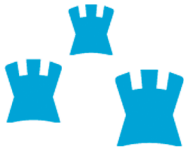


To the Lord Mayor and
the Members of Dublin City Council

Report No. 145/2013 of
Dublin City Manager



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

**MANAGER'S REPORT ON SUBMISSIONS RECEIVED ON FOOT OF THE PUBLIC
DISPLAY IN RELATION TO THE PROPOSED MATERIAL AMENDMENTS OF THE
ZONING OBJECTIVE AND MAPS IN RELATION TO UNZONED (FORMER Z15) LANDS**

Introduction

The High Court, in its judgements delivered in April and June 2012 in relation to a case taken by the Religious Sisters of Charity against Dublin City Council, has determined that the Z15 provisions of the City Development Plan 2011-2017 (relating to institutional and community uses) be quashed, and that the City Council must follow a specified procedure to replace those aspects of the Development Plan now quashed.

Accordingly, the Manager prepared a proposal for the former Z15 lands (approx 737 ha), which, together with motions submitted by elected members, were debated at a Special Meeting of the City Council held on 8th October 2012. A revised proposal was adopted at that meeting to go on public display.

The adopted proposal was put on public display – in the Press, the Civic Offices and public libraries citywide, from 15th October to 26th November 2012, as a result of which 48 submissions were received.

Following public display, the Manager prepared a report on the submissions received (Report No. 4/2013) which was circulated to elected members. Members were invited to consider the Manager's Report and Recommendations and submit motions. The Manager then prepared a report on the motions received (Report No.5/2013) which together with the Manager's Report on Submissions, were debated at a Special Meeting of the City Council held on 28th January 2013.

Having considered the proposal, the members resolved that the proposal be amended. As the Proposed Amendments constituted a material alteration of the proposal, a period of public display regarding the proposed amendments was agreed.

The proposed material amendments were put on public display – in the Press, the Civic Offices and public libraries citywide, from 18th February to 9th April, as a result of which 32 submissions were received.

(Due to an error in Map Ref B46 Proposed Zoning – Sybil Hill Road, Dublin 5 and Map Ref F6 Proposed Zoning – Sandymount Avenue, Dublin 4 which went on public display on Monday, 18th February, 2013, the correct maps went on public display from 7th March, 2013 and the closing date for receipt of submissions/observations was extended to 4.30pm on Tuesday, 9th April, 2013)

Layout of this Report (see also contents page)

This report contains a summary of all submissions received during the public display in relation to the proposed material amendments of the zoning objective and maps in relation to unzoned (former Z15) lands, together with the manager's response and recommendation. The Manager's Report contains 2 main sections followed by Appendices as follows:

- A. Submissions relating to the Proposed Z15 Text
- B. Submissions relating to Specific Sites

- Appendix I List of Submissions received (the full text of the submissions are available on the Councillor's Dubnet site in the folder Dublin City Development Plan 2011-2017).
- Appendix II The proposed amendments to Z15 text/maps which went on public display 18TH February to 9th April, 2013.
- Appendix III The proposed composite Z15 text/maps on foot of public display of proposed amendments.

Next Steps

The next steps:

- Members are invited to consider the Manager's Report and Recommendations on the proposed material amendments of the zoning objective and maps in relation to unzoned (former Z15) lands and the composite text proposed at Appendix III.
- The Special City Council meeting to consider the submissions and Manager's Report and make a final decision on the proposal must take place **on or before Monday 27th May 2013.**

SEA and AA

As the proposal is to make alterations to the Dublin City Development Plan in respect of currently unzoned (former Z15) areas, the appropriate procedures under the SEA Directives and Habitats Directive, including notification to the prescribed bodies have been undertaken as part of an iterative process.

Note: All submissions have been reviewed in the preparation of this report. Only those issues raised in the submissions received that relate to or are relevant to the proposed amendments have been considered in the preparation of the Manager's Reports and Recommendations contained in this report. No submission has been declared invalid. The thematic summary of the issues raised and presented in this report is a distillation of the submissions received which included overlaps and duplication. The full text of submissions is available on the Councillor's Dubnet site in the folder Dublin City Development Plan 2011-2017.

Contents

Section A	Submissions relating to the Proposed Z15 Text	Page
1	National Bodies and Organisations	6
2	Procedural Aspects	7
3	Redevelopment Considerations re: 'use'	8
4	Redevelopment Considerations re: 'in whole or in part'	10
5	Securing Z15 Uses (playing fields, etc)	12
6	Consultation with Statutory Providers	14
7	Masterplan Requirements	16
8	Use of the Words 'Site', 'Lands', 'Generally' etc.	20
9	Strategic Environmental Assessment & Appropriate Assessment	22
10	Site Coverage / Plot Ratio	25
11	Property Rights / Discrimination	26
12	Miscellaneous	28
Section B Submissions relating to Specific Sites		29
Section C Appendices		34
Appendix I	List of Submissions received (full text of the submissions available on the Councillor's Dubnet site in the folder Dublin City Development Plan 2011-2017).	36
Appendix II	The proposed Z15 text/maps which went on public display.	38
Appendix III	The proposed final Z15 text/maps.	50

Section A
Submissions Relating to Proposed Z15 Text

A(1) National Bodies & Organisations

Department of Environment, Community and Local Government

Submission Number: 13

Summary of Issues Raised:

The Department of Environment, Community and Local Government note that this variation and amendment is in response to a court judgement about a specific issue within the authority.

The detailed amendments as such relate to a specific issue and do not raise issues of a general and strategic nature and which the Department would wish to comment. Given the importance of the judgement, it is for the Council to be satisfied that the variation and its amendments fulfil the requirements of the court judgement.

Manager's Report:

Submission noted.

Manager's Recommendation:

No change.

Environmental Protection Agency

Submission Number: 4

Summary of Issues Raised:

The EPA acknowledges that the proposed zoning of institutional lands was originally assessed during the preparation of the Dublin City Development Plan and associated SEA. It is noted that these lands were subsequently un-zoned following a High Court judgement in April 2012.

The EPA notes the decision to incorporate the lands by way of an Addendum to the Plan having regard to DCC deeming the proposal to zone the lands again 'to neither be a plan in its own right nor a Variation to a Plan as provided for in Section 13'.

In the preparation of masterplans for the development of lands as referred to on page 5 of the Addendum to the Environmental Report of the Dublin City Development Plan 2011-2017 Strategic Environmental Assessment, The EPA refers DCC to the requirements of the SEA, Floods and Habitats Directives and requests that they be taken into account where relevant and as appropriate.

Manager's Report:

Submission noted.

Manager's Recommendation:

No change.

A(2) Procedural Aspects

Submission Number:

24, 29

Summary of Issues Raised:

Submissions make reference to what are stated as 'procedural requirements' regarding submissions with respect to the public notice published concerning the Proposed Amendments which contains the following statement:

"Please Note:

In accordance with Section 12 (7) of the Planning and Development Act 2000, as amended, only submissions/observations in relation to the Proposed Amendments and/or Environmental Report and/or Appropriate Assessment of implementing the Proposed Amendments will be taken into consideration before the making of any amendment. Submissions/observations not adhering to these criteria will be considered invalid."

Concern is expressed that this wording may be construed as meaning that the Council will declare invalid an entire submission which perhaps contains a single submission relating to something other than one of the Proposed Amendments.

Manager's Report:

All submissions have been reviewed in the preparation of this report. Only those issues raised in the submissions received that relate to, or are relevant to the proposed amendments have been considered in the preparation of the Manager's Reports and Recommendations contained in this report. No submission has been declared invalid.

Manager's Recommendation:

The issue raised has been noted. No change required.

A(3) Redevelopment Considerations re: 'use'

Submission Number:

9, 10, 11, 19, 20, 21, 22, 23, 24, 27, 29, 30

Summary of Issues Raised:

The issues raised in the submissions generally relate to the wording of the amendment as set out below:

*"Where ~~it is demonstrated to the Planning Authority that~~ **there is no longer a need for** an existing institutional and community use **(such as a school, or hospital)** ~~is no longer required on a particular site~~ **on lands** zoned Z15 and where the ~~site land~~ **is to be** redeveloped, ~~in whole or in part,~~ for open for consideration uses **(such as residential)** and/or other uses including permissible uses, then a masterplan ~~in accordance with the requirements set out below is required to be~~ **shall be** prepared by the proposer and/or owner."*

It is stated that this section imposes a potentially impossible test to prove that there is no longer a need for existing institutional and community use on the lands zoned Z15 for the following reasons:

- First, there is the question of the scope of an "existing institutional and community use" and whether it includes uses to which the existing use could be converted without the need to obtain planning permission. For example, "school," for the purposes of the Planning and Development Regulations 2001-2012, has the definition ascribed to it in the Education Act 1998 i.e. primary education, which may include early childhood education, post primary education and courses in adult and vocational training. Schools can be state or private facilities or a mix. They can be denominationally or language based. Thus, within the definition of school alone, the range of exempt changes of use is potentially very broad. The question arises as to whether "school" is a sui generis use, which can only be converted to another "school" facility, or can it be changed to any other educational use as exempt development? Hospitals can be changed to care homes, nursing homes, residential schools, residential colleges or residential training centres as exempt development (Ref. Class 9, Part 4, Schedule 2 of the Planning and Development Regulations 2001). Again the range of exempt changes is very broad.
- Secondly, if the definition of use goes beyond the existing facility on the site, for what time frame must "need" be assessed — immediate, the period of the development plan, some other time horizon?
- What population catchment must be examined? For example, an existing primary school might have a local population catchment, within which there is no longer demand. However, if the premises is to be considered as a potential site for a secondary school, one must look to a significantly wider catchment. A German or other language-based secondary school or vocational training centre might have a wider catchment again.

One submission proposes the insertion of the following amendments to the text to address the issue raised above:

- Insertion of the words "an identified" before "need" to provide a workable test in that the need could be identified in the development plan or by statutory providers. The insertion also clarifies the position as to the period of time that a developer must prove whether or not there is a need for an existing use, presumably the life of a development plan.

- Deletion of the word “an” and replacement with “the” before “existing institutional and community use” to clarify that the reference is to the existing facility (one submission also requests that “use” be replaced with “facility”).

Manager’s Report:

It is considered that the introduction of the reference to an identified need in relation to situations where there is no longer a need for an existing institutional use such as a school, is a useful clarification of the Z15 policy objective. It provides for the need to be identified through the development plan, or by relevant statutory providers, in consultation with the Planning Authority and the institutional land owner. The added text also provides for a reasonable time horizon over which it must be demonstrated if there is no need for a particular use, i.e. normally the life of the development plan.

With regard to the use of the word “facility” instead of “use”, the Manager remains concerned that this unreasonably restricts the nature of uses which would be acceptable on Z15 lands, in that ‘facility’ tends to be associated with a specific operator, rather than a use, or a specific activity, e.g. girls ‘x’ denominational, primary school run by a specific Trust/operator. It is considered that the word “use” should be retained, which refers in plain English, to a school, if a school is the existing use, a hospital, if a hospital use.

Manager’s Recommendation:

At paragraph 6, replace

“Where there is no longer a need for an existing institutional and community use (such as a school, or hospital)”

With

“Where there is no longer **an identified** need for an existing institutional and community use (such as a school, or hospital)”

A(4) Redevelopment Considerations re: ‘in whole or in part’

Submission Number:

9, 10, 11, 19, 20, 21, 22, 23, 24, 27, 29, 30

Summary of Issues Raised:

The issues raised in the submissions generally relate to the wording of the amendment as set out below and the deletion of the wording “in whole or in part”:

*“Where ~~it is demonstrated to the Planning Authority that~~ **there is no longer a need for** an existing institutional and community use **(such as a school, or hospital)** ~~is no longer required on a particular site on lands~~ zoned Z15 and where the ~~site land~~ is to be redeveloped, ~~in whole or in part,~~ for open for consideration uses **(such as residential)** and/or other uses including permissible uses, then a masterplan ~~in accordance with the requirements set out below is required to be~~ **shall be** prepared by the proposer and/or owner..”*

Concern is expressed regarding the deletion of the wording “in whole or in part” for the following reasons:

- There will be unintended and undesirable consequences as the deletion will allow partial development for open for consideration uses to secure the existing use and total redevelopment for “permissible” or “open for consideration” uses on demonstration that the entire existing facility is no longer required.
- It will not allow for redevelopment of part of viable institutional premises for “permissible” uses.
- It will not allow for development of a redundant or underutilised part of a viable institutional premises for “open for consideration” uses.
- It could promote total abandonment of an existing community or institutional facility, in order to be able to execute total redevelopment pursuant to the Par. 5 test.

Submissions seek the re-insertion of the words “in whole or in part” to clarify that the partial development of a Z15 use (where the existing use is no longer required) is permissible. Omitting these words means that a masterplan can only be prepared if the whole of the site is to be developed.

Manager’s Report:

The reason for omitting “in whole or in part” is that it could be interpreted as promoting the piecemeal subdivision and disposal of lands zoned Z15, potentially, and cumulatively, undermining the zoning objective. Moreover, the phrase indicates that if part of a Z15 holding is proposed for development all that is needed is a masterplan for that part to be disposed of, or acquired.

It should be noted that para 4 of the text already provides for development of a part of a Z15 landholding provided it assists in securing the aims of the zoning objective, etc.

It is desirable that parts of a Z15 holding are not disposed of without a masterplan for the overall holding. While it is accepted that there must be specific statutory authority for

restriction on the sale of land, it is considered reasonable in the interests of proper planning to have a planning policy that a masterplan must be prepared where there is no longer an identified need for an institutional/community use. In circumstances where parts of the holding have been disposed of/acquired, it is desirable that the masterplan be prepared for the entire lands zoned Z15.

Given this understanding, and noting para 10 of the text, which states that a masterplan does not replace the need for a Material Contravention or Variation procedures in any given case, it is considered that “in whole or in part” can be inserted.

Manager’s Recommendation:

At paragraph 6, reinsert “**in whole or in part**”

A(5) Securing Z15 Uses (playing fields, etc)

Submission Number:

9, 10, 11,19, 20, 21, 22, 23, 24, 27, 29, 30

Summary of Issues Raised:

The issues raised in the submissions generally relate to the wording of the amendment as set out below in particular to the line “How it secures the retention of existing open space, e.g. school playing fields”:

“Where there is an existing institutional and/or community use, any proposed development for “open for consideration” uses on part of ~~a Z15 site~~ the lands zoned Z15, ~~must~~ shall be required to demonstrate to the Planning Authority how the proposal is generally in accordance with and assists in securing the aims of the zoning objective; how ~~the proposal~~ it secures the retention of the main institutional and community uses on the ~~site~~ lands, including space for any necessary expansion of such uses; how it secures the retention of existing open space e.g. school playing fields; and ~~in addition to other matters such as the nature and scale of the proposal and how it integrates into the overall site~~ the manner in which the nature and scale of the proposal integrates with the surrounding lands zoned Z15. The open space requirement in relation to the lands to be developed will have regard generally to the provisions of the development plan taking into account the nature of the proposed development. A masterplan may assist in demonstrating how the requirements of this paragraph may be satisfied.”

Concerns are raised as follows:

- Development, by its nature, will tend to be proposed on open land. As the Development Plan definition of “open space” encompasses all open land, and as the paragraph 4 test requires “retention of existing open space”, partial development cannot take place on a Z15 site unless it comprises redevelopment of existing buildings. It would appear that the intention of the Manager was to secure the preservation of recreation and sports facilities. However, the proposed wording takes the effect of the policy well beyond this more limited requirement.
- The proposed wording renders development on a Z15 site pursuant to the Para. 4 test a virtual impossibility.
- Re-drafting of the policy to limit its effect to preservation of existing recreation and sports facilities is not appropriate. Gardens might be entirely surplus to requirements and of limited value, yet their preservation would be required as recreational facilities. Even the requirement to preserve school playing grounds (the intention of Motion no. 2) is an excessive requirement in the context of a zoning objective that applies to all Z15 lands. Schools could have playing facilities that are redundant and ideal for a development.
- It is not necessary to include the requirement to preserve existing recreational facilities / sports facilities in the Z15 Development Plan objective. The matter can be dealt with more appropriately, on a case by case basis, as a condition of planning permission.

A submission suggests that the reference to the existing open space used as playing fields could address the concerns raised above.

Manager's Report:

It is a general policy of the development plan to ensure that recreation and sports facilities are located as close as possible to users to minimise unsustainable transportation, such as bussing children to off-site playing fields, and to encourage health living. As such, it is considered necessary to articulate the policy in the Z15 zoning provisions, rather than leaving it to be dealt with on a case by case basis, as a condition of planning permission.

Active recreational uses are an integral part of the uses of many educational establishments. In providing for the development of open for consideration uses it is important that such recreational uses are retained. The policy proposed provides for such uses to be re-configured and or re-sited within the land holding of the institutional use. In this regard the provision of a masterplan will give guidance on the best and most appropriate layout. It is not intended that all existing open space be preserved.

It is accepted the wording in the existing draft implies that all existing open space should be preserved. This can be addressed by adding the word 'functional' before 'open space'.

Manager's Recommendation:

At paragraph 4, insert 'functional' so that reads 'the retention of existing **functional** open space'

A(6) Consultation with Statutory Providers

Submission Number:

9, 10, 11, 19, 20, 21, 22, 23, 24, 27, 29, 30, 31

Summary of Issues Raised:

The issues raised in the submissions generally relate to the wording of the amendment as set out below regarding consultation with statutory providers:

“In considering whether there is no longer a need for the existing use, the Planning Authority shall consult with the owner/operator of the existing institutional and community uses and the relevant statutory provider (e.g. the Department of Education and Skills in the case of Schools, and the Department of Health and the HSE in the case of Hospitals).”

Concerns are raised as regarding issues surrounding consultation such as those outlined below:

- Contrary to the Manager’s contention, there can be no “normal procedure” with respect to consultations in response to the Paragraph 5 redevelopment test, as the test is unprecedented.
- Nothing in the Planning and Development Acts 2000 — 2012 authorises the Planning Authority to consult with statutory undertakers in proceedings leading to or in the course of a planning application. Nothing in the Acts governs the timing of a response from any statutory provider to the planning authority in regard to any consultation.
- There is potential for severe delay in an applicants’ ability to lodge a planning application in respect of redevelopment of Z15 lands having regard to Paragraph 11 which reads: ***“The masterplan, ~~which will include~~ shall be accompanied by the evidence that demonstrates to the Planning Authority that ~~the established institutional use is no longer required~~ there is no longer a need for the existing institutional and community use on the lands zoned Z15.”***
- If the planning authority proceeds as envisaged by the new Paragraph 12 in the Z15 zoning objective, when a planning application is proposed on particular Z15 lands, the lands effectively will be offered by the planning authority to the relevant statutory provider(s). If there is a need generally in an area for a facility of the same use, those lands will be reserved and development precluded. It will then be open to a neighbouring Z15 stakeholder to proceed with development in the knowledge that relevant community and institutional infrastructural requirements have been met.
- What statutory provider will be consulted if the “existing use” is a convent (convertible as exempt development to, inter alia, a place of public worship)? What statutory provider will be consulted if the “existing use” is a community facility or place of public worship? “Schools” include private and public facilities.

A submission received in support of the proposed wording states that it would be prudent and desirable for the Planning Authority to consult with the prescribed bodies. Similarly, the

Planning Authority should have the option to consult other stakeholders, such as the end users of the existing uses and the local community.

Manager's Report:

There are normally three opportunities for consultation in the planning process – at Development Plan/Local Area Plan making stage, at pre-planning application consultation and at planning application stage. In circumstances where it is considered there is no longer a need for an institutional community use, the Manager considers it prudent to consult with the relevant statutory undertaker (if there is no relevant statutory undertaker, e.g. convents, then the consultation issue does not arise). In the case of educational and health facilities, it would be remiss not to consult with these statutory undertakers.

It is not accurate to state that nothing in the Planning Acts authorises consultation with statutory undertakers in the course of a planning application. Article 28 of the Planning Regulations for example sets out who must be consulted when a planning application is made; and does not preclude other relevant consultation.

Nor is it the Manager's intention that only the Planning Authority should consult the relevant statutory undertaker within the planning application timeframe. The owner of the institution is encouraged to consult with the statutory providers well in advance and to engage in pre-application consultation with the Planning Authority.

The Planning Acts require a Planning Authority to have regard to government policy. For example, there is a current policy to broaden patronage in education provision. This should be seen as a welcome opportunity to retain the zoning objective of Z15 lands.

Manager's Recommendation:

Retain as existing.

A(7) Masterplan Requirements

Submission Number:

9, 10, 11, 19, 20, 21, 22, 23, 24, 27, 29, 30

Summary of Issues Raised:

The issues raised in the submissions generally relate to the wording of the amendment as set out below:

“Masterplan Requirements (where an existing use is no longer required)

~~In preparing a masterplan, the following requirements shall apply;~~

The masterplan, shall set out a clear vision for the ~~entire land holding~~ lands zoned Z15, ~~25% of the site shall be set aside~~ to provide for the preservation of 25% of the lands for accessible public open space and/or community facilities (in lieu of the 10-20% public open space provided for in paragraphs 17.2.3 and 17.9.1) for future provision of publicly accessible open space and/or community facilities.”

Concerns are raised as follows:

- The DOEHLG Guidelines “Sustainable Residential Development in Urban Areas,” 2009, state that proposals for higher density residential development on institutional lands must “take into account the objective of retaining the “open character” of these lands, while at the same time ensuring that an efficient use is made of the land.” They recommend a minimum requirement of 20% of site area should be specified. The requirement in the Z15 zoning objective that 25% of the ‘lands zoned Z15’ should be preserved as open space is not grounded in any assessment of need, contrary to the requirements of the Government Guidelines (some submissions accept the 25% requirement).
- If there is adequate public space in an area, there should be a lesser requirement for public open space on Z15 lands. If there is inadequate public space, then up to 20% could be required assuming that no other developments can meet all or part of the public open space requirement for the area. Singling out Z15 lands to provide a greater burden in respect of open space than others (i.e. 25% instead of 10 – 20%) irrespective of the existing public space available and of the availability or potential availability of other sites in the area is a clear breach of property rights.
- In relation to Z15 lands owned by two or more parties, if open space consisting of 25% of the ‘lands zoned Z15’ is provided on one land-holding, is there a requirement for open space on the other landholding? If so, the first land-holder to develop has to provide 25% public open space and is unfairly disadvantaged.
- The Proposed Amendments provide that in circumstances where a Z15 landowner is proposing redevelopment, where there is no longer a need for the existing use, he / she is obliged to set out a clear vision for the lands zoned Z15 to “provide for the preservation of 25% of the lands for open space and/or community facilities...”. Any reasonably intelligent person would interpret this requirement to mean that when he / she is preparing a Masterplan, he / she must set out a vision in respect of the relevant Z15 land block which is within his / her ownership and not all Z15 lands.

- If the phrase “in whole or in part” is not excised from the final wording of the Z15 zoning objective, and if partial development of a Z15 site pursuant to the Para. 5 redevelopment test is a possibility, then the 25% open space requirement as now drafted is manifestly unfair. This would result in sterilisation of lands and a disproportionate interference with the rights of landowners.
- Any restriction on the sales of lands (e.g. a restriction preventing a landowner from selling parcels of land) must have specific statutory authority otherwise such a restriction would be a violation of property rights.
- The references to future provision of publicly available open space and facilitating future public use should be deleted as they are excessive, and the use for sports and recreation is already provided for in the Z15 zoning objective. The word “facilities” should be replaced with “open space” as the objective is dealing with open space, not buildings.
- Suggestion that ‘Permissible’ uses should be added to Para 4 (dealing with development to secure the zoning objective) to clarify that a masterplan can include permissible uses as well.
- Submissions suggest that the masterplan requirement should be reworded to clarify that a landowner will only have to provide up to 25% of the site to be developed, not 25% of all lands zoned Z15 which he/she will not own.

Manager’s Report:

In relation to the 25% open space standard, it should be noted that the National guidelines relate to a minimum standard of 20% for institutional lands which could be applied. Given the growing importance of the green infrastructure of Dublin and having regard to the historically open landscaped character of many institutional sites, it is considered reasonable to provide for 25% open space in Dublin. This higher requirement is consistent with the nature of Z15 lands set out in Para 1, i.e. they are generally large blocks of land located in the suburbs. It is also of note that the national guidelines suggest that the higher percentage open space provision can be reflected in a more intensive form of development on these lands.

The higher % is also appropriate in that it is Regional and Development Plan strategy to increase the city population to 580,000 by 2022, from 506,000 in 2005. This growth in population requires a quality living environment including both community infrastructure and green infrastructure.

It should be noted that the requirement to provide for accessible open space is not confined to Z15 alone. Zone Z1 (residential) for example must provide for 10% open space, as does Z6 (employment & enterprise) zoned land. Lands zoned Z12 (to ensure existing environmental amenities are protected in any future use of these lands) have a requirement for 20% open space in any total redevelopment.

It should be noted that the 25% requirement is not absolute in every case. The masterplan requires that a clear vision be set out showing how 25% of the site should provide for accessible open space and/or community facilities. As such, it is recognised that in some cases, perhaps due to site constraints or the provision of open space close by, it may be more appropriate to provide a mixture of open space and community facilities which would

equate to 25%. Moreover, the text provides that not all Z15 lands are subject to the 25% requirement. In cases where the historic open character is less likely to prevail i.e. where the footprint of the existing buildings exceeds 50% of the site area, the 25% requirement does not apply.

The 25% requirement in total redevelopment situations is not new; it has been in operation since the 2005 Development Plan was adopted, and has provided appropriate levels of open space/community facilities, without compromising the development potential of the lands in question.

For the purpose of clarity, where there are a number of adjoining existing land holdings on lands zoned Z15 in separate ownership (and providing separate uses) and where one of these institutional uses is no longer required, then a masterplan providing for 25% of the site area of the individual landholding to be retained for open space purposes must be prepared. In situations where there are adjoining institutions in separate ownership (and uses) it is considered good practice that in the preparation of a masterplan the owner consults with their neighbours i.e. adjoining institutional land owners so as to provide guidance in selecting and identifying the optimum location for the future open space requirement. In such cases, each landowner need only provide a maximum of 25% on his/her site, not 25% of all the lands zoned Z15, unless the joint masterplan indicates otherwise due to specific site characteristics. It is accepted that a masterplan is not required for adjacent separately owned Z15 lands which have unrelated uses and ownership.

Given this clarification and the potential lack of clarity in use of the terms 'lands zoned Z15', 'entire landholding' and 'site' it is considered appropriate that the phrase "lands zoned Z15" be included at line 1 of the Masterplan Requirements paragraph and that the phrase 'site to be developed' should not be included (see also Manager's Report at pg 21 A(8)).

While it is accepted that there must be specific statutory authority to place legal restrictions on the sale of land, it is considered reasonable that the masterplan should be prepared at the outset in order to ensure the disposal/acquisition of parts of Z15 land holdings does not result in piecemeal development contrary to the proper planning and sustainable development of the area.

It is considered that the references to future provision of publicly accessible (note; submission 29 refers to 'publicly available') open space should be omitted from the text. The planning policy that is sought to be achieved is the preservation of open space for the City of Dublin. However it is proposed to delete the phrase "for future provision of publicly accessible open space and/or community facilities" in line 4-5 of the Masterplan Requirements paragraph as, in accordance with paragraph 9.7 of the High Court Judgement in this case, "*a planning authority cannot, by means of a development plan, turn private land into public land.*" The masterplan already provides for open space and/or community facilities at line 3 of the Masterplan Requirements paragraph. For clarity, the later reference to "facilitate future public use" should be replaced with "facilitate potential for future public use". In order to be consistent throughout the text, a further amendment to section 17.2.3 is also required so that the reference to 'public' open space is removed.

It is agreed that permissible uses should be added to para 4, to clarify that a masterplan can include permissible uses as well.

With regard to the suggested replacement of 'facilities' with 'open space', it is concluded that the word facilities should remain, as it includes open space and other means of providing recreation in buildings, which gives greater flexibility to developers in the preparation of the masterplan (see also Manager's Report on A3).

Manager's Recommendation:

At Masterplan Requirements paragraph;

- At line 4-5, omit **“for future provision of publicly accessible open space and/or community facilities”**
- Insert “potential for”, i.e. facilitate **potential for** future public use, in line 10.

At para 4, line 2, insert after ‘development for’, **“permissible and/or”** open for consideration uses.

At 17.2.3 delete the word ‘public’ so that it reads “The requirement for the Z15 lands will be 25% open space and/or provision of community facilities.”

A(8) Use of the Words 'Site', 'Lands', 'Generally' etc.

Submission Number:

1, 3, 8, 9, 10, 11, 12, 14, 15, 19, 20, 21, 22, 23, 24, 25, 27, 29, 30, 31

Summary of Issues Raised:

Submissions state that the words "lands zoned Z15" and "lands" are inappropriately substituted for "site" and "landholding" at points throughout the amended zoning objective. It is stated that the meaning of the objective is therefore unclear or the objective is misleading.

The follow areas of concern are identified:

- If the phrase "Lands zoned Z15" is taken to mean the block of land zoned Z15, it gives rise to difficulties. Does an entire block of land zoned Z15, even if in dual or multi-ownership, have to be redundant before the Para. 5 test can be applied? How can a landowner/applicant provide the planning authority with masterplan objectives for lands which he/she does not own?
- If the Para. 4 test is applicable to an entire block zoned Z15, and the block is in dual or multi-ownership, then development for open for consideration uses on "part of the lands zoned Z15" could be taken to refer to the entire holding of one owner, which is not the intention of the planning authority. The requirement to "secure the retention of the main institutional and community uses on the lands" might be interpreted as a requirement to demonstrate that all uses within the block should be secured. This would not be possible in the case of multiple ownership of one block zoned Z15.
- The Manager's report of 21.01.2013, responding to Motion no. 1, notes "there are areas zoned Z15 on the zoning maps which are contiguous sites, operating as separate planning units e.g. Marianella is contiguous with St. Luke's Hospital and Avila Donnybrook is contiguous with the Royal Hospital."
The Manager's report acknowledges that there are Z15 blocks of land in multi-ownership, yet the zoning objective does not cater for this situation.

Submissions raise concern regarding the use of the word 'generally' stating that it should be omitted from the following sentences of Paragraph 15.10.14 as it is too general/vague a term and open to misinterpretation:

'Where there is an existing institutional and/or community use, any proposed development for 'open for consideration' uses on part of the lands zoned Z15 shall be required to demonstrate to the Planning Authority how the proposal is [generally] in accordance with and assists in securing the aims of the zoning objective;'

'The open space requirement in relation to the lands to be developed will have regard [generally] to the provisions of the development plan taking into account the nature of the proposed development'

Manager's Report:

In relation to the use of phrases 'blocks of land', 'lands', 'site' and 'land holding', the various submissions seek clarity of meaning, but there is a lack of consensus as to the phrases which should be used in the submissions. The text which went on public display included motions agreed by the City Council in a genuine attempt to provide clarity.

A submission argues that 'blocks of land' (line 1), already amended from 'large sites' at the previous Council meeting, should be further altered to 'large areas of land'. In all the circumstances and notwithstanding that some Z15 sites are not sufficiently large to constitute blocks of land, it is concluded that 'blocks of land' should be retained in the introductory paragraphs.

Some submissions seek to use the phrase 'land holding' instead of 'lands zoned Z15', to avoid confusion with overall blocks of contiguously zoned Z15 lands, albeit they operate as separate planning units, e.g. Marionella/St. Luke's and Avila/Royal Hospital, Donnybrook.

The Manager has clarified the intentions of the planning authority in relation to the implementation of this policy above. If a holding/site (usually one planning use under common ownership) are no longer required for an existing institutional and community use, the first port of call should be consultation with the planning authority regarding the masterplan.

Overall, and given the explanation elsewhere (see page 18) in this Manager's Report as to the circumstances in which a masterplan is required, it is considered on balance that 'land zoned Z15' is preferable to 'landholding' in that 'land zoned Z15' refers to institutional and community uses regardless of ownership whereas 'landholding' indicates that ownership is the primary land-use determinant. However, 'landholding' is acceptable at paragraph 4 as the primary use is remaining and ownership is not an issue. In order to provide internal consistency in paragraph 4 and given that the masterplan provision in this paragraph is not a requirement, it is not proposed to reinsert the term 'site' instead of 'lands'.

In relation to the use of the word "generally" in 2 instances in the text, the Manager considers that these may be deleted on the basis that they refer to Development Plan policies and objectives. The Development Plan is a strategic land use policy document containing a Core Strategy which must be taken into account in any case, and as such the word "generally" is unnecessary.

Manager's Recommendation:

Para 4: delete the word "generally" at line 4 and line 12

Para 4, line 3 amend "the lands zoned Z15" to "**the landholding**"

A(9) Strategic Environmental Assessment & Appropriate Assessment

Submission Number:

14, 24, 29, 31

Summary of Issues Raised:

Submissions raise a number of concerns regarding the impact of the proposed amendments upon SEA & AA as follows:

- The Addendum to the SEA Development Plan conducted for the proposed amendments may be lacking. While page 9 and 10 of the Addendum refer to a plot Ratio of 0.5-2.0:1 and a site coverage of 45%, it is not clear that any assessment was undertaken to evaluate the environmental impact of the proposed increased plot ratio or site coverage.
- The SEA Addendum for the proposed amendment is invalid and should be recompiled to assess the environmental effects of the proposed increase in plot ratio and site coverage.
- Pursuant to S. (7) (aa) — (ae) of the Planning and Development Acts 2000-2012, the planning authority is obliged to determine if SEA/AA are required in respect of material amendments to a development plan. If they are, then it has 2 weeks from the date of determination to specify the period in which such assessments should be carried out. It must then advertise the material alteration and the determination and invite submissions on the material amendments and the relevant Assessments, to be lodged by a given deadline. Do we assume that the required determination was made? What are available for inspection?

The document headed “Environmental Report and Natura Impact Report of Proposed Amendments” would appear to be the required Assessments and is presumably the document to which the public notice should have directed attention. Surely the environmental effect of the Amendments should be as compared to the Draft new Z15 and not quashed Z15? If the new Z15 zoning is the same with regard to environmental impacts as quashed Z15, then is new Z15 as highly restrictive as quashed Z15? Have concerns regarding quashed Z15 been addressed?

Manager’s Report:

SEA and AA

The lands in question were previously zoned for Z15 purposes in the 2011-2017 Development Plan, which was accompanied by an Environmental Report (SEA) and Natura Impact Report (AA) and which concluded that the Plan did not have any significant adverse impacts on the overall environment. As the proposal is to zone the lands for institutional and community purposes again, following further public consultation on foot of the High Court judgement, it was deemed that the revised proposals should form an addendum to the SEA and AA carried out under the Development Plan. This approach is acknowledged by the prescribed bodies.

The SEA and AA addendum was put on public display in October 2012 (1st round of consultation) and the amendments made by the City Council at its meeting on 28th January 2013 were put on a further public display. The conclusions of the SEA and AA to date, as set out in the additions to the addendum are:

SEA Conclusions

Overall it has been found that the zoning proposals will result in insignificant impacts, or have no impact, on the environment. While beneficial impacts will be obvious at the local level and these benefits felt by small numbers of people, at a city-wide level these impacts are not considered to be significant or strategic.

Natura 2000 Site Conclusions

The proposal is included in the addendum to the Natura Impact Report of the Dublin City Development Plan 2011-2017. It is concluded that there will be no significant cumulative, direct or indirect impacts likely upon any of the Natura 2000 sites. Therefore it is not considered necessary to undertake any further stages of the Appropriate Assessment process.

It is proposed to add the above findings to the Addenda, as part of the iterative process.

The City Manager is satisfied that the correct procedure has been followed.

Submissions have referred to the fact that the proposed amendments to plot ratio, (changing the range from 0.5-2.0 to 0.5-2.5) and site coverage (from 45% to 50%) have not been specifically addressed in the SEA and AA addenda (see also section A(10) below).

It is considered that the 2 proposed changes will have insignificant environmental impacts on the city at a city wide level. Indeed the potential for a limited increase in plot ratio and site coverage (subject of course to assessment at planning application stage) is likely to reduce the carbon footprint of the metropolitan area, by curtailing sprawl and assisting sustainable provision of services including public transport.

Second, the survey of the 760ha of Z15 lands carried out in August 2012 showed that the vast majority of these lands are in active use for institutional and community uses, many with open space. These uses are likely to remain for the foreseeable future, and as such the number of applications testing the site coverage and plot ratio limits is likely to be extremely small. In support of this, it is noted that a survey of the amount of development on Z15 lands during the period 2005-2011 revealed that only 0.4% were developed for residential purposes. 'Residential' remains merely open for consideration in the Development Plan and is not generally permissible.

While the addenda do not refer explicitly to the environmental impact of the proposed amendments to plot ratio and site coverage, the environmental protection objectives, especially PH1 (Population and Human Health) concludes that the projected growth of the city's population (by approximately 80,000 by 2022) will have a potentially beneficial impact on the overall environment city wide.

Submissions suggest that the increase in plot ratio and site coverage could have a negative impact on 5 of the 17 Environmental Protection Objectives (relating to habitats, green corridors, sustainable transport, landscape and rivers). However, when balanced with the other Environmental Protection Objectives, and the policy to retain 25% as accessible open space, it is concluded that the small amendments to the plot ratio and site coverage range will have no significant impact on the environment in SEA and AA terms.

Overall, the net effect of the proposed amendments is that c 2ha of the 767ha of proposed Z15 lands in the city are now proposed for Z12 and 0.5ha proposed for Z1 Residential. In environmental terms the amendments have minimal city wide impact particularly bearing in mind that Z12 requires 20% open space, only slightly less than the 25% open space requirement for Z15 redevelopment.

Manager's Recommendation:

No change.

A(10) Site Coverage / Plot Ratio

Submission Number:

1, 3, 7, 8, 12, 14, 15, 25, 26, 31

Summary of Issues Raised:

Submissions raise concerns regarding the proposed indicative site coverage and plot ratio standards contained in the proposed amendments:

It is stated that to increase the plot ratio to 2.5:1 would result in grossly excessive development/ an increase in the intensity of use on these lands and would not be in the interest of proper planning and sustainable development. Indicative plot ratios of up to 0.5-1.0:1 or 0.5-1.5:1 are requested.

It is recommended that there be no change to the existing stated site coverage of 45% as to increase the site coverage as proposed to 50% would result in excessively intensive development/ an increase in the intensity of use on these lands.

Manager's Report:

Having reviewed the plot ratio standards and having regard to other requirements relating to open space and site coverage, no change to the 2.5:1 plot ratio standard is proposed. It should be noted that this is an indicative standard and text in section 17.4 is relevant in this regard.

Given other planning requirements, and particularly 25% open space, it is considered that a marginal increase of indicative site coverage to 50% can be accommodated as this can cater for a range of sites with different characteristics (e.g. inner and outer city sites).

As detailed in the Manager's Response at A(9) above, the potential for a limited increase in plot ratio and site coverage will be subject to assessment at planning application stage. Secondly, the survey of the 760ha of Z15 lands carried out in August 2012 showed that the vast majority of these lands are in active use for institutional and community uses, many with open space. These lands are likely to remain for the foreseeable future, and as such the number of applications testing the site coverage and plot ratio limits is likely to be extremely small. In support of this, it is noted that a survey of the amount of development on Z15 lands during the period 2005-2011 revealed that only 0.4% were developed for residential purposes.

Manager's Recommendation:

No change.

A(11) Property Rights / Discrimination

Submission Number:

9, 10, 11, 19, 20, 21, 22, 23, 24, 27, 29, 30

Summary of Issues Raised:

Some of the submissions received express concern that the proposed amendments will impact on property rights or are unreasonable, etc. In particular the Religious Sisters of Charity state that property rights will be impacted to such a degree as to effectively amount to discrimination against a certain class of landowner, i.e. religious. The following points are made in their submission:

- The Proposed Amendments would amount to a severe restriction of property rights on a limited category of landowners in order to achieve a general public good.
- The Proposed Amendments would effectively sterilise or nationalise their lands located at the Sandymount and Harold's Cross.
- Private lands would be sterilised from future development and treated as community/public lands.
- The restriction on development constitutes unequal treatment of Z15 landowners, as well as an unconstitutional interference with their property rights under Articles 40.3 and 43 of the Constitution, as well as under Article 1 of the First Protocol to the European Convention on Human Rights (ECHR).
- As the property concerned is religious property, Article 44.2.5° and Article 44.2.6° of the Constitution also apply. The basis for selecting the landowners affected is religion, thereby implicating Articles 40.1 and 44.2.3° of the Constitution, as well as Article 14 of the ECHR. All of these provisions would be breached if the Proposed Amendments (or indeed the Draft Proposal itself to which the amendments are proposed), were to be adopted, as currently written.
- It appears that the intention behind the Proposed Amendments is to sterilise RSOC private lands in order to ensure that they, along with other Z15 landowners, should shoulder a disproportionate amount of the burden of providing public community institutions and facilities and open space for the Dublin City area. The greater burden in respect of the provision of open space constitutes unequal treatment of Z15 landowners as well as an unconstitutional interference with their property rights.

Manager's Report:

The allegations made are not accepted.

Certain uses, especially healthcare, education and recreation and open space are essential for the future wellbeing of cities and their citizens and, as such, seeking to retain these uses by way of planning policy is considered reasonable and proportionate.

The development plan is a broad 'land use' document;

- There are no policies to nationalise land in the development plan.
- It is proposed to amend the text to refer to "potential for future public use" in the masterplan and this can be achieved by a variety of means
- 'Publicly' accessible lands do not have to be owned by the State, however it is proposed to amend the text to remove reference to 'publicly accessible'.(refer to A(7))

The reference to 'sterilisation' is not accepted. The proposed Z15 contains a number of permissible and open for consideration uses as listed below and now also includes 'Residential' and 'Student Accommodation':

- Permissible Uses
ATM, Buildings for the health, safety and welfare of the public, Childcare facility, Community facility, Cultural/recreational building and uses, Education, Medical and related consultants, Open space, Place of public worship, Public service installation, Residential institution.
- Open for Consideration Uses
Bed and breakfast, Car park ancillary to main use, Conference Centre, Funeral Home, Guesthouse, Hostel, Hotel, Municipal Golf Course, Residential, Student accommodation, Training.

The reference to discrimination is not accepted.

- Dublin City Council does not have a register of ownership of private lands of any category.
- The high percentage of religious ownership is due to the historical evolution of education in the Country (usually in institutions in large grounds).
- The survey carried out by Dublin City Council in August 2012 indicated that 58% of Z15 lands are schools and 25% are related to health.
- It is not only community and institutional lands, but also lands in the identified growth areas of the Core Strategy and lands which are subject to residential proposals (in excess of 200 dwelling units) that have a requirement to assess and provide key social infrastructure where required, for example;
 - In the nine designated Key Developing Areas, the City Council works with the various stakeholders who fund and provide community services and facilities to ensure social and community infrastructure is provided in a timely manner in tandem with residential growth in these locations. These growth areas, many of which are designated for Local Area Plans and zoned Z14, will provide education, health and other community uses that complement the provision of such facilities on institutional and community lands in the wider neighbourhood.
 - Section 12.4.4 and 12.4.6 of the Development Plan requires that all proposals for residential development in excess of 200 dwelling units must be accompanied by an assessment of the capacity of local schools, etc to accommodate the proposed development in accordance with the DoEHLG Planning Guidelines on Sustainable Residential Development in Urban Areas (2009).

Manager's Recommendation:

No change.

A(12) Miscellaneous

Submission Number:

2, 28

Summary of Issues Raised:

One submission expresses general opposition to any changes that remove Z15 zoned lands stating that educational, community and sports space is needed and that the city does not need more housing.

A further submission makes reference to general procedural and other matters not directly related to the proposed amendments.

Manager's Report:

The issues raised have been noted.

Manager's Recommendation:

No change.

Section B
Submissions relating to Specific Sites

Site Location:

Sybil Hill Road, Dublin 5 (St Paul's College)

Map Reference:

B46

Relevant Submission Numbers:

5, 6, 32

Summary of Issues Raised:

Two submissions express support for the proposed Z15 zoning as it is stated that this will increase the likelihood of the site being used for social/educational/community uses & services that will be needed in the area in the future.

One submission on behalf of the owner is opposed to the Z15 Zoning due to the stated incompatibility with the subject lands. It is stated that lands are no longer in institutional use and should be zoned so that residential use is permitted in principle, allowing for the establishment of a high quality residential and complementary use scheme.

Manager's Response:

The proposed Z15 zoning was proposed for public display in Motions 8 & 9 of the Special City Council Meeting of 28/01/13. The reasons given for the proposed for the zoning in the Motions are summarised as follows:

- Z15 lands now include residential as an open for consideration use.
- The Z15 zoning facilitates potential residential development (as an "open for consideration use") while optimising the protection of neighbouring communities and existing open space.

Whilst fully noting the rationale of the Motions submitted, and having reviewed the observations raised in the submissions, it is considered that the appropriate zoning would be a Z1 zoning on the former swimming pool site. The site is considered to be in a good location in relation to local amenities, including the DART Stations and as such residential is considered to be appropriate. There are existing residences on the Sybil Hill frontage and there is no current institutional use on the former swimming pool site. The site is 'peninsular' in nature, surrounded by residential properties and as such residential use will not impinge on the functions of the main site, or the setting of the Protected Structure. Any future proposals on the site would necessarily take cognisance of the outcome of the appeal decision in relation to most recent application on the site, in relation to height, scale and overall residential amenity. As such, it is noted that the refusal by An Bord Pleanála was not confined to zoning grounds.

Manager's Recommendation

Revert to Z1 zoning on swimming pool site.

Site Location:

Beach Road, Dublin 4

Map Reference:

F7

Relevant Submission Numbers:

1, 3, 7, 8, 12, 14, 15, 16, 17, 18

Summary of Issues Raised:

All the submissions that were received regarding Beach Road, Dublin 4 are opposed to the proposed Z12 zoning.

In summary, concern was expressed that a Z12 zoning would change the type of development permissible on the site, allowing for a greater intensity of development and number of uses that could impact on the significant architectural heritage existing on the site including Roslyn Park, a Protected Structure and the Wesleyan Church, a Protected Structure located in close proximity to the site.

Manager's Response:

The proposed split Z12/Z15 zoning was proposed for public display in Motion 11 of the Special City Council Meeting of 28/01/13. The reasons given by the Motion for the proposed Z12 zoning are summarised as follows:

- Reflect the current usage and allow the flexibility for future redevelopment.
- The recognition of the need to protect the Protected Structure, its curtilage and its vista towards the sea.
- A Z12 zoning of the Head Office portion of the site would enable the removal of obsolete buildings and the construction of appropriate offices, which could provide an improved setting for the Protected Structure and could better reflect the overall character of the area.

Whilst fully noting the rationale of the Motion submitted, the Manager's Response to the Motion submitted was that on balance, the preferred zoning would be a Z15 zoning over the whole site given the consideration of other matters such as the setting of the Protected Structure and the overall character of the area. No new information has arisen as a result of the public consultation to indicate to the Manager that a Z15 zoning of the whole site is not the appropriate zoning. It is noted that all the submissions received express opposition to the Z12 zoning.

Manager's Recommendation

Revert to Z15 zoning on whole site.

Site Location:

Park Avenue/ Gilford Road, Dublin 4 (Sisters of Charity School)

Map Reference:

H8

Relevant Submission Numbers:

1, 8, 15

Summary of Issues Raised:

All the submissions that were received regarding Park Avenue/ Gilford Road, Dublin 4 (Sisters of Charity School) are opposed to the proposed Z12 zoning.

In summary, submissions state that the rezoning from Z15 to Z12 would significantly change the type of development which would be permissible on this site. The rezoning would allow for more intensive development of a wider range of uses that would not be in the interest of proper planning and sustainable development given the location of the lands adjoining significant residential conservation (Z2) designated areas.

Manager's Response:

The proposed split Z12/Z15 zoning was proposed for public display by Motion 12 (amended) of the Special City Council Meeting of 28/01/13. The reasons given in the Motion for the proposed Z12 zoning are summarised as follows:

- To ensure the existing environmental amenities are protected in any future use of the lands.
- Z12 is considered appropriate as the site is currently underutilised and underdeveloped.
- A Z12 zoning provides for a range of uses, including residential as a permissible use whilst retaining the existing landscape character of the site.
- The retention of Z15 allows for possible future school expansion.

The Manager acknowledges the rationale of the Motion submitted and having reviewed the observations raised in the submissions considers that on balance, a Z12 zoning of the lands as indicated on Map Ref H8 is appropriate (March 2013 public display). The long term use of the site as a convent is uncertain. A Z12 zoning will ensure that the mature landscaped character of the lands are protected in the future. The retention of the Z15 zoning on the finger of land adjacent to the primary school is appropriate and will allow for necessary expansion where required, having regard to the recent population growth in the area.

Manager's Recommendation

Retain split Z12/Z15 zoning as per public display of proposed amendments (March 2013).

Site Location:

Donnybrook Road, Dublin 4

Map Reference:

H25

Relevant Submission Numbers:

31

Summary of Issues Raised:

One submission was received stating that the site at the Crescent should remain as Z15 for the following reasons;

- Absence of adequate access, due to historic buttresses.
- Access should be through the main body of the adjoin Z15 site.
- Proximity to churchyard and cemetery, in an area of archaeological interest.
- Constitutes traffic problems.

Manager's Response:

It would appear that the site has operated as a commercial operation divorced from the institutional uses on the adjoining site for at least the last 15 years. (Planning Permission was granted in 1997 for an extension to Donnybrook Laundry on this part of the site).

In relation to Dublin City Development Plan 2011 – 2017, the current use of the site would fall under 'industrial (light)'. This constitutes a non-conforming use on Z15 lands.

It is noted that a number of enterprise / employment uses are listed under the Z1 zoning. Light industrial is also listed (as open for consideration), in this respect, the existing use would be compatible with such a zoning. Taking this and the proximity of residential properties in the vicinity into account, it is considered that, on balance, a Z1 zoning would be the most appropriate zoning for the site. Issues relating to access and archaeology will be considered at planning application stage.

Manager's Recommendation

Retain rezoning from Z15 to Z1 as per public display of proposed amendments (March 2013).

Section C
Appendices

APPENDIX I

LIST OF SUBMISSIONS RECEIVED

(the full text of submissions is available on the Councillor's Dubnet site in the folder Dublin City Development Plan 2011-2017)

Sub No.	Title	Name	Surname	Post	Organisation	On behalf of
01	Ms.	Valerin	O'Shea			
02	Ms	Elizabeth	Butler			
03	Ms	Marion	Masterson	Secretary	Richview Residents Association	
04	Mr	Cian	O'Mahony		Environmental Protection Agency	
05	Mr	Jimmy	Cahill			
06	Mr	Seán A	Ryan			
07	Mr	Des	Harrold			
08	Mr	Paddy	Marron	Deputy Chairman	Rathgar Residents' Association	
09	Mr	Robert	Keran		John Spain Associates	Whitefriars, C/O the Carmelite Order, Gort Muire, Ballinteer, Dublin 16
10	Mr	Robert	Keran		John Spain Associates	Highfield Healthcare, Swords Road, Whitehall, Dublin 9
11	Mr	Robert	Keran		John Spain Associates	Congregation of Christian Brothers, Province Centre, Griffith Avenue, Marino, Dublin 9
12	Ms	Carmel	O'Connor			
13	Ms	Margaret	Killeen		Planning Section	
14	Mr	Tomás	Bradley		An Taisce	
15	Ms	Sarah	Staunton	Honorary Secretary	Sandymount & Merrion Residents Association (SAMRA)	
16	Ms	Joanne	Phelan			
17	Ms	Eithne	McLeavey			
18	Mr	Timothy	O'Neill			
19	Mr	Keith	Simpson		Simpson & Associates	Jesuit Community, Milltown Park, Ranelagh, Dublin 6
20	Mr	John	O'Malley		Kevin O'Malley & Co. Ltd	Presentation Sisters, Warrenmount House, Blackpitts, Dublin 8.
21	Mr	John	O'Malley		Kevin O'Malley & Co. Ltd	Carmelite Sisters, Hampton Convent, Grace Park Road, Dublin 9.
22	Mr	John	O'Malley		Kevin O'Malley & Co. Ltd	Discalced Carmelite Order, Avila Centre, Bloomfield Avenue, Donnybrook, Dublin 4.
23	Mr	John	O'Malley		Kevin O'Malley & Co. Ltd	Dominican Sisters Region of Ireland, Dominican Campus, Cabra, Dublin 7.
24	Sr	Ita	Moynihan	Province Treasurer	Institute of the Blessed Virgin Mary Provincialate	
25	Ms	Sinead	Owens	Secretary	Navan Road Community Council	
26	Ms	Joan	Soraghan			
27	Mr	Robert	McNamara	Director	Bannon	Vincentian Order, St. Paul's Sybil Hill, Raheny, Dublin 5.
28	Mr	John	Riney			
29	Ms	Danielle	Conaghan		Arthur Cox	Religious Sisters of Charity
30	Mr	Stephen	Little	Managing Director	Stephen Little & Associates	St. Laurence O'Toole Dioscean Trust
31	Mr	Richard	Good			
32	Mr	John	Downey	Director	Downey Planning	MKN Properties Group, 18 The Seapoint Building, 44/45 Clontarf Road, Dublin 3.

APPENDIX II

**THE PROPOSED AMENDMENTS TO THE Z15 TEXT/MAPS
PUBLIC DISPLAY
18th FEBRUARY – 9TH APRIL**

LAND-USE ZONING OBJECTIVE Z15:

15.10.14; To protect and provide for institutional and community uses.

Land Use Zoning Objective Z15:

To protect and provide for institutional and community uses and to ensure that existing amenities are protected.

These are generally large **sites blocks of land**, consisting of buildings and lands located mainly in the suburbs. The present uses on the lands ~~consist mainly of~~ **generally include** community related development including schools, colleges, ~~and~~ residential **institutions and** healthcare institutions, such as prisons and hospitals. **Institutional and Community lands display a variety of characteristics ranging from institutions in open grounds to long established complexes of functional buildings.** They often provide ancillary and incidental activities for the local community such as use of part of the site for recreational purposes or the use of rooms for local meetings. ~~These ancillary and incidental uses do not necessarily constitute the main institutional and community use of the site.~~

These lands play an important role in the achievement of a more compact city in that they contribute to the creation of vibrant neighbourhoods and a sustainable well-connected city through the provision of such infrastructure as schools, hospitals and open space. **The city also includes nationally important institutions, such as hospitals and educational facilities, which as stated in Section 15.1 (Zoning Principles), it is Council policy to co-operate with, in order to promote the strategic long term needs of the city and the country.**

With any development proposal on these lands, consideration should be given to their potential to contribute to the development of a strategic green network (see also Chapter 6). In addition, development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to standards in section 17.9 in relation to aspect, natural lighting, sunlight, layout and private open space, and in section 15.9 in relation to the avoidance of abrupt transitions of scale between zonings.

Where there is an existing institutional and/or community use, any proposed development for 'open for consideration' uses on part of ~~a Z15 site~~ **the lands zoned Z15, must shall be required to** demonstrate to the Planning Authority **how the proposal is generally in accordance with and assists in securing the aims of the zoning objective;** how ~~the proposal~~ **it** secures the retention of the main institutional and community uses on the ~~site lands~~, including space for any necessary expansion **of such uses; how it secures the retention of existing open space e.g. school playing fields; and in addition to other matters such as the nature and scale of the proposal and how it integrates into the overall site** **the manner in which the nature and scale of the proposal integrates with the surrounding lands zoned Z15.** The open space requirement in relation to the lands to be developed will have regard generally to the provisions of the development plan taking into account the nature of the proposed development. A masterplan may assist in demonstrating how the requirements of this paragraph may be satisfied.

A masterplan is not required in the case of minor developments associated with the existing use or where the development proposed relates to extensions to the existing community and institutional use and would enhance the facilities.

Where ~~it is demonstrated to the Planning Authority that~~ **there is no longer a need for an** existing institutional and community use **(such as a school, or hospital) is no longer**

~~required on a particular site~~ **on lands** zoned Z15 and where the **site land** is to be redeveloped, ~~in whole or in part,~~ for open for consideration uses **(such as residential)** and/or other uses including permissible uses, then a masterplan ~~in accordance with the requirements set out below is required to be~~ **shall be** prepared by the proposer and/or owner.

The masterplan, ~~which will include~~ **shall be accompanied by** the evidence that demonstrates to the Planning Authority that ~~the established institutional use is no longer required~~ **there is no longer a need for the existing institutional and community use on the lands zoned Z15.**

In considering whether there is no longer a need for the existing use, the Planning Authority shall consult with the owner/operator of the existing institutional and community uses and the relevant statutory provider (e.g. the Department of Education and Skills in the case of Schools, and the Department of Health and the HSE in the case of Hospitals).

~~For the purpose of clarity, the words 'Existing institutional and/or community use' referred to above~~ **includes shall include** the last ~~established~~ institutional and community use on the **site lands.** ~~in order to ensure that uses which have ceased are also subject to a~~

For the avoidance of doubt, a masterplan does not replace the need for Material Contravention or Variation procedures to be followed in any given circumstance, depending on the nature and scale of the proposed redevelopment in relation to the zoning objective.

For the avoidance of doubt, the 20% social and affordable housing requirement, as set out in the Housing Strategy in this Plan (see Appendix 3), will apply in the development of lands for residential or, where mixed, the residential portion only subject to the Z15 zoning objective.

Masterplan Requirements (where an existing use is no longer required)

~~In preparing a masterplan, the following requirements shall apply;~~

The masterplan, shall set out a clear vision for the ~~entire land holding~~ **lands zoned Z15, 25% of the site shall be set aside to provide for the preservation of 25% of the lands for accessible public** open space and/or community facilities **(in lieu of the 10-20% public open space provided for in paragraphs 17.2.3 and 17.9.1) for future provision of publicly accessible open space and/or community facilities.** This requirement need not apply if the footprint of the existing buildings exceeds 50% of the total site area of the institutional lands in question. (In such circumstances, the standard 10% public open space requirement shall apply). The masterplan must incorporate landscape features which retain the essential open character of the **site lands zoned Z15.** It must also ensure that the space will be provided in a manner designed to ~~maximise~~ **facilitate future** public use and protect existing sporting and recreational facilities which are available predominately for community use. The 25% public open space shall not be split up, unless site characteristics dictate otherwise, and shall comprise mainly of soft landscaping suitable for recreational and amenity purposes and should contribute to, and create linkages with, the strategic green network. Where such facility exists, it shall be included in the open space requirement.

ZONING OBJECTIVE Z15:

Permissible Uses

ATM, Buildings for the health, safety and welfare of the public, Childcare facility, Community facility, Cultural/recreational building and uses, Education, Medical and related consultants,

Open space, Place of public worship, Public service installation, Residential institution.

Open for Consideration Uses

Bed and breakfast, Car park ancillary to main use, Conference Centre, Funeral Home, Guesthouse, Hostel, Hotel, Municipal Golf Course, Residential, Student accommodation, Training.

Para. 15.2, bullet point 2:

Insert after 67,000 residential units in the city;

~~“and the fact that the majority of land zoned Z15 is in active use,”~~ and to ensure that there is capacity to meet the needs of existing and future residential communities, in particular for schools, hospitals and recreational activities.”

Para. 15.3, last bullet point:

Insert; “and Z15”.

Para. 15.4, para. 2:

Insert; “and Z15”.

Table 15.1:

Insert; “Z15 Institutional and Community”

Para. 16.2.10:

Insert in heading; “Institutional and Community Lands”

Para. 17.2.3, para. 1:

Insert; “and institutional and community lands (Z15).”

Para. 17.2.3, para. 2:

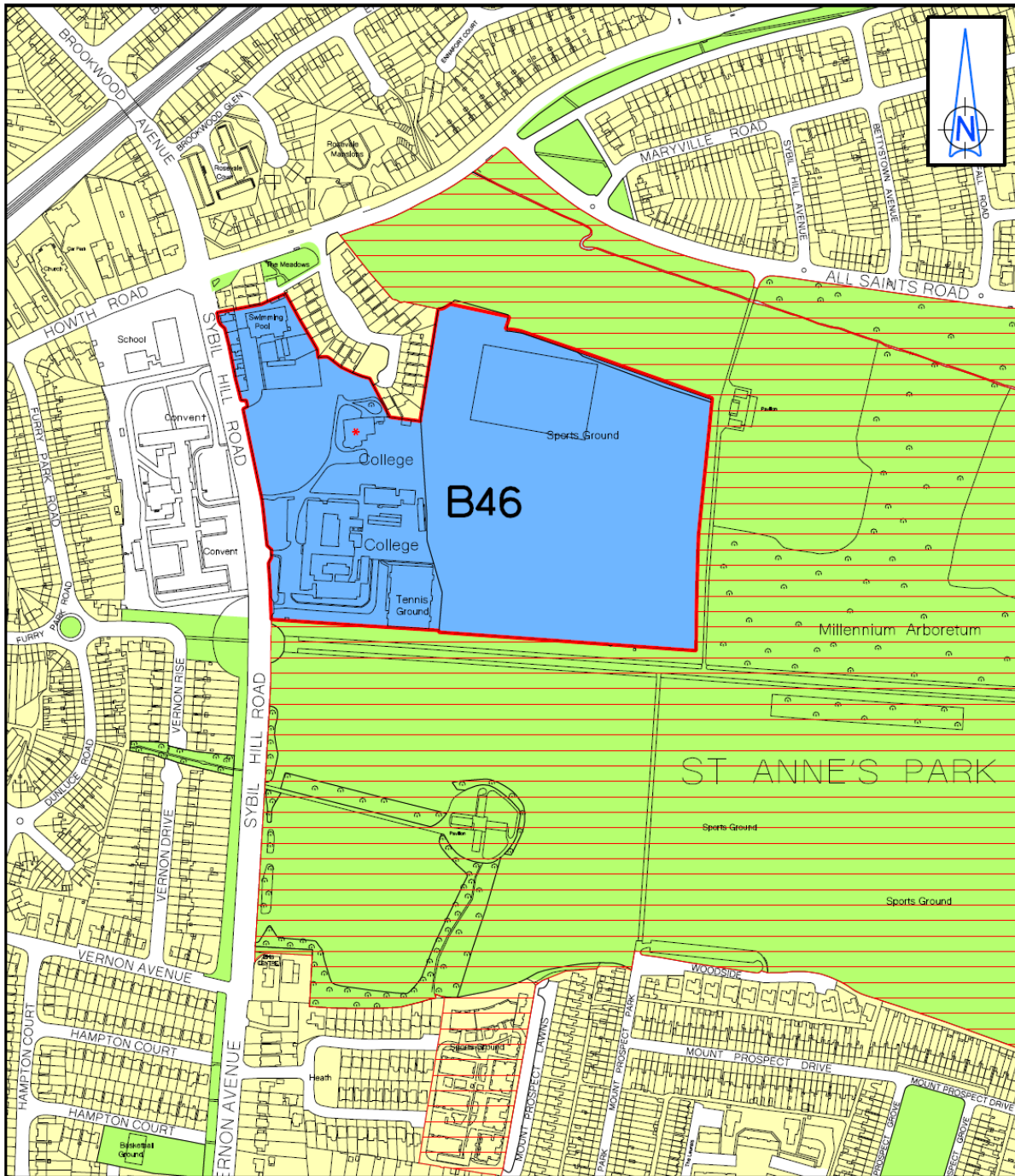
Insert; “The requirement for the Z15 lands will be 25% ~~accessible~~ public open space and/or provision of community facilities.”

Para. 17.4, PLOT RATIO:


Insert; “Z15 Institutional and Community 0.5 – ~~2.0~~ 2.5”


Para. 17.5, SITE COVERAGE:

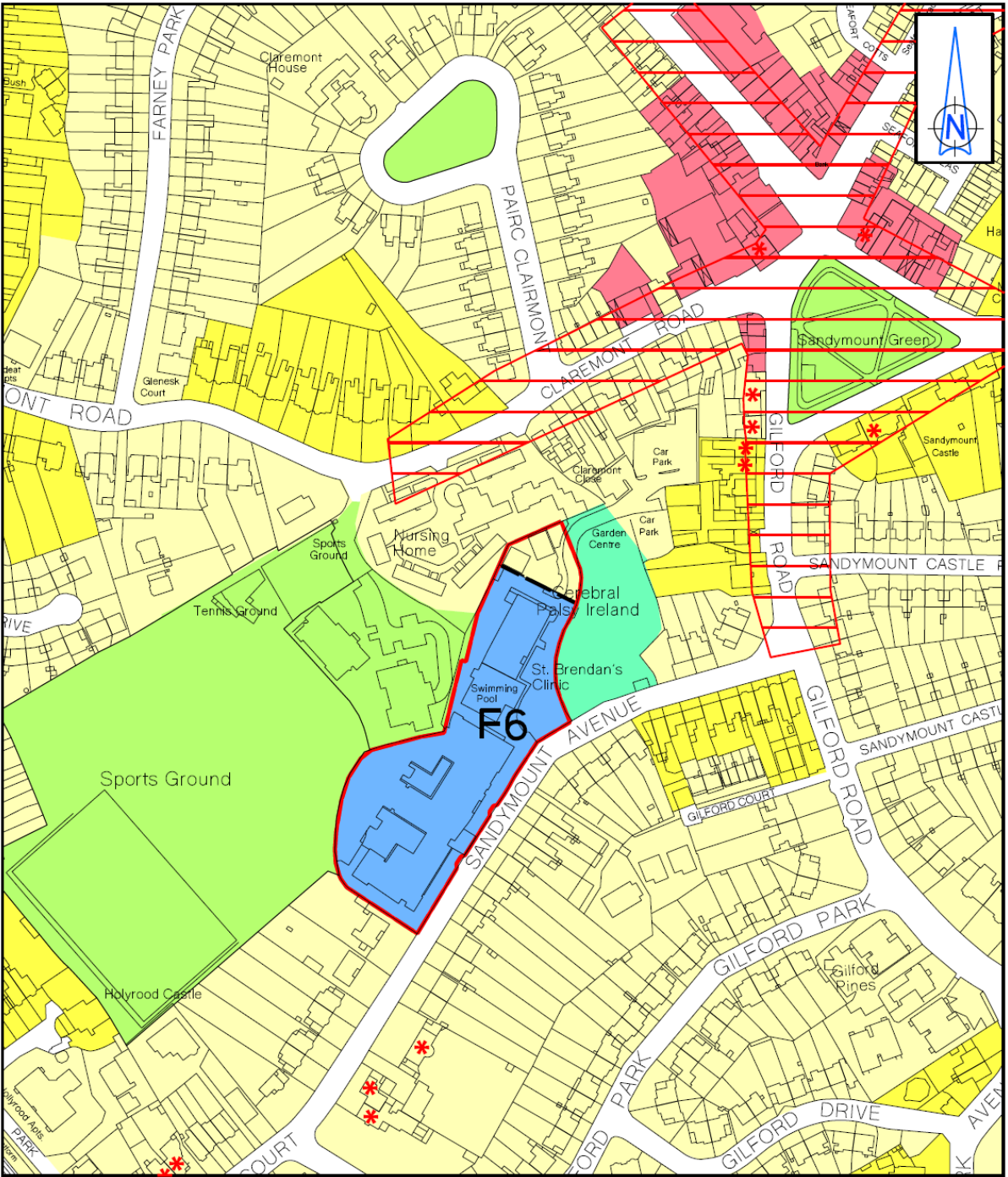
Insert; “Z15 Institutional and Community ~~45%~~ 50%”



Dublin City Council Development Plan 2011-2017
Sybil Hill Road, D5
(St. Paul's College)

Map Ref B46
 Boundary of Lands 
 Scale 1:5,000

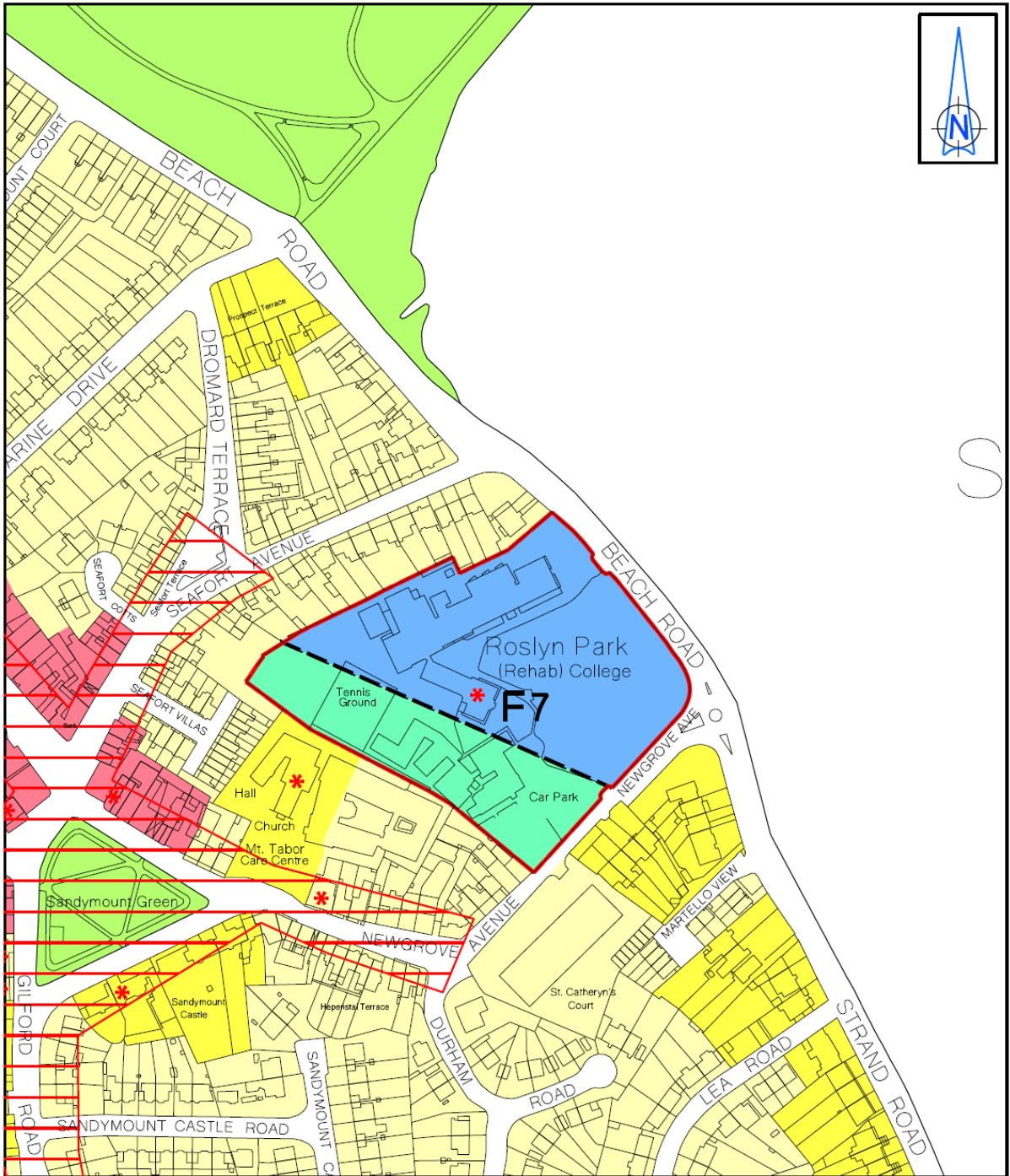
Proposed Zoning
 Z15 
 Area 12.00 Hectares



**Dublin City Council Development Plan 2011-2017
Sandymount Avenue, D4**


Map Ref F6
Boundary of Lands
Scale 1:2,500



Proposed Zoning
Z1 **Area 0.09Hectares**
Z15 **Area 0.92Hectares**

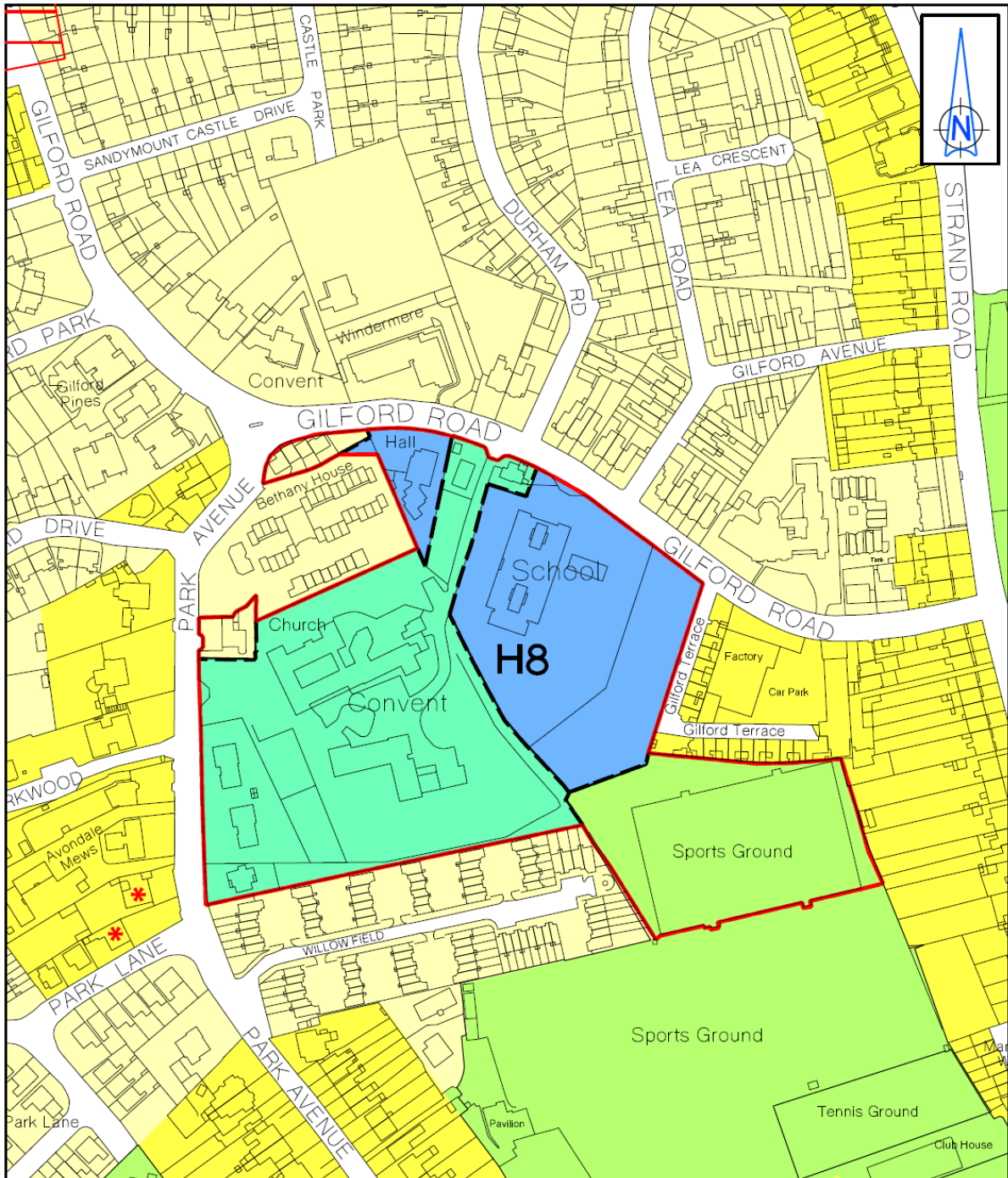


Dublin City Council Development Plan 2011-2017


Beech Road, D4





Map Ref F7
Boundary of Lands 
Scale 1:2,500

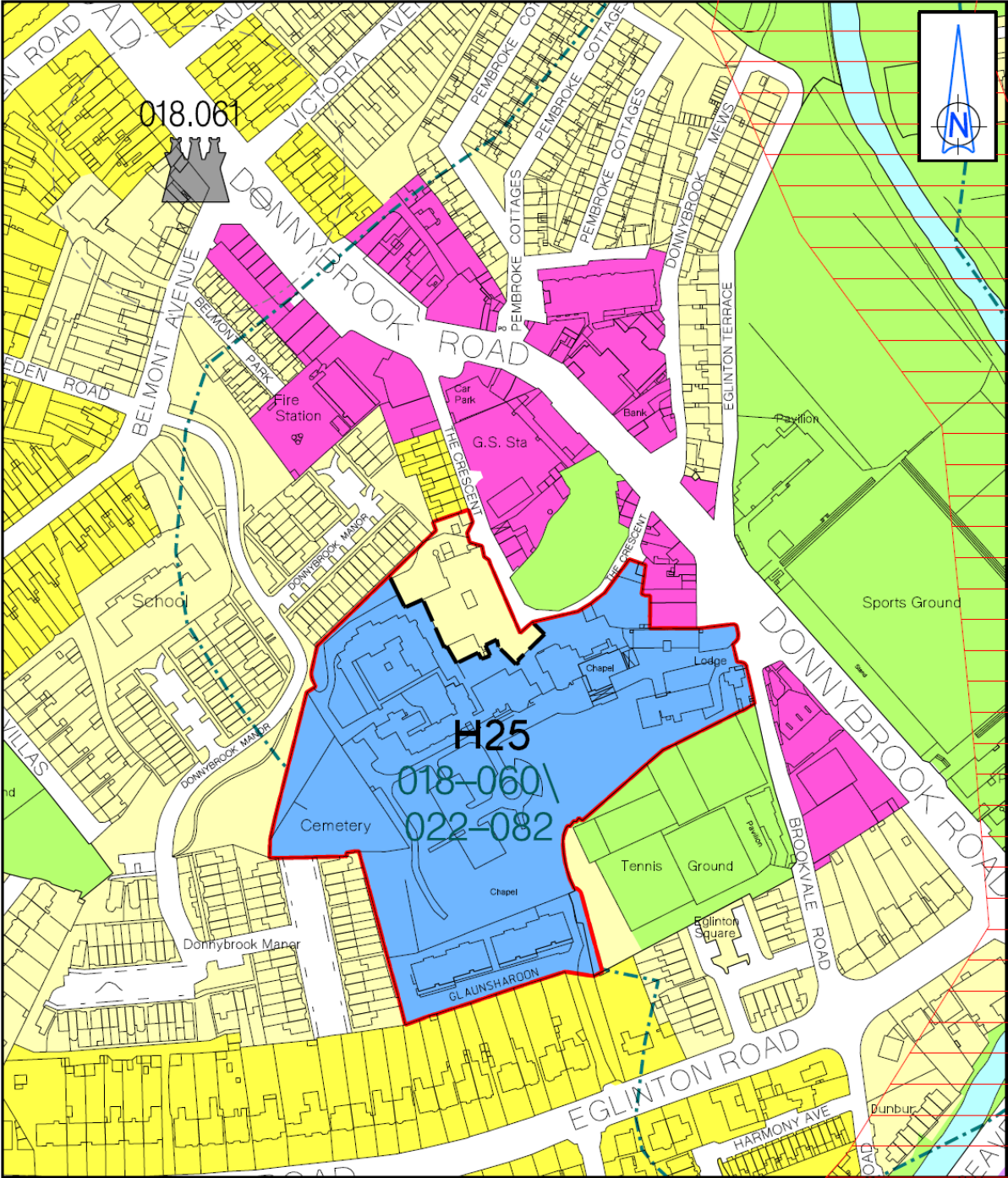
Proposed Zoning
Z12  **Area 0.65Hectares**
Z15  **Area 1.32Hectares**



Dublin City Council Development Plan 2011-2017
Park Ave/ Gilford Rd, D4
(Sisters of Charity School)

Map Ref H8
 Boundary of Lands 
 Scale 1:2,500

Proposed Zoning	
Z1 	Z12 
Area 0.12Hectares	Area 2.15Hectares
Z9 	Z15 
Area 0.94Hectares	Area 1.36Hectares



**Dublin City Council Development Plan 2011-2017
Donnybrook Road, D4**

Map Ref H25
Boundary of Lands
Scale 1:2,500

Proposed Zoning
Z1 **Area 0.26Hectares**
Z15 **Area 2.78Hectares**

Dublin City Development Plan 2011-2017. Proposed zoning of certain institutional lands in the city (formerly zoned for Z15 institutional purposes): Environmental Report and Natura Impact Report of Proposed Amendments

Dublin City Council has, by resolution on 28th January 2013, made some amendments to the Dublin City Development Plan, following a 6 week public display, and on foot of submissions and motions which were submitted.

The land in question is currently unzoned as a result of a High Court judgement in April 2012 [2011 No.56 J.R.] in relation to a case taken by the Religious Sisters of Charity against Dublin City Council. The High Court quashed the former Z15 zoning largely on the grounds that the Council removed residential uses from consideration in limited circumstances on institutional lands, without stating reasons.

The lands were previously zoned for Z15 institutional in the Dublin City Development Plan 2011-2017, which was accompanied by an Environmental Report (SEA) and a Natura Impact Report (AA).

The City Council proposed a new Z15 zoning following the High Court judgement, which was accompanied by;

- i. Addendum to the Environmental Report of the Dublin City Development Plan 2011-2017 (SEA)
- ii. Addendum to the Natura Impact Report of the Dublin City Development Plan 2011-2017

which was circulated to the Prescribed Bodies in October 2012 prior to the 6 week public display from 15th October 2012.

The amendments will be included in both the SEA and AA addenda as follows:

1) Amendments to Z15 text

The revised text is a result of the Council resolution shows additions in green and deletions in red.

The amendments overall are designed to provide further clarification to the numerous audiences which will read the Development Plan. The proposed new Z15 text is essentially the same with regard to the environmental impacts as the initial Z15 text pre-High Court judgement.

2) Zoning Amendments (see maps)

Only 5 sites out of the c 200 Z15 sites incorporate further amendments i.e.

B46: Swimming Pool site, Sybil Hill, Dublin 5 - a small 0.7ha of 11.3ha site amended from Z1 (Residential) to Z15 institutional.

F6: Enable Ireland, Sandymount Avenue, Dublin 4 - a small 10% part of 1.01ha site rezoned from Z15 (institutional) to Residential.

F7: Rosalyn Park, Beach Road, Sandymount, Dublin 4 - c25% of 1.97ha site rezoned from Z15 to Z12 (institutional short term)

H8: Sisters of Charity Convent, Gilford Road, Dublin 6 - 2.5ha site zoned to Z12 (short term institutional) and 15% retained as Z15.

H25: The Crescent, Donnybrook, Dublin 4 - small part of 3.04ha site zoned Z15 proposed for Z1 (Residential)

Overall, the net effect of the proposed amendments is that c 2ha of the 767ha of proposed Z15 lands in the city are now proposed for Z12 and 0.5ha proposed for Z1 residential. In environmental terms the amendments have minimal city wide impact, particularly bearing in mind that Z12 requires 20% open space, only slightly less than the 25% open space requirement for Z15 redevelopment.

Conclusions

SEA

Overall it has been found that the zoning proposals will result in insignificant, or have no impact, impacts on the environment. While beneficial impacts will be obvious at the local level and these benefits felt by small numbers of people, at a city-wide level these impacts are not considered to be significant or strategic.

Natura 2000 Site

The proposal is included in the addendum to the Natura Impact Report of the Dublin City Development Plan 2011 – 2017. It is concluded that there will be no significant cumulative, direct or indirect impacts likely upon any of the Natura 2000 sites. Therefore it is not considered necessary to undertake any further stages of the Appropriate Assessment process.

It is proposed to add the above findings to the Addenda.

APPENDIX III

**PROPOSED COMPOSITE Z15 TEXT/MAPS
ON FOOT OF PUBLIC DISPLAY
OF PROPOSED AMENDMENTS**

LAND-USE ZONING OBJECTIVE Z15:

(blue indicates proposed alterations on foot of submissions)

15.10.14; To protect and provide for institutional and community uses.

Land Use Zoning Objective Z15:

To protect and provide for institutional and community uses and to ensure that existing amenities are protected.

These are generally large ~~sites~~ **blocks of land**, consisting of buildings and lands located mainly in the suburbs. The present uses on the lands ~~consist mainly of~~ **generally include** community related development including schools, colleges, ~~and~~ residential **institutions and** healthcare institutions, such as prisons and hospitals. **Institutional and Community lands display a variety of characteristics ranging from institutions in open grounds to long established complexes of functional buildings.** They often provide ancillary and incidental activities for the local community such as use of part of the site for recreational purposes or the use of rooms for local meetings. ~~These ancillary and incidental uses do not necessarily constitute the main institutional and community use of the site.~~

These lands play an important role in the achievement of a more compact city in that they contribute to the creation of vibrant neighbourhoods and a sustainable well-connected city through the provision of such infrastructure as schools, hospitals and open space. **The city also includes nationally important institutions, such as hospitals and educational facilities, which as stated in Section 15.1 (Zoning Principles), it is Council policy to cooperate with, in order to promote the strategic long term needs of the city and the country.**

With any development proposal on these lands, consideration should be given to their potential to contribute to the development of a strategic green network (see also Chapter 6). In addition, development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to standards in section 17.9 in relation to aspect, natural lighting, sunlight, layout and private open space, and in section 15.9 in relation to the avoidance of abrupt transitions of scale between zonings.

Where there is an existing institutional and/or community use, any proposed development for **'permissible' and/or 'open for consideration'** uses on part of ~~a Z15 site the lands zoned Z15 the landholding~~, **must shall be required to** demonstrate to the Planning Authority **how the proposal is generally in accordance with and assists in securing the aims of the zoning objective**; how ~~the proposal~~ it secures the retention of the main institutional and community uses on the ~~site lands~~, including space for any necessary expansion **of such uses**; **how it secures the retention of existing functional open space eg school playing fields**; and ~~in addition to other matters such as the nature and scale of the proposal and how it integrates into the overall site~~ **the manner in which the nature and scale of the proposal integrates with the surrounding lands zoned Z15.** **The open space requirement in relation to the lands to be developed will have regard generally to the provisions of the development plan taking into account the nature of the proposed development. A masterplan may assist in demonstrating how the requirements of this paragraph may be satisfied.**

A masterplan is not required in the case of minor developments associated with the existing use or where the development proposed relates to extensions to the existing community and institutional use and would enhance the facilities.

Where ~~it is demonstrated to the Planning Authority that there is no longer an identified need for~~ an existing institutional and community use (such as a school, or hospital) ~~is no longer required on a particular site on lands~~ zoned Z15 and where the site land is to be redeveloped, ~~in whole or in part,~~ for open for consideration uses (such as residential) and/or other uses including permissible uses, then a masterplan ~~in accordance with the requirements set out below is required to be~~ shall be prepared by the proposer and/or owner.

The masterplan, ~~which will include~~ shall be accompanied by the evidence that demonstrates to the Planning Authority that ~~the established institutional use is no longer required~~ there is no longer a need for the existing institutional and community use on the lands zoned Z15.

In considering whether there is no longer a need for the existing use, the Planning Authority shall consult with the owner/operator of the existing institutional and community uses and the relevant statutory provider (e.g. the Department of Education and Skills in the case of Schools, and the Department of Health and the HSE in the case of Hospitals).

~~For the purpose of clarity, the words 'Existing institutional and/or community use' referred to above includes shall include~~ the last established institutional and community use on the site lands. ~~in order to ensure that uses which have ceased are also subject to a~~

For the avoidance of doubt, a masterplan does not replace the need for Material Contravention or Variation procedures to be followed in any given circumstance, depending on the nature and scale of the proposed redevelopment in relation to the zoning objective.

For the avoidance of doubt, the 20% social and affordable housing requirement, as set out in the Housing Strategy in this Plan (see Appendix 3), will apply in the development of lands for residential or, where mixed, the residential portion only subject to the Z15 zoning objective.

Masterplan Requirements (where an existing use is no longer required)

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The masterplan, shall set out a clear vision for the ~~entire land holding lands~~ zoned Z15, ~~25% of the site shall be set aside to provide for the preservation of 25% of the lands for accessible public~~ open space and/or community facilities (in lieu of the 10-20% public open space provided for in paragraphs 17.2.3 and 17.9.1) ~~for future provision of publicly accessible open space and/or community facilities.~~ This requirement need not apply if the footprint of the existing buildings exceeds 50% of the total site area of the institutional lands in question. (In such circumstances, the standard 10% public open space requirement shall apply). The masterplan must incorporate landscape features which retain the essential open character of the site lands zoned Z15. It must also ensure that the space will be provided in a manner designed to ~~maximise~~ facilitate potential for future public use and protect existing sporting and recreational facilities which are available predominately for community use. The 25% public open space shall not be split up, unless site characteristics dictate otherwise, and shall comprise mainly of soft landscaping suitable for recreational and amenity purposes and should contribute to, and create linkages with, the strategic green network. Where such facility exists, it shall be included in the open space requirement.

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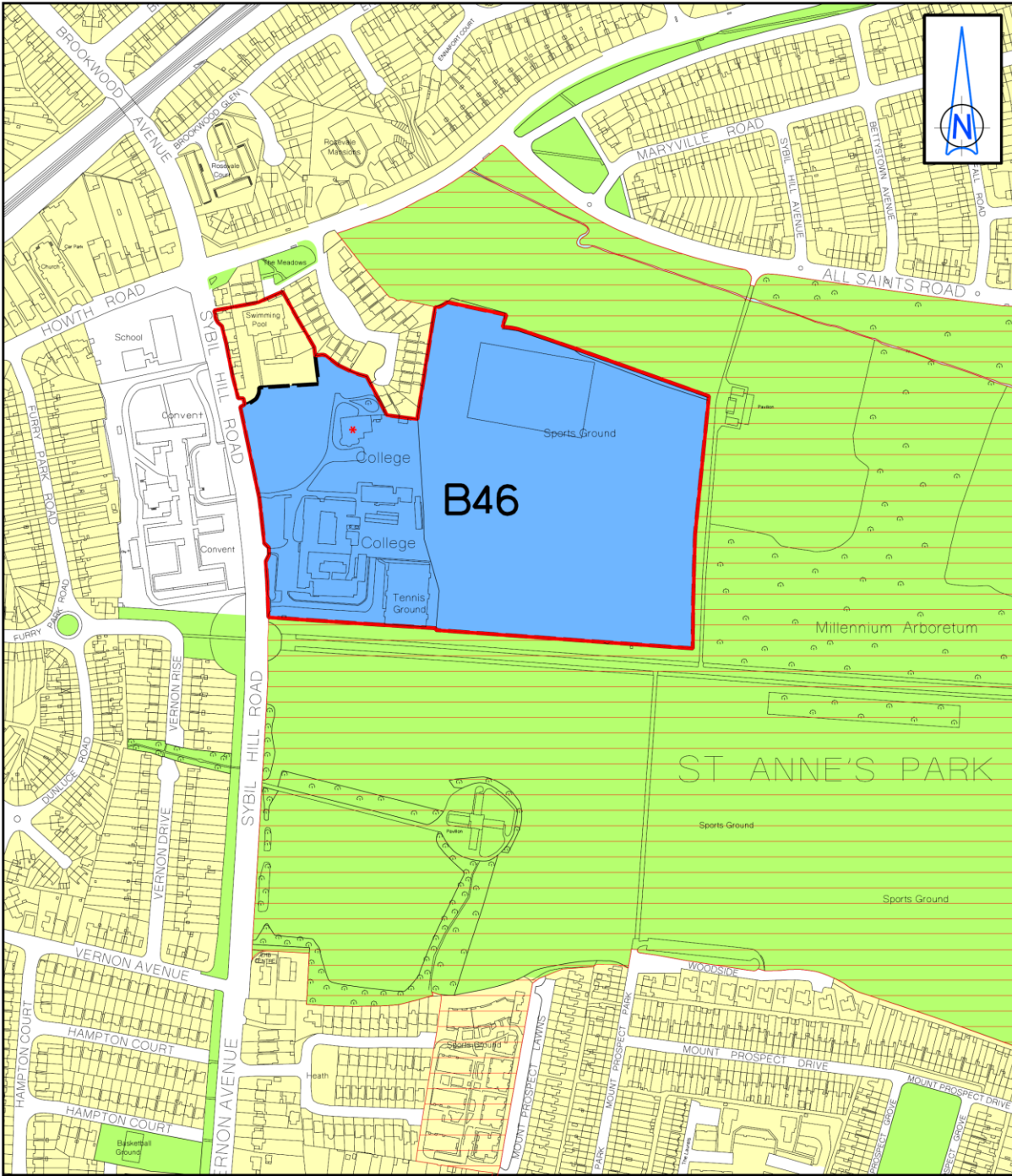
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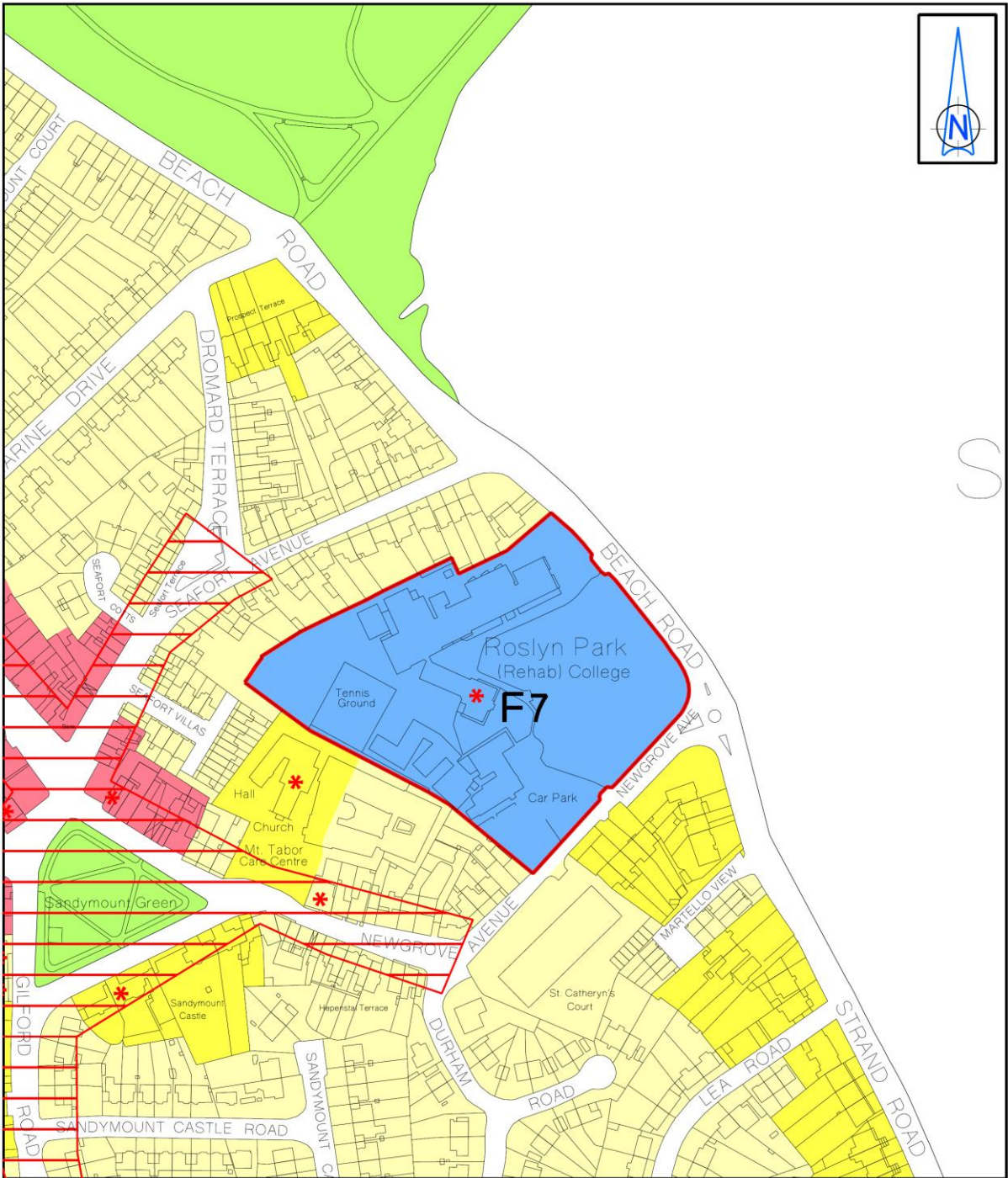
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Sybil Hill Road, D5
 (St. Paul's College)


Map Ref B46
 Boundary of Lands 
 Scale 1:5,000


Proposed Zoning
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 Area 0.68Hectares
 Z15 
 Area 11.32Hectares

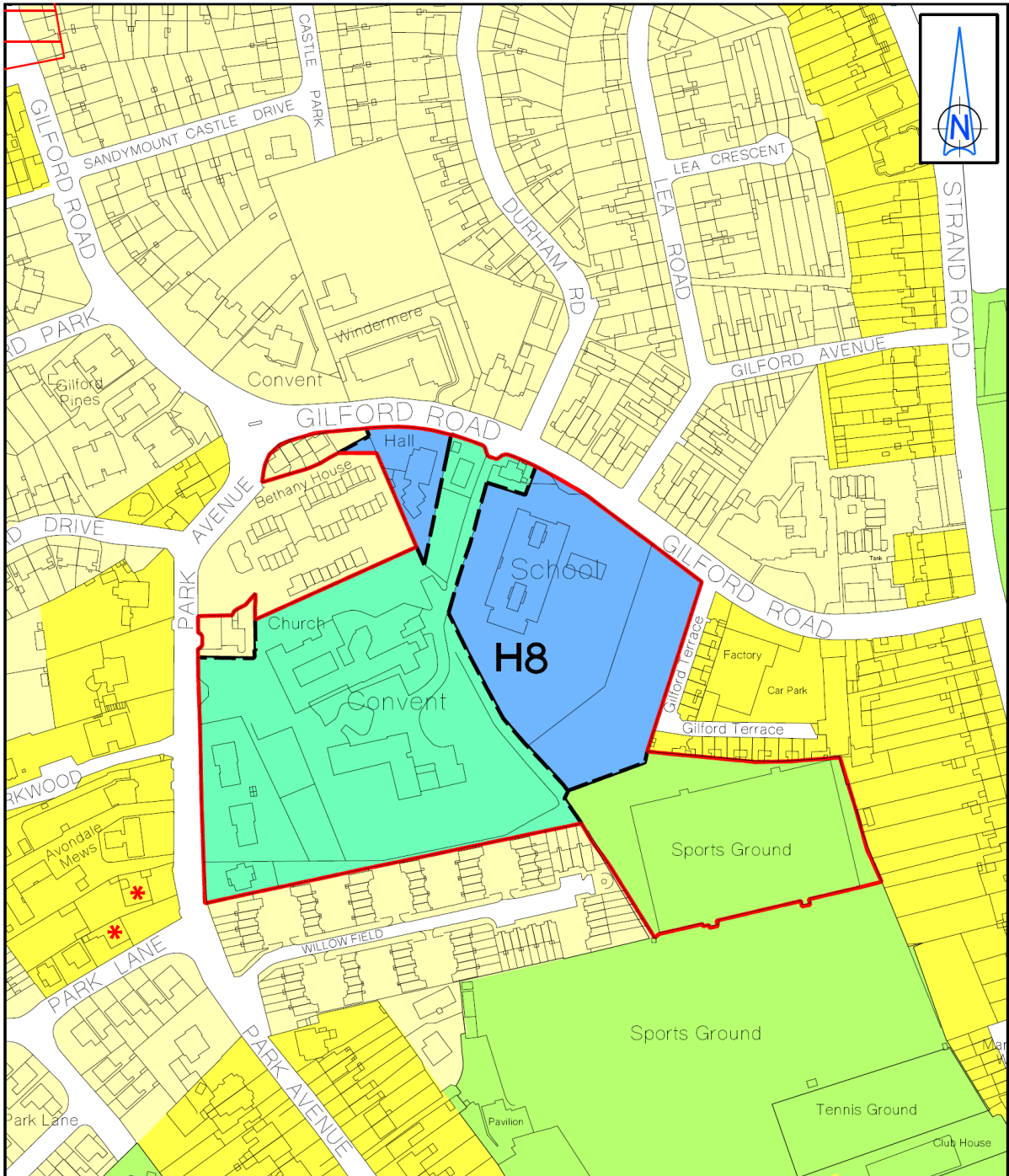


Dublin City Council Development Plan 2011-2017


Beach Road, D4





Map Ref F7
Boundary of Lands 
Scale 1:2,500

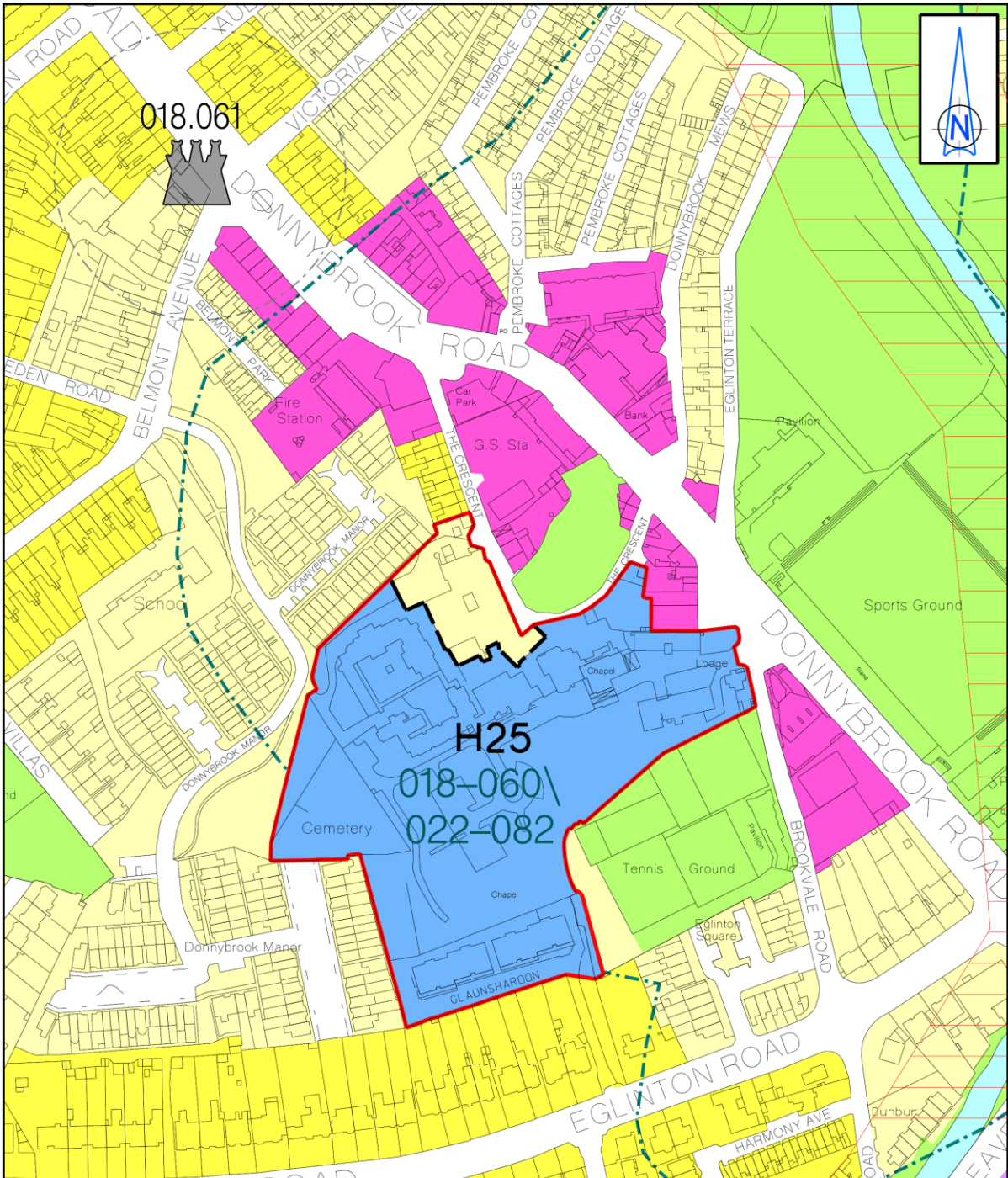
Proposed Zoning
Z15  **Area 1.97 Hectares**



Dublin City Council Development Plan 2011-2017
Park Ave/ Gilford Rd, D4
(Sisters of Charity School)

Map Ref H8
Boundary of Lands 
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Area 0.94Hectares	Area 1.36Hectares



**Dublin City Council Development Plan 2011-2017
Donnybrook Road, D4**

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