significant planning history for the Fernbank site, including the parent consent and several amendment applications. The most relevant applications are set out below:

4.1.2. **Planning Authority Reference, D19A/0579:** Permission was granted in November 2019 for amendments to Fernbank House, as consented under ABP PL06D.245137 (D15A/0081), to provide five shared accommodation units with associated communal facilities within Fernbank House itself. This brought the total number of homes on the Fernbank site to 266.

4.1.3. **Planning Authority Reference, D18A/0866:** Permission was refused in November 2018 for the temporary change of use of the crèche approved under ABP PL06D.245137 (D15A/0081) to a communal amenity space for a period of three years. The proposed communal amenity space included a meeting room, a large multi-functional space/meeting room, residents lounge, gym room, dry cleaning room, post

room, concierge, and reception. This application was the result of the new owner's intention to operate the site as a Build to Rent development.

- 4.1.4. The Planning Authority noted that there was no application to construct the overall development as Build to Rent and that without this consent there was no guarantee that the development would be managed as such. It was noted that there was either no or unknown childcare availability at a number of childcare facilities in the area. The application was ultimately refused on the basis that the development would be contrary to the provisions of the Childcare Facilities Guidelines for Planning Authorities (2001). The Planning Authority considered that the loss of the crèche would materially contravene the provisions of the CDP as it would result in a large residential development without any childcare facilities and that this would significantly detract from future residential amenity and be contrary to the proper planning and sustainable development of the area.
- 4.1.5. **Planning Authority Reference, D16A/0723:** Permission was granted in November 2016 for amendments to the development permitted under ABP PL06D.245137 (D15A/0081). This permission amended the housing mix, increasing the total number of units permitted from 258 to 262. The proposed amendments related specifically to blocks A, C, D, E and F and incorporated associated elevational alterations.
- 4.1.6. **ABP PL06D.245137, Planning Authority Reference, D15A/0081:** Permission was granted by the Board in November 2005 for the redevelopment of the site to provide 269 new homes across seven blocks (A-G) ranging in height from three to six storeys, including a converted Fernbank House, with all associated car and cycle parking, amenity spaces, and site development works. The Board imposed a condition (Condition 2) that reduced the total number of homes on site by 10, bringing the approved total to 258 units. This permission is the parent consent.

5.0 Policy Context

5.1 Development Plan

Dún Laoghaire-Rathdown County Development Plan 2022-2028

- 5.1.1. The Dún Laoghaire-Rathdown County Development Plan 2022–2028 (CDP), categorises the site as zoning objective ‘A’, which seeks to provide residential development and improve residential amenity while protecting the existing residential amenities.
- 5.1.2. Chapter 3: Climate Action, sets out the detailed policy objectives in relation to climate and the role of planning in climate change mitigation, climate change adaptation and the transition towards a more climate resilient County. The relevant policy objectives of this chapter are:
- CA4: Climate Change Action plan
 - CA6: Retrofit and Reuse of Buildings
- 5.1.3. Chapter 4: Neighbourhood – People, Homes and Place, sets out the policy objectives for residential development, community development and placemaking, to deliver sustainable and liveable communities and neighbourhoods. The relevant policy objectives from this chapter are:
- PHP6: Childcare Facilities
 - PHP19: Existing housing Stock - Adaptation
 - PHP27: Housing Mix
- 5.1.4. The main aim of PHP6 is to encourage the provision of appropriate childcare facilities as an integral part of proposals for new residential developments and to improve/expand existing childcare facilities across the County. The policy requires that, in general, at least one childcare facility should be provided for all new residential developments subject to demographic and geographic needs.
- 5.1.5. Chapter 5: Transport and Mobility, seeks the creation of a compact and connected County, promoting compact growth and ensuring that people can easily access their homes, employment, education and the services they require by means of sustainable transport. The relevant policy objectives from this chapter are:
- T19: Car Parking Standards

5.1.6. Chapter 12: Development Management, contains the detailed development management objectives and standards that are to be applied to proposed developments. The relevant sections of this chapter are:

- 12.3.2.4: Childcare Facilities
- 12.3.3.1: Residential Size and Mix
- 12.3.3.2: Residential Density
- 12.3.4.2: Habitable Rooms
- 12.3.5: Apartment Development
- 12.4.5.1: Car Parking Standards
- 12.4.6: Cycle Parking
- 12.8.3: Open Space Quantity for Residential Development
- 12.8.3.1: Public Open Space

5.2. Regional Policy

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

5.2.1. This strategy provides a framework for development at regional level. The RSES promotes the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint. Policy Objective 9.20 supports investment in the sustainable development of the Region's childcare services as an integral part of regional infrastructure to include support for the Affordable Childcare Scheme and supports the quality and supply of sufficient childcare places.

5.3. National Policy

The National Planning Framework - Project Ireland 2040

5.3.1. The government published the National Planning Framework (NPF) in February 2018. Access to quality childcare is one of the 10 national strategic outcomes. The NPF notes that Childcare provision in Ireland is reaching capacity and new planning approaches and sustained investment will be required, particularly in areas of disadvantage and population growth, to increase capacity and enable existing services to meet regulatory and quality requirements.

5.4. Relevant Guidance

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2022

- 5.4.1. This document provides detailed guidance and policy requirements in respect of the design of new apartment developments. Section 4.0 of the guidance refers to communal facilities in apartments and states that these may include community or meeting rooms or a management / maintenance office on-site and could also extend to childcare or gym uses that may be open to non-residents. Section 4.7 further states that notwithstanding the 'Planning Guidelines for Childcare Facilities (2001)' which recommend the provision of one childcare facility (equivalent to a minimum of 20 child places) for every 75 dwelling units, the threshold for the provision of any such facilities in apartment schemes should be established having regard to the scale and unit mix of the proposed development and the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. One-bedroom or studio type units are not generally considered to contribute to a requirement for any childcare provision and, subject to location, this may also be applied in part or whole, to units with two or more bedrooms.

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009

- 5.4.2. This document states that sustainable neighbourhoods will require a range of community facilities and that each district/neighbourhood will need to be considered within its own wider locality, as some facilities may be available in the wider area while others will need to be provided locally. In relation to childcare services, Paragraph 4.5 of the guidance notes that the 'Childcare Facilities, Guidelines for Planning Authorities, 2001' emphasise the importance of local assessment of the need to provide such facilities at the development plan or local area plan stage, having regard to the provision of existing facilities in the area. When considering planning applications, in the case of larger housing schemes, the guidelines recommend the provision of one childcare facility (equivalent to a minimum of 20 child places) for every 75 dwelling units. However, the threshold for such provision should be established having regard to the existing geographical distribution of childcare facilities and the emerging demographic profile of areas, in consultation with city / county childcare committees.

The location of childcare facilities should be easily accessible by parents, and the facility may be combined with other appropriate uses, such as places of employment.

Childcare Facilities, Guidelines for Planning Authorities, 2001

- 5.4.3. This provides a framework to guide both local authorities in preparing development plans and assessing applications for planning permission, and developers and childcare providers in formulating development proposals. They state that Planning Authorities should encourage the development of a broad range of childcare facilities, i.e. part time, full time day-care, after-school care, etc., including those based in residential areas, in employment areas and in areas close to where users of such facilities live. The Guidelines provide detailed guidance with regard to appropriate locations for the siting of childcare facilities such as in the vicinity of schools in addition to detailing the development control considerations of proposals.

Circular PL3/2016 issued by the Department of the Environment, Community and Local Government on 31st March, 2016

- 5.4.4. This refers to an expected increase in demand for childcare attributable to increases in the State subsidisation of childcare coupled with forecast economic and population growth (noting the extension of the Early Childhood Care and Education scheme to a wider cohort of children with effect from September, 2016). In line with the Government's policy of increasing access to childcare, planning authorities are requested to:

- Expedite all pre-planning consultations from childcare facility providers in relation to proposals to extend opening hours, to increase capacity, or to provide new facilities.
- Expedite, insofar as is possible, the consideration of all planning applications or Section 5 declaration submissions in respect of childcare facilities in order to facilitate the expansion of required capacity as appropriate.

5.5. Natural Heritage Designations

- 5.5.1. None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal has been lodged by John Spain Associates for and on behalf of IRPF Fernbank Limited Partnership of Georges Court, 54-62 Townsend Street, Dublin 2, against the decision of Dún Laoghaire-Rathdown County Council to refuse permission for the change of use of the vacant crèche to provide three one bedroom dwellings with associated alterations. The grounds of appeal area as follows:

- The data set out in the Child Care Demand Assessment (CDA) is consistent with the data set out in Appendix 2 Housing Strategy and Housing Need Demand Assessment of the CDP as it shows:
 - Greater proportion of people 65 and over than in County Dublin, the EMRA or the State.
 - Greater proportion of population increase in the 65 and over group (2011 – 2016).
 - A smaller proportion of children and young people than Dublin City Council or County Dublin Areas (with the exception of the 0-4 age group).
- DLR has a higher proportion of retired households and a low level of pre-family households than Dublin City Council.
- The CDP shows lower birth rates than the State average in 2016 and indicates that this trend will continue.
- Preliminary Census 2022 results show that population growth in DLR is broadly in line with the CDP predictions.
- Given the trends, it is likely that the over 65 group will account for a large proportion of the population increase between 2016 and 2022, resulting in a change in the overall demand and requirements for childcare facilities from that anticipated by the Childcare Guidelines 2001, on which Policy PHP6 is based.
- Due to the built up nature of the area, it is unlikely that any significant level of residential development without childcare facilities will be delivered within the

catchment of the site. It is therefore difficult to see how a limited size crèche within Fernbank could make a meaningful contribution to childcare provision in the area.

- The report of the Childcare Committee states that there is particular demand in the county for the under 3's age group which is the group ECCE provides for which would indicate that the expected increase in demand has been realised.
- The expanded ECCE scheme has been operational for five years and so demand is already in the system and captured in the data presented in the CDA.
- The Childcare Committee states that there is a lack of childcare capacity in the County but they haven't confirmed if this relates to the subject catchment.
- Research undertaken in the catchment indicates that there is a minimum of 30 childcare spaces available.
- Regarding the issue of the use of 2016 QNHS data in the CDA, in the context of the expanded ECCE scheme and the further lowering of crèche fees in Budget 2023, we would refer the Board to The Economic and Social Research Institute (ESRI) Report of 20 January 2023, titled 'Early Childhood Education and Care in Ireland and Northern Ireland. This provides up to date data on childcare uptake in Ireland and supports the assertion that not all children aged 0-4 will avail of a crèche space.
- Crèche operators require a minimum number of children to ensure viability and TUSLA sets out requirements for ancillary rooms and services as well as the need to cater for children of different ages.
- The Planner's Report accepts that the subject crèche may not be able to accommodate the stated 42 places as the space doesn't provide the ancillary rooms and areas. Realistically, the crèche could only accommodate 38 children aged 2-6 or 28 children aged 0-6 when provision of the ancillary spaces is taken into account.
- The crèche now falls below the size required to operate a viable childcare facility. As such there is no current commercial interest and unlikely to be any in the future. The crèche is therefore not a viable use.

- Childcare demand generated by the Fernbank scheme can be easily accommodated within the existing facilities within walking distance of the site.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority do not consider that the appeal raises any new matters and refers the Board to the Planner's Report on the application.

6.3. **Observations**

6.3.1. None.

7.0 **Assessment**

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

- Demographics
- Childcare Provision and Demand
- Viability
- Appropriate Assessment

7.1.2. The appeal site forms part of the wider residential development known as 'Fernbank' which comprises a total of 266 flatted dwellings across seven three/six storey blocks and a converted Fernbank House, which is a protected structure. The final mix comprises 56 one bedroom, 188 two bedroom, 17 three bedroom and 5 shared living units. Block G includes a ground floor crèche and this was a clear requirement of the CDP and the provisions of the 'Childcare Facilities, Guidelines for Planning Authorities, 2001'. The crèche has remained vacant since construction in 2018, with the principal issue in the appeal being that, based on local /geographic need, demographic trends, lack of demand, and with existing available childcare capacity in the surrounding area, a crèche is not needed nor is it viable on the Fernbank site. On this basis the applicant

seeks to change the use of the crèche to provide additional residential accommodation.

- 7.1.3. Following a review of the appeal documents, the main issue is not whether the provision of residential accommodation is appropriate, but whether the proposed change of use is acceptable and if there is a need to retain a childcare facility on this site in line with the parent consent (ABP - PL06D.245137).
- 7.1.4. Policy PHP6: 'Childcare Facilities' of the CDP aims 'to encourage the provision of appropriate childcare facilities as an integral part of proposals for new residential developments and to improve/expand existing childcare facilities across the County' with a general provision that at least one childcare facility be provided for all new residential developments, subject to demographic and geographic needs.
- 7.1.5. Section 12.3.2.4: 'Childcare Facilities' of the Plan subsequently states that the Planning Authority will seek to facilitate the provision of childcare facilities in appropriate locations and may require their provision in large residential developments in accordance with the provisions of the 'Childcare Facilities, Guidelines for Planning Authorities, 2001'.
- 7.1.6. Paragraph 2.4 of the 'Childcare Facilities, Guidelines for Planning Authorities' states that within new communities / larger new housing developments, planning authorities should require the provision of at least one childcare facility unless there are significant reasons to the contrary e.g. the development consists of single bed apartments or where there are adequate childcare facilities in adjoining developments. Within new housing areas, the Guidelines further recommend a benchmark of one childcare facility per 75 dwellings although the threshold for provision should be established having regard to the existing geographical distribution of childcare facilities and the emerging demographic profile of areas.
- 7.1.7. More recent national planning guidance has elaborated further on the issue of providing childcare services in tandem with emerging development. In this regard, the 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009' also acknowledge the recommendation to provide one childcare facility for every 75 dwelling units in the case of larger housing schemes, however, they reiterate that the threshold for any such provision should be established having regard to the existing geographical distribution of childcare facilities and the emerging

demographic profile of areas (with the additional requirement that any such analysis be undertaken in consultation with city / county childcare committees).

7.1.8. The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2022' similarly reference the recommended provision of one childcare facility for every 75 dwelling units, but assert that the threshold for providing any such facilities in apartment schemes should be established having regard to the scale and unit mix of the proposed development and the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. In addition, it is stated that one-bedroom or studio type units are not generally considered to contribute to a requirement for any childcare provision and, subject to location, this may also be applied in part or whole, to units with two or more bedrooms.

7.1.9. A Childcare Demand Assessment (CDA) was submitted as part of the application in order to justify the proposed change of use. The CDA considered an assessment of need based on national, county and study area demographics, the existing geographical distribution of childcare facilities, and childcare demand from the development itself.

7.2. Demographics

7.2.1. The core issue in the Council's decision to refuse planning permission is that the developer has not demonstrated that there is a lack of local or geographic need for the crèche. Specifically, the Council consider that the CDA fails to have regard to up to date information, including the CDP Housing Strategy, that accounts for the significant population growth since 2016 and that it fails to consider significant planned population increases.

7.2.2. The applicant has considered the Housing Strategy and Housing Need and Demand Assessment (HNDA) in the grounds of appeal and considers that the data presented is consistent with the assumptions of the CDA. The grounds of appeal note that DLR has a greater proportion of people aged 65 and over, that the greater proportion of the population increase from 2011 to 2016 was in the 65 and over age group, that there is a higher proportion of retired households and a low level of pre family households in the County.

- 7.2.3. Further trends identified are the lower than State average birth rate and that population growth is broadly in line with the CDP predictions. On this basis, the applicant considers that it is likely that the over 65 age group will account for a large proportion of the population increase between 2016 and 2022 and that this will result in a change in the overall demand and requirements for childcare facilities from that anticipated by the Childcare Guidelines 2001, on which Policy PHP6: Childcare Facilities of the CDP is based.
- 7.2.4. The Housing Strategy in Appendix 2 of the CDP sets out various demographic markers for the County. The applicant states that the preliminary Census 2022 data shows that the population growth of the County is broadly in line with the Housing Strategy. The population of DLR increased by 15,439 between 2016 and 2022 which equates to an increase of approximately 2,573 persons per year on average. This sits above the average baseline projections for population growth of 2,298 persons per year and slightly below the average 'headroom' projection of 2,873 persons per year as set out in the Regional Spatial and Economic Strategy. I would therefore agree with the applicant that the population increase identified in the preliminary Census 2022 data is broadly in line with the CDP projections and that this is up to date information.
- 7.2.5. Importantly, the applicant notes that the Census 2022 data does not provide a further population breakdown but asserts (based on previous trends) that it is likely that the over 65 age group will account for a large proportion of the population increase between 2016 and 2022, and that this will result in a change in the overall demand and requirements for childcare facilities.
- 7.2.6. I would caution against accepting this assumption as having significant weight in terms of the effect on the demand for childcare spaces. Whilst the 2016 Census data does show that there was a 16.1% increase in the number of people in the over 65 age group (against an overall population increase of 5.7%), I also note it also showed a significant increase in the number of children aged 0-4 years old in DLR compared to the level of the State. Furthermore, whilst birth rates in DLR may be lower than the State average, since 2006 there has been steady net migration into the County, and this migration level is considerably higher than both the State average and other Dublin authority areas. In the absence of a further breakdown of the Census 2022 information. I do not consider that it has been sufficiently demonstrated that there is, or has been, a change in demand for childcare based on the presented demographics.

7.2.7. The applicant argues that, due to the built up nature of the area, it is unlikely that any significant level of residential development without childcare facilities will be delivered within the catchment of the site. It should be noted that in reviewing extant permissions in the study area, the applicant has not considered permissions for schemes proposing less than 75 units. Smaller developments have the potential to accommodate children requiring childcare and as such I would not agree that such a definitive conclusion can be drawn on this issue. Given the above, I do not consider that the applicant has sufficiently demonstrated that the demographic trends categorically indicate a decreased demand for childcare facilities.

7.2.8. **Childcare Provision and Demand**

7.2.9. The CDA provides an analysis of existing childcare provision and demand in the surrounding area. A study area of 1.5km radius from the appeal site has been adopted. This equates to a roughly 15 minute walk from the appeal site. The study area covers 12 Electoral Divisions, some of which have boundaries slightly beyond the 1.5km radius, however I do not consider this to be a significant issue.

7.2.10. Existing baseline childcare provision was gathered from desk-top research (including information sourced from Tusla). A total of 19 facilities were identified, each of which was contacted to obtain further information on maximum and available capacity. In terms of maximum capacity, the 19 facilities can provide a total of 826 childcare spaces and approximately 30 childcare spaces are available. As such there are currently 796 childcare spaces being used in the study area. This means that approximately 4% of the total childcare spaces in the study area are vacant. For clarity, only four of the 19 facilities surveyed confirmed that they had any available capacity.

7.2.11. The CDA proceeds to consider the demographic profile of the 12 Electoral Divisions that make up the study area, as derived from Census 2016. The CDA estimates that there are 5,091 children living in the study area with 6% (1,521) being in the 0-4 age group and 9% (2,323) being in the 5-12 age group.

7.2.12. The CDA has used these figures to estimate the number of children up to 12 years of age resident within the parent development. In this regard, the 56 one bedroom units and the five shared accommodation units have been disregarded as they are not expected to contribute to the child yield, as per the recommendations of the

'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2022'. Therefore, a total of 205 apartments within the scheme have been used in estimating the number of 0-12 year old children resident in Fernbank.

- 7.2.13. By utilising the average household size of 2.7 persons per unit (as derived from the Census of population data for DLR), the applicant has estimated that the development could accommodate 283 children. This is further broken down to 17 children in the 0-4 age group and 25 children in the 5-12 age group, based on the study area proportions of 6% and 9% respectively, giving an overall estimated child population of 42 children. I am mindful that the applicant has also undertaken a study of the actual population at Fernbank and this concludes that there are 42 children living in the development (14 aged 0-4 and 28 aged 5-12).
- 7.2.14. Further analysis of the likely demand for childcare has utilised data available from the QNHS 2016. This indicates that in Dublin, 25% of parents with children use pre-school childcare facilities and 11% use primary school care. The applicant has then applied this to both the study area child population and the Fernbank child population and concludes that the study area would have demand for 635 childcare places (380 in the 0-4 group and 255 in the 5-12 group) and Fernbank would have a total demand of 7 childcare space (4 in the 0-4 group and 3 in the 5-12 group).
- 7.2.15. I would draw the Board's attention to two important points. Firstly, the number of existing children using centre based care in the study area is 796, based on the capacity assessment contained in the CDA, and this is already significantly in excess of the estimated childcare requirement of 635 arrived at by the applicant using demographic data. As such, the use of the Dublin childcare uptake figures of 25% (0-4) and 11% (5-12) is problematic as it currently underestimates the real use of childcare in the study area as demonstrated above. Secondly, the Dublin uptake figures are based on the QNHS 2016 whereas the Economic and Social Research Institute (ESRI) Report of 20th January 2023, titled 'Early Childhood Education and Care in Ireland and Northern Ireland states that 42% of all children in the State use centre based childcare. This is well in excess of the Dublin uptake figures used by the applicant and, taken together with the existing childcare uptake in the study area, indicates that a higher proportion of children are in centre based childcare.

7.2.16. The applicant then presents a 'worse case scenario' to assess the childcare demand from the proposed development and I consider this to be appropriate given the aforementioned disparity in estimated versus actual uptake. Using a 'worse case scenario', the CDA estimates that Fernbank will generate a childcare demand of 42 places (17 in the 0-4 group and 25 in the 5-12 group). Existing available capacity for childcare in the study area equates to a maximum of 30 spaces. However, it should be noted that 15 of these spaces are for sessional care which is for a maximum of 3.5 hours per day and may not fully meet the needs of parents requiring childcare. In any event, the 42 childcare places generated by the development is currently well in excess of existing capacity. I acknowledge that applying the 42% uptake figure quoted in the ESRI reduces the childcare demand of the development to 18 spaces however I do not consider 12 available spaces as providing sufficient excess capacity to justify the loss of the approved crèche unit at Fernbank as this would equate to just 1.5% availability and takes no consideration of future potential uplift in child numbers either within the Fernbank scheme or within the study area.

7.2.17. The Planning Authority consulted with the with the DLR Childcare Committee in respect of the subject proposal. The Childcare Committee have noted that parents are significantly struggling to access childcare in DLR and that demand outweighs current capacity, especially for the under 3 age group. I consider that the view of the Childcare Committee should be afforded considerable weight in the determination of the proposed change of use. Feeding into this issue, the Planning Authority have noted that the QNHS 2016 and the use of Dublin childcare uptake figures is noted to be out of date in the context of the expansion of the Early Childhood Care and Education (ECCE) scheme which envisages an increase in demand for childcare. The Planning Authority also consider that the lowering of crèche fees in Budget 2023 will likely increase demand and that the applicant has not considered this.

7.2.18. In the grounds of appeal, the applicant notes that the report of the Childcare Committee states that there is particular demand in the county for the under 3 age group, which is the group ECCE provides for and considers that this would indicate that the expected increase in demand has already been realised. The applicant states that the expanded ECCE scheme has been operational for five years and as such this demand is already in the system and captured in the data presented in the CDA. Regarding the issue of the use of QNHS 2016 data in the CDA, in the context of the

expanded ECCE scheme and the further lowering of crèche fees in Budget 2023, the applicant refers the Board to The Economic and Social Research Institute (ESRI) report previously referred to. Whilst this report does include the ECCE scheme, the additional lowering of childcare fees approved as part of Budget 2023 only became effective from January 2023 and as such it is, in my opinion, premature to draw conclusions that increased demand from the further lowered crèche fees is already captured in the CDA.

- 7.2.19. I note the applicant's point that the Childcare Committee have not confirmed if the lack of childcare capacity in the County relates to the subject catchment, however this does not alter my assessment outlined above, that concludes there is not sufficient capacity, either based on a 'worse case scenario' or on the 42% uptake, to justify the proposed change of use.

7.3. Viability

- 7.3.1. The applicant states in the grounds of appeal that crèche operators require a minimum number of children to ensure viability. Tusla sets out requirements for ancillary rooms and services as well as the need to cater for children of different ages. The applicant considers that the crèche now falls below the size now required to operate a viable childcare facility and has submitted information from Lisney's Chartered Surveyors confirming that there is no current commercial interest and unlikely to be any in the future. The applicant therefore considers that the crèche is not a viable use and has provided details of two other appeals in DLR whereby the viability of a vacant creche was an issue considered by the Board, and where permission was ultimately granted for the proposed change of use.
- 7.3.2. As originally approved, the crèche measured 217sqm and was considered to have a capacity of 42 children aged 2-6 and 28 children in after school care aged 6+. As part of the Further Information submission on the parent application, the developer consulted a crèche operator who considered the crèche to be acceptable, viable and a worthwhile opportunity for any childcare provider, noting that any provider intending to operate the crèche would do so in accordance with their own model/criteria. As constructed, the crèche measures 208sqm and the CDA considers it to have a

maximum capacity of 45-55 children, although it is stated that this number may be lower as the space doesn't provide the ancillary rooms and areas required by Tusla.

- 7.3.3. The grounds of appeal state that the Planning Authority accept that the crèche may not be able to accommodate the required 42 children and further states that, realistically, the crèche could only accommodate 38 children aged 2-6 or 28 children aged 0-6 when provision of the ancillary spaces is taken into account.
- 7.3.4. I have considered the information submitted by Lisney's Chartered Surveyors and note that, despite construction in 2018, the crèche has only been marketed since January 2021. No details of the specific marketing campaign have been submitted, such as the location, form and frequency of advertisements, any online presence, details of consultations with childcare providers specifically targeted in the marketing campaign, details of proposed rents and any incentives offered for take up of the space, or terms of leases being offered. Based on the evidence before me I do not consider the marketing campaign undertaken to let the crèche to be sufficiently robust to draw the conclusion that it is unviable or to justify the change of use.
- 7.3.5. I note from the Lisneys letter and the grounds of appeal that the minimum floorspace considered for a viable crèche is given as 260sqm and 350sqm and that space is the principal issue that makes the crèche unviable as, according to the submission, a crèche needs to cater to a minimum of 70-80 children and 40 children on a full time basis. I would direct the Board's attention to the survey of existing childcare facilities provided in the CDA. I note that the surveyed crèches range in size (maximum existing capacity) from 20 child spaces to 100 child spaces. Indeed, of the 19 crèches surveyed, 11 can accommodate 40 children or less, with seven of these facilities having maximum capacity of 30 children or less. I am therefore satisfied that this demonstrates that there is sufficient interest in a crèche such as that of the subject proposal and as such I do not accept the applicant's claim that the proposed crèche is not viable nor do the other appeals referred to by the applicant alter my conclusions on this issue.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, it is concluded that no appropriate assessment issues arise as the proposed development would not be likely to have a

significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the existing shortage of childcare places in Dún Laoghaire Rathdown, and the local demographic trends that indicate future population growth and increased demand for childcare, it is considered that the proposed development would be contrary to Policy Objective PHP6: Childcare Facilities and Section 12.3.2.4 'Childcare Facilities' of the Dún Laoghaire Rathdown County Development Plan 2022-2028 and national policy on Childcare Facilities, as set out in the Guidelines for Planning Authorities issued by the Department of the Environment & Local Government in June 2001 as it would result in a large residential development without childcare facilities. The proposed development would have an adverse impact on the availability of childcare facilities both within the Fernbank development and in the surrounding area and would 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

22nd August 2023