



To: All members of the Cabinet

From: The Jack and Jill Foundation and the Connolly for Kids Hospital Group

Date: February 13th 2017

Re: Location of the National Children's Hospital and the possible awarding of construction contract to BAM at the St. James's site

Dear

Connolly for Kids Hospital group and the Jack and Jill Foundation submit that the Cabinet is not in a position to authorise the awarding of the construction contract for the building of the new National Children's Hospital at the St. James's Hospital site. Many statements made by Ministers indicate that they appear to be ill-informed in relation to key aspects of the project. This may be due to the widespread misinformation disseminated about the site.

It has been stated by Ministers that St. James's was recommended in reports by national and international experts. There is no evidence of such a recommendation in any expert report, either national or international and we call on you and your cabinet colleagues to publicly provide the details of the reports that are being relied on as part of your decision-making process in this regard.

Following the Government decision on the location of the new Children's Hospital in 2012, St. James's was publicly congratulated by an eminent physician in the Seanad for its "aggressive campaigning" to win the children's hospital. We contend that such aggressive, misinformed campaigning played a part in trumping the interests of children's health leading to an illogical and reckless decision on the siting of the hospital.

The principal reason stated for the decision ('better clinical outcomes') is without basis in fact. In support of this position we would draw your attention to the following:-the new (2013) National Paediatric Hospital Development Board (NPHDB) has altered in its composition from that originally set up in 2007, to now be a purely 'Building Board', despite the fact that S.I. 246 (2007) has not been amended in that regard, which further raises questions about its authority, legal standing and mandate. The new (2013) Children's Hospital Group Board (CHGB) has no basis in legislation and as far as we are aware, although we would welcome any information to the contrary, no governance structure for the hospital has been determined.

When challenged to provide evidence of advantages of the site, the NPHDB /CHGB has come up with irrelevant and misleading statements. The reality is that no valid reason can be found for building the Children's Hospital at St. James's. Further, we firmly believe that to proceed with the project in

its current form will result in a sub-optimal hospital and is also likely to lead to a serious negative impact on the functioning of the Adult Hospital, even threatening its viability.

Members of the Cabinet should be aware that the decision by An Bord Pleanála cannot be relied upon as justification for building the new Children's Hospital at the St. James's site since many critical medical issues were deemed to be matters outside of its remit. In that regard, we would ask that you as a cabinet minister address the issues that were excluded from the deliberations of the planning authorities. Further, we would ask that the following be given the consideration that has been thus far omitted in government announcements on the issue. We would also ask that you inform us of your reasons either to support or reject our contentions below, providing reasons for same.

1. TIME-SCALE

Since the announcement in November 2012 that St. James's was the chosen site, there have been significant delays in the estimated date for completion of the hospital - 2018 initially, 2020 at the time of An Bord Pleanála hearing and now 2021. We believe that due to significant site complexities and construction restrictions it will take far longer.

In contrast, if things were done differently, the Children's Hospital could be delivered within 3 years of the decision to change to the Connolly Hospital site as it is an unencumbered greenfield site. As above, we call on you and your ministerial colleagues to address this concern providing reasons and supporting evidence for same.

2. COSTS

We submit that the Cabinet is ill-equipped to make any determination on the value for money or otherwise of the tender submitted by BAM in the absence of any prior Cost Benefit Analysis which we understand to have been required by the Department of Finance's 'Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector' and the 'Public Spending Code' requirement of the Department of Public Expenditure and Reform. To our knowledge no such analysis has been carried out. We note in recent days media reports relating to the construction costs of €300 million for a new hospital in Finland of almost identical size, construction of which is about to start with the hospital due to open in 2020.

We would further question the decision-making process underway in circumstances where a building works contract has, it appears, been awarded to BAM Construction although the cabinet has yet to formally approve the project. If a contract has been awarded pursuant to EU procurement rules, is it to be set aside should you and your ministerial colleagues reject the proposals? If the decision is ultimately a cabinet one – and has yet to be made – what is the legal status of the awarded contract? Are the taxpayers to be at a financial disadvantage should the awarded contract be rescinded?

We call on you to clearly explain the legal position regarding the awarding of a contract to build a project that has yet to be formally approved. Further, we ask that you identify the powers being relied on in this process that permit a tender award be set aside with or without penalty clauses.

In stark contrast, the 2012 decision to choose the St. James's site was based, *inter alia*, on an estimated cost of €404 million for construction, but this figure has trebled to €1.2 billion even before the project has started.

We are of the view that the net cost of continuing with the project on the St. James's site will be very much greater than the cost of changing the location at this point. Both the International Independent Review of 2011 and the Dolphin Review of 2012 stated that it would be 25% cheaper to build on a greenfield site than on an urban site. Our costings show that both the Children's Hospital and the Rotunda Maternity Hospital can be built at Connolly for less than the cost of the Children's Hospital alone at St. James's.

In the event that the project does not go ahead at St. James's, the money spent on site preparation work would not be wasted as clearance of the site is necessary for any future development which may take place there. Consideration should be given to locating the Children's Urgent Care Centre and clinics, currently planned for Connolly, to the St. James's site.

It is evident that a saving of at least €300 million would be made if the hospital were to be built at Connolly. No detailed examination of this seems to have taken place to date and we call on you and your colleagues to explain why no such comparative costings were carried out as part of the decision-making process. Further, where calculations have been considered by the government, we would ask that you provide reasons why same were not deemed sufficient to merit alternative sites be considered.

3. CLINICAL CONSIDERATIONS

It is very important for Cabinet members to be aware that the assessment by An Bord Pleanála did not adequately address several important aspects of the proposal relating to the medical functioning of the site. The New Children's Hospital Alliance, a constituent member of C4KH, had requested that, given the nature of the proposed medical use of the development, the Inspector be assisted in his assessment by a medical expert. This request was denied. Quite extraordinarily, given its status as a Strategic Infrastructure Development because of its medical use (Par.37A (2) (a) of the Planning and Development Act 2000 as amended by the Planning and Development (Strategic Infrastructure) Act 2010), An Bord Pleanála considered certain key matters relating to the medical use of the building to be of no concern in the assessment of the application. The Inspector's Report made it clear that determination on medical issues was not within the Board's remit.

"It's not a matter for the Board to determine whether the applicant's brief is sufficient to meet medical/clinical demands now, let alone in the future, that is not a function of the Board."

The result was that the medical functioning of the hospital was not properly assessed. In the circumstances therefore there appears to have been no proper consideration of clinical matters which bear a material and fundamental impact on the viability of the project as a whole. We therefore call on your to consider the medical functioning of the site and how same will be impacted

by the current proposals. If this genuinely was/is outside the remit of the planning inspector then we feel it must therefore fall squarely within your remit as ultimate decision-makers. We do not feel it would be right or appropriate for a decision to be made on the site of the national children's hospital without any regard having been had for the medical functioning of the site.

As above, we call on you and your ministerial colleagues to address this concern providing reasons and supporting evidence for same.

4. MATERNITY HOSPITAL CO-LOCATION

The location of a Maternity Hospital linked by a short corridor to the Children's Hospital is central to the consideration of optimal clinical outcomes. This is what will save babies' lives and avoid disability for many. An Bord Pleanála, however did not regard it as a matter it should consider. The Inspector's report states:

"There may be an application for a maternity hospital on the campus, and there may not..... The NCH can proceed without a maternity hospital, these are not inter-dependent projects."

Clearly, if the medical use of the building is not being considered then the Inspector is correct. However, if optimum medical outcomes are being aspired to, which we have been assured is the case, then the buildings are clearly inter-dependent in a time-dependent manner.

It was recently stated by a senior NPHDB Design Team official that consideration of the maternity hospital is not envisaged for maybe 15 years at the St. James's site. Given the opportunity to co-locate the Children's Hospital with the new Rotunda Maternity Hospital at the Connolly site within a much shorter time-frame and at much reduced cost, we submit that to proceed with the project at the St. James's site could further be deemed to fail to comply with European Law relating to the Right to Health. In this regard we would respectfully refer you to Section 8.3 of the 'Handbook of European Law Relating to the Rights of the Child', it states that:

"States have positive obligations to take measures against life-endangering health risks that the authorities are or ought to be aware of".

As above, we call on you and your ministerial colleagues to address this concern providing reasons and supporting evidence for same and in particular to state the government's position on Section 8.3 above.

5.ACCESS / PARKING

A central clinical consideration when assessing any hospital site is whether patients can access the hospital speedily. In this regard the St. James's Hospital site has recently been described by an ambulance driver /paramedic, who was based at St. James's for 30 years, as the worst in the country. With an additional 4,000 vehicular movements per day associated with the Children's Hospital (many originating outside the M50 where nine out of ten children in the country live), this

already major problem will be exacerbated. Helicopter access is also impacted as there is no space at St. James's for the Coastguard air and sea rescue helicopter to land.

Due to the restricted nature of the site, parking provision for the Children's Hospital is dramatically lower than that of international comparator hospitals. It will have fewer parking spaces per bed than were available at Crumlin in 2010. Furthermore, in failing to meet with the design standards of the Institute of Structural Engineers, it will be unsafe for children. The 145-acre Connolly Hospital site, in contrast, provides adequate space for safe parking. As matters currently stand, the Adult Hospital will lose 600 of the heretofore 1,400 parking spaces, reducing parking from the 2016 allocation of 1.4 per bed to 0.8 per bed. Overall, only 8% of staff in both the Children's and the Adult Hospitals will have access to parking. Parking compares most unfavourably with NHS foundation hospitals in Britain.

As a large volume of service users will be coming from outside the M50, the logistics of access and parking ought to be a core consideration on the viability of the proposed location. As above, we call on you and your ministerial colleagues to address this concern providing reasons and supporting evidence for same.

6. STAFF RECRUITMENT AND RETENTION

Central to the effective operation of the hospital is the recruitment and retention of staff, many of whom are highly specialised. Excellent clinical outcomes are dependent upon care delivered by excellent staff. Currently Crumlin hospital has ICU and theatre nursing shortages. Intensive Care beds closed because of staff shortages result in delay in performing major surgeries requiring ICU care post-operatively. Staff shortages exacerbate waiting-list time for treatment of serious conditions such as scoliosis and congenital heart disease. There is a very real danger that the exodus of staff now being experienced by the Adult Hospital will worsen for both hospitals once the Children's Hospital opens because of travel difficulties and the expense of family homes in Dublin.

7. SPACE

Consideration of the site's capacity to allow for expansion was also avoided by An Bord Pleanála. The Inspector's report states:

"the fact is, no one knows for sure what exactly will be required of the campus in the future. In that regard, it would be unreasonable, and possibly ultra vires, of the Board to refuse permission for the current proposal solely on what may be applied for in the future."

We know that hospitals expand exponentially, for example Crumlin, the Hospital for Sick Children, Toronto, the Children's Hospital of Philadelphia - often doubling their capacity in 10 years. St. James's site will allow for 20% expansion of the Children's Hospital - 200% would be a more appropriate provision as this is to be the only children's hospital in Ireland. It is meant to serve the needs of our sickest children for the next 100 years. Yet, due to lack of space the Children's Hospital as proposed is already compromised – and when completed it will have proportionately fewer beds than currently exist in the three Dublin children's hospitals. With thousands of patients on waiting lists this cannot be justified. In this context we would ask that you note that no site restrictions

pertain at the 145-acre Connolly site. As with our other concerns, we formally call on you and your ministerial colleagues to address this concern providing reasons and supporting evidence for same.

Connolly for Kids Hospital and the Jack and Jill Foundation strongly request that you consider the matters above. The Cabinet must do what is best for children. We ask that you consider objectively and forensically the objections we have raised above and provide us with written reasons in response to these. In our view your deliberations ought to be grounded in evidence-based input from all stakeholders and affected parties. Such deliberations will lead to the obvious conclusion that the new National Children's Hospital ought to be located at the Connolly Hospital site off the M50 in Blanchardstown. For reasons outlined above, this location best serves the children of our country and their needs ought to be given paramount consideration in any cabinet deliberations. Where those needs are being rejected, the stated reasons for same along with all supporting evidence that was relied on in coming to that conclusion ought to be made available to the public, to us and any other stakeholders.

Yours sincerely



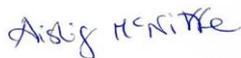
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On behalf of Connolly for Kids Hospital Group and The Jack and Jill Foundation.

Copies to: Ms Máire Whelan, Attorney-General
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APPENDICES TO FOLLOW (by email)