

1st September 2022

Development Plan Team
Planning & Property Development Dept
Dublin City Council
Wood Quay
Dublin 8

**Re: Material Alterations to
Draft Dublin City Development Plan 2022 - 2028**

Dear Sir or Madam

The Clontarf Residents' Association would like to make the following observations on the Material Alterations to Draft City Development Plan 2022-2028

Material Alteration Reference Number 5.5

The CRA welcomes the inclusion of the paragraph acknowledging these lands as an important feeding site for Brent Geese and the need to integrate these lands in the Clontarf Promenade Development and Flood Protection scheme.

Material Alteration Reference Number 5.18

A review of temporary/homeless services is to be welcomed. However, such review should aim to distribute such services evenly across the city as opposed to solely reducing services in any particular area. Adopting a strategy of reducing services in three specific areas may simply move the overconcentration of services to another area. A strategy designed to distribute services evenly across the City Council Areas and between the Wards in each Area would seem to be a more appropriate approach.

Material Alteration Reference Number 5.29

The addition of sub paragraph (ii) is welcomed, however there needs to be further clarity in terms of the agreement with the Department of Education in relation to use of a school site no longer required for school provision. In the case of the St Paul's lands the Department of Education gave a letter stating that the lands were no longer needed but subsequently the school capped its numbers and an Educate Together school approved for the Killester/Raheny/Clontarf had to be located in Sutton due to lack of space in the area.

The word "existing" should be removed from sub paragraph (ii) so that the Policy QHSN51 applies to all schools.

Material Alteration Reference Number 7.18

We very much welcome the expansion of this objective and the setting of goals. However, we believe that this wording could be stronger and that the phrase "Dublin City Council will aim to remove 100 ..." should be replaced with "Dublin City Council will investigate and implement measures to promote removal of 100 ...".

Material Alteration Reference Numbers 8.12 & 8.19

We are concerned at the removal of focus on school children in Policy SMT16 and we welcome the increased focus on school children in Policy SMT19. We are concerned that the removal of focus on school children in Policy SMT16 may result in a loss of emphasis on this vulnerable group of road users as and request that the text proposed for deletion in SMT16 be reinstated.

Material Alteration Reference Number 8.14

A review of the temporary Covid-19 Pedestrian and Cycling interventions is welcomed. However, it is unclear what definition of “successful” is to be used. There may be varying opinions on whether an intervention was in fact “successful” and while temporary measures may have been appropriate to deal with an emergency situation any move to make these measures permanent must be carried out in an open and transparent manner and in consultation with local stakeholders.

Material Alteration Reference Number 10.13

While we support the broader aims of a Discovery Centre for Dublin Bay in terms of conservation, education, awareness, etc., we welcome the deletion of “at North Bull Island” in Objective GI037.

Material Alteration Reference Number 14.7

Bullet three refers to “a statement, demonstrating how the sports facility will be retained ...” and it is proposed the requirement for such a statement be part of a legal agreement be deleted. A statement that is not legally binding is *not worth the paper it is written on*. Any statement or agreement with a developer as part of a Planning Permission must be fully legally enforceable.

We note the proposed changes to the final bullet in the list and the inclusion of the phrase “(with the exception of land disposed of prior to the adoption of the plan)”. It is not clear as to how “land disposed of prior to the adoption of the plan” will be dealt with. It is equally unclear why this phrase is necessary given Judge Humphrey’s ruling of 7th May 2021 in JR No. 725 which states inter alia that

“... established use and designation is not lost by dint of a transfer of ownership. Rather, it remains until such time as planning permission is granted for an alternative use, ...”

In our view, a sports field or playing pitch remains a sports field or playing pitch even after it is sold. In our view the phrase “(with the exception of land disposed of prior to the adoption of the plan),” should be deleted.

This section should also require that any proposal for development must take into account and allow for the increased demand that will be created by the proposed development on the site.

Material Alteration Reference Number 14.8

While it is clear from the text covering Z9 zoning that sports pitches are part of the network of Open Space lands it is questionable that the term Sport Ground, Playing Pitches or something similar is not specifically included in the list of Permissible Uses.

Material Alteration Reference Number 14.12

Again, given Judge Humphrey’s ruling of 7th May 2021 in JR No. 725, it is unclear as to why there is a need for text to deal with “Development following cessation of Z15 use”. The lands remain Z15 and any subsequent planning application for the lands must be compatible with that zoning.

The first paragraph in Section A appears to imply that a landowner can develop on open space in one area if it is necessary to preserve open space in another area. This should not be permitted. Z9 lands are acknowledged as being vital for the City as a whole and for progressing the 15-minute City concept. DCC cannot allow for the removal of Z9 land in one area in order to preserve Z9 lands in another area thereby prioritising one community over another.

The first bullet point requires the applicant to demonstrate that future needs would not be compromised but it is not clear how this would be achieved. The Masterplan requirement may address the issue but if so, this needs to be explicit. In addition, the situation regarding sites of less than 1ha where no Masterplan is required also needs to be addressed.

Regarding the 3rd bullet, further clarification is needed regarding the term “Where appropriate,”.

The final bullet in this section again contains the phrase "(with the exception of land disposed of prior to the adoption of the plan)". Again, we would refer to the relevance of Judge Humphrey's ruling of 7th May 2021 in JR No. 725. Even before Judge Humphrey's ruling, it is absolutely unacceptable for the ownership of a site to come into consideration in land-use planning terms. The ownership of a site can change several times over the course of the lifetime of a development plan, but in every case the zoning of that site remains the same. The Council has a statutory obligation to adopt an impartial position in relation to its consideration and treatment of planning applications and land use zoning issues that is blind to the ownership arrangements of the land in question.

Section B: Development Following Cessation of Z15 Use is misnamed. What has happened is a change of ownership which, as detailed above, is not a consideration in planning matters. The Institutional or Community Use may still be needed and/or ongoing even after a change of ownership. If the existing Use has ceased, this may not be due to lack of need for such facilities but rather may simply be because the new owner has ceased the existing use for their own reasons. The amendment as proposed leaves it open as to what type of circumstances might be deemed "exceptional" and there is no clarity as to who would make such a determination. Again, we would refer to Judge Humphrey's ruling of 7th May 2021 in JR No. 725.

Z15 lands are acknowledged as being of importance in terms of the presence of mature trees and being part of the green network. They are also often home to important habitats for our native flora and fauna including protected species. The definition of Z15 should be expanded to acknowledge this important role for Z15 lands. Any proposed change to use of or development on these lands should be required to address the impact such a change would have on the existing habitat prior to the cessation of use or change of ownership.

Material Alteration Reference Zoning Map B Map Reference B-0053

We welcome the rezoning of the St Paul's Pitches from Z15 to Z9. We believe that the Z9 zoning reflects the existing use of this site as a Sports Ground and is consistent with Judge Humphrey's ruling of 7th May 2021 in JR No. 725 regarding these lands.

Material Alteration Reference Zoning Map F Map Reference F-0006

We note the proposal to rezone Redcourt, Clontarf from Z2 to Z1. We are opposed to this change. This change was one of countless changes proposed by DCC without the knowledge of our elected representatives at an earlier stage in this process. DCC officials subsequently backtracked on those planned rezonings.

Our submission of 14th February 2022 as part of the Public Consultation process welcomed the retention of the Z2 zoning on this site. Another submission received by DCC during the same Public Consultation process requested the site be rezoned to Z1. The CE's Report 119 refers only to this later submission and does not acknowledge our position that the Z2 zoning should be retained.

Maps were provided with Report 119. Two Map Fs were provided, one being the Zoning Map and the other the Flood Map. The file name on both was simply MapsetF.pdf without any differentiation. Zoning Map F indicates that Redcourt is zoned Z1, however, Flood Map F indicates that Redcourt is zoned as Z2. It is our understanding that Flood Maps are an overlay on the zoning map and that therefore the zoning shown on the flood maps can be relied upon. Unfortunately, that was not the case on this occasion. This lack of consistency between the maps combined with the lack of clarity in the file names caused us to understand that the Z2 zoning was being maintained, in line with our submission, on this site.

Furthermore, the CE's Report 119 which includes the proposed rezoning was not considered at the Special Council Meeting in July 2022. The Councillors acknowledged that they "noted" the report but they repeatedly asked for that Report, listed as Item 2 on the agenda, to be dealt with. They were

assured by Council officials at the start of the meeting that it would be dealt with at the end of the meeting but it was not. After item 3 was concluded, the meeting moved to item 4 and item 2 was not addressed. We note that each of our elected representatives' motions were gone through one by one but that the same due diligence and scrutiny was not given to the changes proposed by the CE.

Apart from the procedural flaws, outlined above, that lead to this proposed Material Alteration we would also like to make the following observations. Redcourt was zoned Z2 due to the presence of a two-storey Victorian red brick detached house dating from the end of the 19th century that was located centrally on the site. It first appeared in printed records in the 1904 Thoms Directory.¹ While the house was not a protected structure, its architectural importance was recognised and considered to be of significance. Redcourt House was demolished following a fire in 2007 which caused extensive damage to the property. In our view it would be inappropriate to rezone this site now due to the demolition of Redcourt House given that such demolition was contrary to a planning condition imposed by An Bord Pleanála. The fact that the house and gardens are gone would appear to be due to neglect. It is difficult to see how it is appropriate that a developer would be rewarded for such neglect by being given their preferred zoning. If that logic were to prevail, it would simply be up to any developer to allow a building or site to fall out of use or into disrepair so that they could subsequently apply for their preferred zoning.

Furthermore, this site is currently before the courts in Judicial Review proceedings taken in relation to the most recent grant of Planning for this site. We do not consider it appropriate for DCC to consider rezoning a site that is the subject of an ongoing court proceedings.

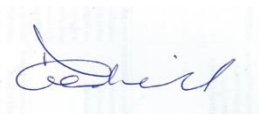
The question of rezoning Redcourt, if it arises, would be more appropriately dealt with as a variation to the CDP when the court hearings are concluded.

Material Alteration Reference Map J Existing and Future Strategic Transport and Parking Areas

We note Map J and the very small number of areas that are in Parking Zone 3, indicating an increased reliance on private cars due to lack of public transport. Much of Clontarf is in Parking Zone 3. It is concerning that there are no Future Strategic Transport plans shown on this map for our area or indeed many of the other areas in Parking Zone 3.

We welcome the opportunity to have participated in this consultation process and we look forward to working with our elected representatives and city officials with a view to enhancing and improving our area.

Yours sincerely



Deirdre Nichol
Chairperson
Clontarf Residents' Association

¹ From Village to Suburb: The Building of Clontarf since 1760. Claire Gogarty. Clontarf Books, 2013.