



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319996-24

|                              |                                                                                                                                                                                                                                                                                                 |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Development                  | The development will consist of the omission of the permitted house (per reg. ref. D18A/0143) at site no. 3, Brighton Grove to provide access to the site; the demolition of Primavera and Phoenix House and the construction of 48 residential units, together with all associated site works. |
| Location                     | Lands at Brighton Grove, Primavera and Phoenix House, Brighton Road, Foxrock, Dublin 18                                                                                                                                                                                                         |
| Planning Authority           | Dun Laoghaire Rathdown County Council                                                                                                                                                                                                                                                           |
| Planning Authority Reg. Ref. | D23A/0752                                                                                                                                                                                                                                                                                       |
| Applicant(s)                 | Amberfield Homes Ltd                                                                                                                                                                                                                                                                            |
| Type of Application          | Permission                                                                                                                                                                                                                                                                                      |
| Planning Authority Decision  | Grant permission                                                                                                                                                                                                                                                                                |
| Type of Appeal               | Third Party                                                                                                                                                                                                                                                                                     |
| Appellant(s)                 | Tom & Victora Maughan<br>Ross & Melissa Moore<br>Yseult Quinn and Valerie & Daniel Hickey                                                                                                                                                                                                       |

Observer(s)

Orla Costello

Tullow Parish

Foxrock Area Community & Enterprise

Ross & Melissa Moore

Date of Site Inspection

15/01/2025

Inspector

Bébhinn O'Shea

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## 1.0 Site Location and Description

- 1.1. The site is located in Foxrock, Co. Dublin, in close proximity to Leopardstown Racecourse and the M50. The area is predominantly a low density suburban residential area of detached housing with large gardens.
- 1.2. The site proper consists of two detached backland dwellings and their curtilage, currently accessed via a laneway from Brighton Road, west of Brighton Grove. Permission was granted in 2019 for the demolition of a dwelling and construction of 4 detached dwellings (Brighton Grove), south of the site, fronting Brighton Road. 3 of these dwellings have been constructed. It is now proposed to omit no. 3 Brighton Grove in order to provide an access road to the site 'proper' to the rear.
- 1.3. There is low density housing surrounding the site, the rear gardens/amenity space of which extend to the site boundaries. Of note is Tullow Parish Church, c. 80m east on Brighton Road which contains 3 Protected Structures in its grounds.

## 2.0 Proposed Development

- 2.1. The proposed development is for
  - Omission of the permitted house at no. 3 Brighton Grove from D18A/0143
  - Construction of vehicular and pedestrian access from Brighton Road
  - Demolition of Primavera and Phoenix House
  - Construction of 48 residential units (consisting of 10 dwellings and 38 apartments in a 5 storey over basement building)
  - Associated parking, open spaces, services etc.

Key figures:

|                  | Initial Application       | Following Further Information |
|------------------|---------------------------|-------------------------------|
| <b>No. Units</b> | 48                        | 46 (following FI)             |
| <b>Density</b>   | 61/hect (net)             | 58/hect (net)                 |
| <b>Height</b>    | Houses: 2 storey + dormer | Houses: 2 storey + dormer     |

|                                      |                                                                                     |                                                                                        |
|--------------------------------------|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
|                                      | Apartments:5 storey + basement                                                      | Apartments:5 storey + basement<br>5th floor part recessed                              |
| <b>Mix</b>                           | 1 bed x 10 (20.83%)<br>2 bed x 24 (50%)<br>3 bed x 4 (8.33%)<br>5 bed x 10 (20.83%) | 1 bed x 9 (19.56%)<br>2 bed x 24 (52.17%)<br>3 bed x 3 (6.52%%)<br>5 bed x 10 (21.73%) |
| <b>Part V</b>                        | 10 units proposed on site                                                           |                                                                                        |
| <b>Public<br/>Open<br/>Space</b>     | 16.1 %                                                                              | 16.1%                                                                                  |
| <b>Car<br/>Parking<br/>Provision</b> | 60 + 3 visitor + 3 accessible on-<br>street                                         | 46 + 3 visitor + 3 accessible on-<br>street + 7 club car                               |

2.3. The application also includes the following:

|                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Planning Report</li> <li>• Architectural Design Statement</li> <li>• Arboricultural Assessment, Arboricultural Impact and Tree Protection Strategy Report<br/>Landscape Report</li> <li>• Transportation Assessment Report</li> <li>• Engineering Planning Report</li> <li>• Site Specific Flood Risk Assessment</li> <li>• Housing Quality Assessment</li> </ul> | <ul style="list-style-type: none"> <li>• Architectural Heritage Impact Assessment Photomontages</li> <li>• Environmental Impact Assessment Screening Report</li> <li>• Appropriate Assessment Screening Report</li> <li>• Ecological Impact Assessment</li> <li>• Sustainability and Energy Report</li> <li>• Outline Construction Management Plan</li> <li>• Outline Resource and Waste Management Plan</li> </ul> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                          |                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Part V assessment Daylight and Sunlight Assessment</li> <li>• Building Life Cycle Report</li> <li>• Archaeological Impact Assessment</li> </ul> | <ul style="list-style-type: none"> <li>• Operational Waste Management Plan</li> <li>• Landscape and Visual Impact Assessment</li> <li>• Construction Noise and Vibration Assessment</li> </ul> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Further Information: The Planning Authority initially sought Further Information on the proposal in relation to

1. Clarity on the correct site area
2. Clarity on ownership of existing access routes
3. Design concerns – applicant invited to consider a revision of the footprint of penthouse level and its materiality, given impact on Protected Structures and properties to east.
4. Revised parking provision.
5. Revised cycle parking provision and revised cycle parking access
6. Revisions to internal road networks to accommodate potential development in adjoining sites.
7. Provision of accessible parking at basement level.
8. Redesigned vehicular entrance and front boundary to provide adequate visibility between pedestrians and motorists, removal of obstructions, pedestrian priority, increased footpath width, clarification of vehicular

movements around accessible spaces to prevent pedestrian obstruction, and creation of a self-regulating traffic environment.

9. Provision of a baseline noise survey including information on the impacts of demolition and construction phases on the receiving environment particularly with regard to rock breaking/piling activities.
10. Impact of rock breaking/excavation on neighbouring properties.
11. Boundary treatments.

3.1.2. The Further Information received was advertised as Significant. Following consideration of same, the Planning Authority granted permission subject to 32 No. conditions, including

- Elevation drawings reflecting SFI to be submitted (Cond 2)
- Occupation by individual purchasers (Cond 3)
- Glazing in northmost dwelling facing north side shall be opaque at first and 2nd floor level (Cond 4)
- Roof area other than terraces shall be accessed for maintenance only (Cond 5)
- Boundary treatments (Cond 7)
- Archaeological Impact Assessment mitigation measures (Cond 9)
- Materials, finishes, colours to be agreed prior to commencement (Cond 10)
- Surface Water/SuDs (Cond 14)
- Car-parking provision and transport (Cond 15)

- Tree protection and landscaping requirements including bond (Cond 17)
- Social affordable housing provision (Cond 26)
- General development contributions (Cond 27, 28, 29)
- Supplementary development contribution towards Luas line B1 from Sandyford Depot to Cherrywood (Cond 30)
- Bond (Cond 31)

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

#### **3.2.1.1. The first planning report:**

- Considered demolition and the principle of development acceptable.
- Considered density acceptable, in principle, having regard to Section 12.3.3.2 of the DLRCDP, the definition of the site as under the Compact Settlement Guidelines and the emerging profile in the area, including the potential for redevelopment of adjoining plots, subject to the provision and protection of residential amenity.
- Considered that overlooking was not an issue, as 16m separation distances between dwellings, under the Compact Settlements Guidelines, are met, and in some cases ample separation distances are achieved due to the length of rear gardens. Internal separation distances are not a consideration.
- Acknowledged that the development would present a significant change in views from surrounding properties.
- Considered that adequate levels of sunlight would be achieved in the development and that there was no concern in relation to unduly negative impacts on adjoining residential amenity due to overshadowing.

- Considered the development acceptable in terms of unit mix, internal standards and external storage, communal open space.
- Considered that the location, size and layout of the public open space did not comply with CDP requirements but that a development contribution in lieu of same would be appropriate.
- Considered that the extent of tree removal and retention acceptable. Noted that details of boundary treatments were required.
- Assessed the scheme against the provisions of the building heights strategy, and considered the proposal generally satisfactory but noted concerns in relation to visual aspects impacting on protected structures and the visual impact of the five story 50m long block on lands to the east. No negative impact on the Foxrock ACA or streetscape was deemed to arise. Considered a reduction in the penthouse level with substantial setbacks from either side was required and revisions to materiality.
- Considered ecological impacts were not an issue and the AA screening report and EcIA were in order.
- Considered the Further Information as per the transportation sections report was appropriate and noted clarity on the intentions for the existing access point and lane were required.
- Considered reduced car-parking provision was required, along with clarification of EV charging provision, cycle parking quality.
- Largely considered housing/part V, surface water, flood risk matters acceptable.
- Considered a number of issues in relation to Construction Management required clarification, in particular potential rock breaking during construction.

Further information was requested arising from the above, as set out at 3.1.1 above.

#### 3.2.1.2. The second planning report:

- Considered that the site area and ownership had been adequately clarified

- Noted that the footprint of the penthouse has been reconfigured pulling it back by 4 metres on the southern parapet and seven metres from the eastern parapet resulting in the loss of 1 No. 3 bedroom apartment and considered that this change (as supported by photomontage views, and the response from the agents architects on the architectural heritage impact assessment) resulted in the block being less prominent for sensitive areas including those in the grounds of Tullow Church protected structure. The changes result in a building of appropriate scale massing and materiality which would not be unduly visually dominant that will be compatible with the character of the ACA and not unduly impact on protected structures and their grounds to the east
- Considered that the response to item 4 in relation to car parking was not adequate as excessive parking provision remained, but could be dealt with by condition in terms of the remaining outstanding items
- Consider the response in relation to cycle parking and cycle parking access, which involved the omission of one unit at ground floor acceptable
- Consider the revised internal roadway accommodating potential development of adjoining sites acceptable
- Considered request in relation to access and revised proposals for the public footpath and vehicular entrance had been adequately addressed
- Considered item 9 and item 10 no relation to noise and issues related to rock breaking concerns have been adequately addressed
- Considered boundary treatments had been adequately addressed

3.2.1.3. Having regard to the zoning of the site it was considered that the development would not detract from the amenities of the area and was consistent with the provisions of the development plan and therefore in accordance with proper planning and sustainable development. It was considered there was no real likelihood of significant effects on the environment or significant impacts upon a Natura 2000 site it was recommended that permission be granted, subject to conditions.

3.2.1.4. I note that the Case Planner's recommendation included a condition requiring the payment of a special contribution, in lieu of the provision of the minimum quantum of public open space, which would fund improvements to Cabinteely Park within 1km of the proposed development. An initialled note on the report omits this condition, on the basis that the scheme complies with Table 12.7 of the DLRCDP. The conditions of grant of permission are otherwise as per the Case Planner's recommendation.

### 3.2.2. Other Technical Reports

|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Transportation</b><br>Report 1: | Sought Further Information in relation to <ul style="list-style-type: none"> <li>- cycle parking,</li> <li>- cycle access,</li> <li>- car parking provision,</li> <li>- accessible parking,</li> <li>- revisions to proposed access point for safety,</li> <li>- revised arrangements for pedestrians,</li> <li>- increased footpath width,</li> <li>- access lane to west,</li> <li>- demonstration that development would act as a self regulating traffic environment</li> </ul> |
| Report 2 Post FI:                  | No objection subject to conditions                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Drainage:</b>                   | Recommended conditions                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Parks:</b>                      | Noted that a preferred layout would be the movement of the apartment building to the east and provision of an improved central open space which would also allow for increased retention of trees. Recommended conditions.                                                                                                                                                                                                                                                          |
| <b>EHO:</b>                        | Requested information in relation to the Construction Environmental Management Plan (CEMP)                                                                                                                                                                                                                                                                                                                                                                                          |

|                                  |                                                                                                                                                                               |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Environmental Enforcement</b> | Noted information was deficient in relation to the Outline Construction Management Plan (OCMP) and Outline Resource and Waste Management Plan (ORWMP). Recommended conditions |
| Report 1:                        |                                                                                                                                                                               |
| Report 2 Post FI:                | No objection subject to conditions                                                                                                                                            |
| <b>Housing:</b>                  | Recommended conditions                                                                                                                                                        |

### 3.3. Prescribed Bodies

**Uisce Éireann** No objection

### 3.4. Third Party Observations

3.4.1. A number of third party submissions were received. The majority of the issues raised are contained within the appeal grounds below; other concerns raised include

- traffic safety for residents of estates off of Brighton Avenue,
- the capacity of the drainage network
- potential nuisance from the former driveway entrance to the site to the side of Gleneagle Lodge
- lack of public consultation.

3.4.2. Further third party submissions were received on the Further Information submitted, stating that the Further Information response and revisions fail to address concerns. The issues raised are also contained within the submissions and appeal grounds detailed elsewhere in this report

## 4.0 Planning History

4.1. Site:

D18A/0143 ABP-302060-18: Permission granted for demolition of dwelling and construction of 4 No. detached dwellings

4.2. Noted in surrounding area/ACA

ABP 301614 Strategic Housing Development 100 apartments (4 storeys) and 38 houses

D21A/0051 311671-21 Permission granted and granted on appeal for 4-5 storey over basement apartment development comprising 37 No. units and 21 No. two storey dwellings.

D21A/0999 ABP 315103-22 Permission refused and granted on appeal for demolition of dwelling and construction of replacement dwelling and 2 semi-detached dwellings.

D21A/0632 APB-313943-22 Permission granted and granted on appeal for demolition of dwelling Construction of 2 no. semi-detached 2 storey 4-bedroom houses.

D22A/0411 ABP-314540-22 Permission refused and granted on appeal for demolition of dwelling referred to as Rockbrae, and construction of 4 storey apartment block with 26 apartments

D23A/0001 ABP-317457-23 Permission refused and granted on appeal for construction of 2no. two storey five bedroom detached dwellings and new access road to site at existing dwellings Ardenza and Glenarm (Protected Structures)

## 5.0 Policy Context

### 5.1. National Policy

- 5.1.1. The National Planning Framework - Project Ireland 2040 sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards.

## **5.2. Regional Policy**

The Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 provides a framework for development at regional level promoting the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint.

## **5.3. Section 28 Ministerial Guidelines**

The following ministerial guidelines are considered relevant to the appeal site:

- 5.3.1. The Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024)** (hereafter referred to as the Compact Settlement Guidelines) These guidelines outline appropriate density ranges for different area types. Table 3.1 'Areas and Density Ranges Dublin and Cork City and Suburbs' states that it is a policy and objective of the guidelines that residential densities in the range between 40 dph to 80 dph (net) shall generally be applied in suburban locations in Dublin and Cork, and that densities of up to 150 dph shall be open for consideration at 'accessible' suburban locations.

Table 3.8 provides accessibility definitions with 'Lands within 500-1,000 metres (i.e. 10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services' defined as 'intermediate locations'. The guidelines state that while densities within the ranges set out will be acceptable, planning authorities should encourage densities at or above the mid-density range at the most central and accessible locations in each area, densities closer to the mid-range at intermediate locations and densities below the mid-density range at peripheral locations. Densities above the ranges are 'open for consideration' at accessible suburban and urban extension locations to the maximum set out in Section 3.3.

**Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023)** (hereafter referred to as the 'Apartment Guidelines') address density and include with the definition of 'Intermediate Urban Locations' at section 2.4, sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport

stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided. The Guidelines also set out standards for design and layout of units and amenity spaces.

**5.3.2. Architectural Heritage Protection Guidelines for Planning Authorities (2011)**

**2011** provide guidance in relation to proposals within an Architectural Conservation Area and affecting Protected structures. The guidelines include criteria to consider regarding the impact on the character and special interest of the ACA. Section 3.10 outlines criteria for assessing proposals for development within an ACA. It states that the design of new development is of paramount importance. It states that scale of new structures should be appropriate to the general scale of the area and not its biggest buildings.

**5.3.3. Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines');**

**5.3.4. Design Manual for Urban Roads and Streets (DMURS) (2019);**

**5.3.5. Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).**

**5.4. Development Plan**

**5.4.1. Dun Laoghaire Rathdown County Development Plan 2022-2028** is the relevant development plan. The following are the main relevant applicable sections, policies and objectives of the Development Plan to the site (not an exhaustive list):

- The site is within an area zoned A the objective for which is to provide residential development and improve residential amenity while protecting the existing residential amenities. 'Residential' use is permitted on this zoning objective.
- The site is partly within but mostly excluded from the Foxrock Architectural Conservation Area, which surrounds it. A Character Area Appraisal Report has been prepared for the ACA.

- There is a cluster of three protected structures c. 70 m east along Brighton Road, RPS1693 Tullow Church, RPS1691 Tullow Church Rectory, RPS1972 Tullow Church Former Sextons House.

#### 5.4.2. Chapter 4: Neighbourhood – People, Homes and Place

**Policy Objective PHP18:** Residential Density It is a Policy Objective to:

*Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.*

*Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.*

**p. 83** Where a site is located within circa 1 kilometre pedestrian catchment / 10 minute walking time of a rail station, Luas line, Core/Quality Bus Corridor and/or 500 metres / 5 minute walking time of a Bus Priority Route, and/or 1 kilometre / 10 minute walking time of a Town or District Centre, higher densities at a minimum of 50 units per hectare (net density) will be encouraged.

**P 83** Constraints to Higher Density: In some circumstances higher residential density development may be constrained by Architectural Conservation Areas (ACA) and Candidate Architectural Conservation Areas (cACA) designations, Protected Structures and other heritage designations. To enhance and protect ACAs, cACAs, Heritage Sites, Record of Monuments and Places, Protected Structures and their settings, new residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity.

**Policy Objective PHP19:** Existing Housing Stock – Adaptation: It is a Policy Objective to:

- *Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF.*

- *Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.*

**Policy Objective PHP20:** Protection of Existing Residential Amenity: It is a Policy Objective to

- *Ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.*

The following paragraphs **on p 85** are also relevant:

**P85** On all developments with a unit per hectare net density greater than 50, the applicant must provide an assessment of how the density, scale, size and proposed building form does not represent over development of the site. The assessment must address how the transition from low density to a higher density scheme is achieved without it being overbearing, intrusive and without negatively impacting on the amenity value of existing dwellings particularly with regard to the proximity of the structures proposed. The assessment should demonstrate how the proposal respects the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring uses.

On sites abutting low density residential development (less than 35 units per hectare) and where the proposed development is four storeys or more, an obvious *buffer must exist from the rear garden boundary lines of existing private dwellings.*

*Where a proposal involves building heights of four storeys or more, a step back design should be considered so as to respect the existing built heights.*

**Policy Objective PHP27:** Housing Mix **It is a Policy Objective to**

*Encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.*

**Policy Objective PHP42: Building Design & Height** It is a Policy Objective to:

*Encourage high quality design of all new development. Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5.*

#### **5.4.3. Chapter 5 Transport and Mobility**

**Policy Objective T19:** Carparking Standards It is a Policy Objective to

- *Manage carparking as part of the overall strategic transport needs of the County in accordance with the parking standards set out in Section 12.4.5.*

#### **5.4.4. Chapter 11 Heritage and Conservation**

**Policy Objective HER13 - Architectural Conservation Areas** It is a Policy Objective to:

- Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA).*
- Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.*
- Ensure that any new development or alteration of a building within an ACA or immediately*
- adjoining an ACA is appropriate in terms of the proposed design, including scale, height, mass, density, building lines and materials.*
- Seek a high quality, sensitive design for any new development(s) that are complementary and/or sympathetic to their context and scale while simultaneously encouraging contemporary design which is in harmony with the area.*
- Direction can also be taken from using traditional forms that are then expressed in a contemporary manner rather than a replica of a historic building style.*

- vii. *Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.*

#### 5.4.5. **Chapter 12 Development Management**

- Section 12.3.3.1 Housing Mix.
- Section 12.3.5 outlines requirements relating to Apartment Development, including dual aspect, internal storage and external storage, minimum floor areas and additional design requirements.
- Section 12.3.7.7 Infill

*In accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.*

- Section 12.3.9 Demolition and replacement dwellings
- Section 12.4 outlines requirements in relation to Residential Parking, including cycle and motorcycle parking.
- Section 12.8 outlines requirements in relation to open space for residential development, including requirements in relation to public open space, communal open space and private open space.
- Section 12.8.11 Existing Trees and Hedgerows

*New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. New developments shall, also have regard to objectives to protect and preserve trees and woodlands (as identified on the County Development Plan Maps).*

- Section 12.11.4 New Development within an ACA sets out criteria to which applications in an ACA must have regard to.

*When considering development of a site within an ACA (including backland sites), proposals should be sympathetic to the existing character of the area and reflect or refer to the established environment in terms of design, massing, scale, established plot layouts and their relationship to historic streetscape pattern.*

Also notes

*In some instances, development adjacent or immediately outside the boundary of an ACA may also have an impact of their setting and context. An assessment of the impact on the character and appearance of the area may be required.*

#### 5.4.6. **Appendix 5 – Building Height Strategy**

Policy Objective BHS 3 Building Height in Residual Suburban Areas: *It is a policy objective to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between the reasonable protection of existing amenities including residential amenity and the established character of the area.*

Residual Suburban Areas are areas not covered by an existing or forthcoming Local Area Plan or other guidance/policy as set out in this plan and not falling into objective B, G or GB.

Within the built up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.

Section 3.7 of Appendix 5 relates to Suburban Infill and supports increases in height at appropriate locations or on sites in excess of 0.5 hectare which set their own context. The general approach in terms of building heights on these sites had

been to taper height from a high point in the centre of the site down to the site boundaries where the height of adjacent buildings can often be lower.

Table 5.1 provides criteria for assessing proposals for increased height, defined as buildings or buildings taller than prevailing building heights in the surrounding urban area.

#### **5.4.7. Foxrock Architectural Conservation Area Character Appraisal Report**

The site is located within the Foxrock Architectural Conservation Area (ACA). A Foxrock ACA Character Appraisal Report has been prepared and provided for in the development plan. The ACA report outlines that a significant aspect of the special character of the ACA is informed by the layout of sites, the setting of buildings within sites and the surrounding landscaping and notes the importance of the sylvan character of the area

Section 9 also refers to landscape protection stating that as the essence of what is Foxrock is to a great degree derived from its mature trees, shrubs and hedgerows, future developments within the area must include provisions to protect and maintain the sylvan character of the area and the sense of enclosure, which the tree canopy and hedgerows provide along the roads within the ACA. Maintenance of hedgerows must be reflected in any development proposals and piecemeal removal of hedgerows will be viewed in terms of the cumulative impact over time on the sylvan character of the ACA.

#### **5.5. Natural Heritage Designations**

Dalkey Coastal Zone and Killiney Hill pNHA c3.4 km

Loughlinstown Woods pNHA c 2.9 km from site

Dingle Glen pNHA c 2km from site

South Dublin Bay and River Tolka Estuary SPA c 3.9 km

Dalkey Islands SPA c 5.72 km

Wicklow Mountains SPA & SAC c. 6.46 km

South Dublin Bay SAC c 3.9km

## **6.0 EIA Screening**

### **6.1. See Appendix 1.**

The EIA Screening Report within the application was submitted having regard to the criteria set out in Schedule 7A of the Planning and Development Regulations 2001 (as amended) and has informed the Determination attached.

Having regard to: -

1. the criteria set out in Schedule 7, in particular
  - (a) the limited nature and scale of the proposed housing development, in an established residential area served by public infrastructure
  - (b) the absence of any significant environmental sensitivity in the vicinity,
  - (c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
2. the results of other relevant assessments of the effects on the environment submitted including results of an Appropriate Assessment and Strategic Environmental Assessment under the Dun Laoghaire Rathdown County Development Plan and the Appropriate Assessment Screening attached to the Inspectors Report
3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment,

I have concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

#### **7.1.1. Appeals were received from:**

- Tom & Victora Maughan
- Ross & Melissa Moore
- Yseult Quinn and Valerie & Daniel Hickey
- Timothy Ryan

7.1.2. The grounds of the four appeals submitted are summarised as follows:

- Unacceptable impact on residential amenity due to scale and proximity of buildings, overlooking, loss of privacy, overbearing nature of apartment building, construction and operational noise, loss of trees.
- Analysis of impact on daylight/sunlight and of overshadowing insufficient
- Devaluation of property.
- The development is contrary to zoning – it fails to improve residential amenities while protecting existing residential amenities.
- Density is excessive.
- SPPR 1 of the Compact Settlements Guidelines has been selectively applied.
- In terms of the Compact Settlements Guidelines the site should not be considered a City/ Urban Neighbourhood, but rather it is Suburban/Urban Expansion.
- In supporting densification key considerations which constrain infill development affecting ACAS have not been considered by the Planning Authority.
- The density is excessive given impact on amenities of surrounding properties, site constraints and impact on ACA.
- Development will detract from the character of the area in particular sylvan nature and Arcadian/Garden City character
- Excessive height and non-compliance with DLRCOCO building heights strategy

- Landscape and Visual Impact Assessment (LVIA) is inadequate, and fails to properly assess impact on properties
- Excessive tree loss. Scheme should be revised to retain trees.
- Root protection areas are not adequately shown and undermines arboriculture impact assessment. Basement car park and services will compromise RPAs of some trees to be retained. Windthrow effect not considered.
- Tree protection fencing does not include canopies
- Unacceptable impact on ecology.
- Unacceptable impact on the setting of Protected Structures.
- Unacceptable impact on Foxrock Architectural Conservation Area (ACA) and failure to comply with ACA Statement of Character.
- Architectural Heritage Impact Assessment submitted not adequate.
- Inadequate and unacceptable open space provision, given quantity, layout and lack of central location
- Inadequate car parking provision, leading to overflow parking onto adjoining roads and traffic safety issues.
- Lack of capacity in public transport system.
- Unsafe access point in terms of sightlines, heavy vehicle movements, swept path analysis.
- Unsafe circulation within, and traffic safety issues within for Vulnerable Road Users (VRUs).
- Intention for the existing access to the dwellings is ambiguous.
- The proposed development would create precedent for similar high-rise backland development
- Permission granted recently of 3-5 storeys on other nearby sites should not be considered precedent as these had different site context and constraints and are not comparable.

- Permission recently refused nearby for multi storey development on grounds of impact on character
- Permeability to adjoining sites and connection to services by adjoining sites should be ensured (by condition or by S47 agreement) in the event of a grant of planning permission.
- AA may not be correct and robust as the ability of the drainage network to cater for the development is not clear.
- EIA screening report not adequate – cumulative impact not considered

7.1.3. Supporting documentation accompany the appeals (including tree survey analysis, junction/access analysis, traffic safety review and visual impact assessment/photomontages) are noted and have also been considered.

## 8.0 Applicant Response

8.1. The applicant made a response to the initial appeal and a combined response to the three subsequent appeals, which overlap/repeat to an extent. These responses are summarized below.

- A number of relevant planning histories in the area are noted and referenced for comparison.
- The density is appropriate having regard to recent developments in the area, the provisions of the Compact Settlements Guidelines, and the considerations within the planning report. The modifications suggested by the appellant would result in a scheme beneath the minimum density required under the Compact Settlements Guidelines.
- Notes that the Dun Laoghaire Rathdown County Development Plan (DLRCDP) assesses appropriate building height based on a series of criteria which reflect the Urban Development and Building Heights Guidelines (UDBHG), which is qualified further with reference to proximity to public transport, site context. The applicant has methodologically applied the criteria in respect of building which is reflected on the architectural design statement.

- Overbearing appearance and overlooking arising from height has been considered, a separation distance of more than double that required by the Compact Settlement Guidelines is provided and is more than sufficient to take account of the amenity of adjacent properties. There is considerable screening vegetation which will be supplemented. The applicant is willing to accept condition to amend the design of penthouse level outdoor space and to reconfigure the third floor south facing sections
- The applicant's agents strongly rebut claims within the appeal of inaccuracies in the images used in the LVIA. There is no obligation to undertake private photo montages. Guidance points to local and wider assessment on the public domain where the greatest number of sensory receptors are.
- The proposed development contains 16% public open space which exceeds the maximum requirements of the Compact Settlements Guidelines. The requirements for open space set out in the DLRCDP are also met. The design evolution is described in the architectural design statement and was informed by several factors, in consultation with planning authority, including tree retention, separation distance from residential properties, car parking design, street formation. The open space provided relates to the buildings and creates character.
- Loss of Trees: There will always be tension between development, protecting existing residential amenity and retaining trees. Most of the trees to be removed do not represent notable loss of biodiversity or natural cultural heritage. Most are common ornamental species and cultivated varieties planted out in the gardens of modern dwellings of the period of about 50 years. There is no Tree Retention Objective for this site. 121 trees including 51 semi mature trees will be planted, of native species and pollinator friendly.
- Tree Protection: A response is submitted to the appellants' arboricultural submission; Tree constraints areas outlined are what are considered to be the area on site constrained by trees. The Root Protection area (RPA) is the area to be protected. Two trees were omitted in error but it is clarified that these are proposed to be removed. Full impacts on trees were assessed.

There are many instances where mature trees have been successfully retained in close proximity to building and other structures. Tree #1397 will now be retained through modification of ESB substation. Surface water services affecting #1370 to #1371 can be rerouted to avoid impact on trees. Concrete post and panel boundary treatment commonly used successfully to avoid damage to trees. It is acknowledged that it cannot be guaranteed that future home occupiers will retain trees.

- Ecological Impact Assessment: There is no supporting evidence or submission from a specialist ecologist on this matter. The EcIA is robust, fully describes habitats on the site note that no habitats of conservation significance were noted.
- ACA & Protected Structures: The applicants engaged a Grade 1 Conservation Architect who compiled an Architectural Heritage Impact Assessment (AHIA). This was prepared in accordance with the Architectural Heritage Protection Guidelines (AHPG). It is re-iterated that only a small part of the site is within the ACA; the areas excluded are considered not to contribute to the special character of the ACA as per its Statement of Character. The AHIA assessed the design as revised by FI including additional viewpoints and concluded that the apartment block would be visible but not dominant from the public realm of Brighton Rd. Amendments in response to FI provide an improved presentation from the entrance to site and from the grounds of Tullow church and results in reduced prominence and visual impact. The response notes that the photomontages submitted by the appellants do not include and rendering of materials, textures, colour of proposed buildings. The AHIA concluded the scale mass design and materiality was compatible with the area including ACA and Protected Structures.
- Parking: The site is within an accessible location according to the SRDCSG but somewhat removed from retail and other services. This is reflected in the relatively low-density development proposed and also the level of car parking which is at the maximum permitted under the Compact Settlements Guidelines. Parking provision has been justified to the satisfaction of the

planning authority and essentially the applicant's issue is with the provisions of the Guidelines.

- Traffic and Road Safety Issues: A Traffic and Transport Assessment (TTA) Public Transport Capacity Report (PTCR) and Stage 1 Roads Safety/Quality Audit (RSQA) were submitted with the application and updated in response to FI. The appellants make references to the TII Design Manual for Roads and Bridges (DMRB) and National Roads Design Guidance, which are not appropriate. The scheme has been designed to be consistent with the Design Manual for Urban Roads and Streets (DMURS). There is a strong link between street environment and driver behaviour. The road layout is DMURS compliant.

The development is relatively small in scale, peak morning and evening early traffic generation is calculated to be an average of 16 to 17 vehicles per hour.

The majority of issues raised by appellant are external issues on the public roads, unrelated to the application and within the control of DLRCC. Collision data is unreferenced by the appellant.

DMURS is clear that that streets are not designed to cater for the largest vehicle, which often account for relatively few movements. Manoeuvres crossing the centre line can be acceptable on local/lightly trafficked streets.

There is no DMURS standard for pedestrian intervisibility at the vehicle access point so the most recent TII standard was applied and the entrance is in excess of same. The design was accepted in terms of operational safety.

The intervisibility exceeds the intervisibility at the vast majority of such accesses. The sightline has been measured on the ground, not off OS maps. A further visibility is provided at the back of the footpath.

The internal street is designed having regard to DMURS in terms of shared surfaces width. A landscaped strip provides a refuge area. A 2.0m wide off road walkway is also provided as an alternative.

ABP is invited to review the Public Transport Capacity/Availability and Demand report in relation to public transport capacity raised by the appellant.

- Noise and vibration: Construction noise and vibration was assessed and the general conclusion was the demolition and construction operations including rock breaking can be undertaken without adversely affecting nearby sensitive receptors. There would be no piling on site

Rock breaking most likely method to be used with hydraulic braking. A system of vibration monitoring was outlined adhering to vibration limits set out in British Standards Guidance. Adherence to same should ensure no cosmetic damage nearby residential buildings. Baseline vibration survey not required for the site because the limits are absolute limits will not be relative to any background vibrations existing prior to excavation work find

- Daylight and Sunlight: The BRE standard only recommends use of shadow plots for 21<sup>st</sup> December in very limited circumstances. March 21 is the equinox and provides average levels of predicted shadowing. Appendix B of the Daylight and Sunlight report demonstrated that the development will not affect existing neighbouring amenity areas significantly.
- AA/EIA Screening: It is not clear why the AA screening is deemed inadequate by the appellants. The only issue stated is the capacity of the existing drainage network to cater for the development without impact on Natura 2000 sites. Surface water from the development will be discharged to the sewer after SuDs techniques to limit and control discharge. Confirmation of design feasibility to connect to the network was received from Irish Water. The foul drainage will ultimately flow to the Shanganagh WWTP which discharges to the Irish Sea under licence and which has capacity for the development.

The EIA Screening is adequate and addresses cumulative impacts.

#### 8.1.1. Planning Authority Response

The Board is asked to refer to the previous Planner's report; the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

## **8.2. Observations**

Three further observations were received;

- Supporting the appeal calling for refusal of development and limitation of apartment block to 2 storeys
- Stating that the open space provision represents a Material Contravention, and the development is not DMURS compliant.

## **8.3. Further Responses**

A further response from the first appellant to the 3 further appeals was received. This supports the other appeals.

## **9.0 Assessment**

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

- Principle of development/zoning
- Visual impact
- Impact on character of the area, ACA and Built Heritage
- Impact on residential amenity
- Density
- Building height, design and open space
- Ecology, loss of trees and impact on retained trees.
- Traffic and transport
- Permeability/relationship with adjoining sites
- AA/EIA Screening.

## **9.2. Principle of development/zoning**

- 9.2.1. The site is zoned A Residential *To provide residential development and improve residential amenity while protecting the existing residential amenities. Residential development is permissible in principle, meaning that subject to compliance with the relevant policies, standards and requirements set out in this Plan, residential land-use is generally acceptable.*
- 9.2.2. The two no. dwellings on site are of no particular architectural merit, or historic significance and are outside the ACA. The incorporation of these houses into a development would unreasonably constrain the redevelopment of the site and density of dwellings accommodated. The considerations of the embodied carbon released by the demolition of the buildings is outweighed by the benefit of the number of new residences built to modern standards in an infill location close to services and transport.
- 9.2.3. The proposed development is therefore acceptable in principle, subject to the protection of existing residential amenities. This is discussed below at 9.5.

## **9.3. Adequacy of LVIA and Visual Impact Assessment**

- 9.3.1. I have considered the grounds of appeal relating to Landscape and Visual Impact Assessment (LVIA) and note the details within and detailed response to each issue by the applicant. It is not intended to repeat each individual issue here, however in summary, the appeals:

- Question the methodology and adequacy of the LVIA,
- State that private properties should have been considered sensitive receptors and the impact on same should have been considered.
- Presents a separate set of photomontages depicting visual impact from additional locations.

- 9.3.2. I note that the LVIA submitted in response to FI clearly sets out the guidance documents used to inform its preparation, including the Guidelines on the Information to be Contained in Environmental Impact Assessment Reports (EPA, 2022) and Guidelines for Landscape and Visual Impact Assessment (Institute of Environmental Assessment/Landscape Institute), with a glossary of terms and definitions referencing the above documents. These guidance documents are the accepted guidance documents for landscape and visual impact assessment in Environmental Impact Assessments.
- 9.3.3. There is a thorough baseline examination. The ACA, Landscape Classification, Protected Views etc are considered. The rationale for inclusion of views is set out. Each view is described in terms of Quality of Effects, Significance of Effects, Extent, Probability, Duration of Impact and Type as per EPA Guidelines. I note that gaps in the study, where they arise, have been acknowledged (e.g. inability to provide summer views of photomontages in some instances). I am of the view that the methodology is sound and having reviewed the details of the individual who prepared the report, I am satisfied regarding their qualification and experience.
- 9.3.4. I have considered the photomontages submitted by the applicant. I have walked the site and surrounding area. I consider that these give an adequate representation of the development's intervention in the landscape. I note that additional photomontages have been submitted in response to the appeal, to provide comparison images to those submitted by the appellant. I note that the applicant's images have been presented incorporating the angle of view as used in the appellant's photomontages, which allows for comparison, and I consider that there is consistency between the two sets of images in terms of ridgelines relative to existing development, off set of building edges etc.
- 9.3.5. I note the appellants position that views from private properties were not included and that this is a failing of the LVIA. However, having considered the EPA Guidelines and the Guidelines for Landscape and Visual Impact Assessment, in particular Section 6.17 to 6.20 and the factors outlined, I conclude that that selection of private viewpoints would not be the norm and note the statement that that "effects of development on private property are frequently dealt with through residential amenity assessments" which I consider is the case in this instance. I consider that the applicant chose a significant number of sensitive receptors,

representative of the local area and that these were sufficient, and that the LVIA is adequate.

#### **9.4. Impact on ACA/character of the area, and Protected Structures**

9.4.1. The Architectural Heritage Impact assessment submitted in response to FI, and the additional comments submitted in response the appeals, are noted.

9.4.2. **Foxrock ACA:** The site is partly within the Foxrock ACA. It is evident from the ACA Character appraisal and map that the ACA is based on the roads of Westminster Road, Torquay Road, Brighton Road and Foxrock Village and the secluded properties fronting same. The ACA Character appraisal states “*A significant aspect of its character is informed by the layout of sites, the setting of buildings within the sites and the surrounding landscaping. The overall visual character of the area is sylvan in nature characterised by low density residential development with well enclosed road corridors which are almost rural in character. The well defined road edges are enclosed by mature planting and property boundaries which generally consist of a limited palette of natural materials including granite walls, timber and metal fencing and gates or hedging.*”

9.4.2.1. The majority of the site is not within the ACA, the plots of the two dwellings to the rear of properties fronting Brighton Road are excluded. The Character Appraisal clearly states. “*Those areas excluded are considered not to contribute to the special character of Foxrock and therefore do not warrant inclusion in the proposed ACA*”. Therefore, I have no objection to the demolition of the dwellings or the redevelopment of the site in principle, in terms of the ACA.

9.4.2.2. In terms of the portion of the site within the ACA, this is the access road between the 3 dwellings recently constructed. It is my opinion that the character of the area/ACA has already been significantly altered at this location, by the scheme of four houses permitted. The open nature of the development created clearly breaks the sense of road enclosure considered to define the ACA and is inconsistent with typical boundary treatments. It is also my view that the form and density of development permitted is not consistent with the majority of plots which form the

ACA. Given the scale of interruption to the ACA already created, I consider the proposed access road in itself does not detract any further from the character of the ACA.

9.4.2.3. The final matter is whether the views of the proposed development from elsewhere within the ACA detract from the character of the ACA. (The access road does have a bearing on this.) I have visited the site and walked the surrounding area within the ACA and considered the landscape and visual impact assessment report and photomontages submitted in response to FI. I consider these images a good representation of the proposed development and host environment. I have focussed on views from the public realm and public areas within Tullow Church Grounds, as impacts from within individual properties and Protected Structures are a separate matter and assessed elsewhere in this report.

9.4.2.4. In terms of impact on the character of the ACA, I consider that this will be imperceptible to very minor, with the exception of Views 1, 12, 14 and 15 of the applicant's photomontages. In terms of View 1 and 15, these are not typical end views. However, the proposed access road draws the eye into the backland areas and the height of the apartment building does the same. It is also a greater negative impact on the ACA than the 4 houses permitted, as those dwellings did not open up views of the backlands, or reduce the sense of enclosure to the same extent.

9.4.2.5. I do not consider that the additional impact of the access road is so significant that refusal of any access road is warranted. As stated, the damage to the ACA is done by the 4 dwellings permitted. But I am of the view that a reduction in the height of the apartment block is desirable as it would reduce the prominence of the backland structures, therefore draw the eye into the backlands less, and therefore reduce the impact on the sense of enclosure, which is a key characteristic of the ACA. The building would also then compete less, visually, with structures fronting Brighton Road. I believe that a reduction in height by one floor, together with different materiality at the uppermost floor, would achieve this.

9.4.2.6. I also consider this amendment would benefit views 12 and 14; by reducing the height and prominence of the roofline compared to that of existing structures, the eye will be less drawn to the backland development. This is discussed further at 9.4.3.3 below in the context of views of Protected Structures.

9.4.3. **Protected Structures:** I note a number of Protected Structures in the Brighton Road /Kerrymount Avenue the nearest being

- RPS1695 The Grange
- RPS1693 Tullow Church
- RPS1691Tullow Church Rectory
- RPS1972 Tullow Church Former Sextons House

9.4.3.1. Having regard to the pattern and form of development in the vicinity of RPS1695 The Grange, I do not consider there will be any discernible impact on the setting of this Protected Structure from the proposed development.

9.4.3.2. With regard to RPS1693 and or PS1691 Tullow Church and Tullow Church Rectory, I note that these buildings are contained within a built up area; the only vantage points where the proposed development could form a backdrop are from the south-east. Given the limited angle of views, I do not consider that the setting of Tullow Church Rectory will be affected. In terms of Tullow Church, I consider that, given the form and roof profile of the church, its spires, other buildings in its curtilage, along with trees and wires in the skyline and the distance to the proposed apartment block, the impact of the proposed development on the setting of the church will be minor and not significant.

9.4.3.3. RPS1972 Sexton's House is set back further within this complex of buildings and currently enjoys a largely open backdrop when viewed from the east; there is c. 30m from this structure to the proposed apartment building. I consider that the proposed development as shown in views 14, 13, 12, of the photomontages submitted in response to FI would have a significant impact on the setting of this

protected structure when viewed from what are public areas. I note that that the omission of one floor of the proposed apartment block would result in a lower roof line which would not exceed that of the Sextant's House as shown in eye level views and I consider this reduction in height appropriate. I consider that the third floor of the proposed apartment block should be omitted, rather than the top 4<sup>th</sup> floor, as the materials and setback of the upper 4th floor would benefit the setting of the Protected Structure, in terms of having a lesser visual prominence. The materials and set back of the uppermost floor will allow the front building line and roof profile of the Sextants House remain more legible expressed in visual terms, and protect its character, within this ACA.

- 9.4.3.4. I therefore recommend the omission of Floor 3 in the interest of the protection of the ACA and the RPS1972 Sexton's House

## **9.5. Impact on residential amenity**

- 9.5.1. I consider the scale of the proposed houses and proximity to existing surrounding dwellings is acceptable; I note their height at c. 12m. I note the Compact Settlements Guidelines provide that a separation distance (between opposing windows of habitable room to rear and side) above 16m should not typically be required. A separation distance of approx. 14m to the boundary of the residential property to the west is provided and a distance of 19-20m to the building itself. The second floor of proposed dwellings is served by rooflights to rear. The dwellings are c. 25 m from the existing dwellings to the south with a gable facing onto same. A condition requiring obscure glazing at first/second floor, on the side elevation of the houses will preclude overlooking of properties to north and south from the proposed houses. Given the scale, orientation, separation distance and configuration of both existing and proposed dwellings I do not consider overbearing impact or overlooking will arise.
- 9.5.2. In relation to the impact from the proposed apartment block, I consider that in the case of buildings to the north of the site, there is sufficient separation distance between the proposed apartment building and existing dwellings, and sufficient vegetation in terms of proposed and retained hedgerows and trees, such that the development will not present as overbearing to these properties.

- 9.5.3. I consider that the closer spatial relationship with Es Vedra and Glenasmole to the south presents a different scenario. The applicant is in part relying on separation distances between opposing above-ground floor windows, as per the Compact Settlements Guidelines, in that there will be a 34.8m separation distance, double that set out in SPPR1 of the Guidelines. The Compact Settlement Guidelines state *When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained.*
- 9.5.4. While the 16m separation is provided in this case, it should be noted that the Guidelines also state *In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties.*
- 9.5.5. There are windows and balconies on the southern elevation of the apartment building which will overlook the rear of Es Vedra and, to a less direct extent, Glenasmole. There are eight such units inclusive of first to fourth floor, each with living space on the southern elevation accessing balconies. There are also bedrooms and studies on levels 1, 2, 3. This is a significant intensity of use in terms of overlooking.
- 9.5.6. I note the matter of balconies on apartments, which do not come within the definition of 'habitable rooms' in the Compact Settlements Guidelines and differ due to the absence of enclosure. A balcony introduces outdoor activity, a greater extent of noise and increased vantage points, at a height. The impact of a balcony is greater than the impact of an open window.
- 9.5.7. The applicant is partly relying on trees, in terms of screening the impact of the proposed apartment building in views from these dwellings, and softening its bulk. I have reviewed the submitted Tree Survey and note 4 No. trees within the proposed development site and Es Vedra and Glenasmole:

- Tree no. 1384, Cherry, 6m high to be retained;
- Tree no. 1386, Cherry, in advanced decline to be felled;
- 1385, Apple, dead;
- Tree 1382 Lime, 18m high, to be retained (note this is in the extreme south eastern corner of the site and has an intermittent canopy).

There is also a larch tree indicated within the grounds of Es Vedra

9.5.8. I also note the section drawings in the applicant's response to the appeal (p 17) which show trees of 18m/19m height within the development site, between the proposed apartment block and existing dwellings to south. However, based on the Tree Survey and my observations on site, these larger trees (which reach the height of the apartment building and thus would provide screening) are not so positioned relative to the dwellings such that they would screen the proposed development from view. Most of the proposed trees within direct view-lines from the two existing properties, will reach to approximately first floor height of the apartments, as shown on the section drawing.

9.5.9. Having regard to the above, I consider that given

- the height of the proposed apartment building,
  - the number of units oriented towards existing dwellings from the southern elevation,
  - the location of habitable rooms and external balconies,
  - the proximity to 2 no. dwellings to the south
  - the limited existing screening from mature trees within the development site
- the proposed apartment development would, in its current form, detract from the amenities of these dwellings through overlooking and overbearing nature and would adversely affect the enjoyment of those properties.

9.5.10. Notwithstanding the above, I am of the view that it is not in the interest of proper planning and sustainable development to consider that exiting amenities should be entirely preserved at the expense of compact growth and reduced urban sprawl. I consider that the following measures would be sufficient to address the impact on the amenities of the above properties:

- Omission of Floor 3,
- Removal of balcony sections on southern elevation where above first floor level;
- Treatment of penthouse balcony to limit viewing point to south.

This would significantly reduce the overbearing appearance of the proposed apartment building and reduce the intensity of overlooking in terms of residential units and their vantage points.

9.5.11. Finally, the property to the east, Aviemore, is accessed from Kerrymount Road and has an extremely long rear garden, the end of which adjoins the development site. The rear area of the garden contains a tennis court and grassed area beyond. There will be more limited direct vantage points from Aviemore due to the narrow plot width and mature boundaries. I note tree nos. 1373, 1374 are Category A trees to be retained which, along with the separation distance achieved by the recessed eastern elevation of the building, will mitigate the visual impact of the proposed development on this property. In addition, there is mature hedging and another cluster of trees (nos. 1378-1381) which provide valuable screening of the building. I do not consider that the proposed development would significantly adversely affect the enjoyment of this properties. In addition, the omission of floor 3 will further reduce the visual impact of the proposed apartment building on this area of the garden.

9.5.12. I note that the photomontages submitted by the appellants present the proposed development as a grey unrefined form. I find these photomontages limited in terms of depicting the visual impact of the proposed apartment building on adjacent private properties, in terms of its potential to be overbearing. The absence of any colour or details of material, openings, is significant in terms of representing how the development will read in the landscape; the lack of detail in relation to building form and movement (e.g. in terms of recesses/projections) renders the building far more austere and visually dominant than it would be in reality. I have therefore in my assessment relied on drawings and photographs within both application, appeal and appeal response, publicly available mapping and aerial photography, and on my inspection of the site and area.

9.5.13. **Daylight and Sunlight:** A Daylight and Sunlight Assessment Report was submitted with the application. It assessed the impact of the proposed development on existing buildings and open spaces by reference to the 25degree obstruction angle check, VSC (vertical sky component) and overshadowing, having regard to BRE Site Layout Planning for Daylight and Sunlight a Guide to Good Practice. An assessment of daylight and sunlight within the proposed development was also carried out. Shadow images are also provided. The assessment has considered buildings in the vicinity and modelled from windows on elevations of same.

9.5.13.1. The height of the proposed apartment block at its greatest is 17m, at a distance of c. 80 m from dwellings to the north. With reference to the abovee BRE document, as the distance to the new development over 3 times its height (to be taken at above first floor window) , daylighting of these properties is unlikely to be significantly affected.

9.5.13.2. In terms of properties to south east and west, having regard to key measures outlined (i.e. the obstruction angle is less than 25 degrees, the Vertical Sky Component is not less than 27% of 0.8 times its former value) I am satisfied that there is no undue impact on surrounding properties in terms of daylight

9.5.13.3. In terms of sunlight, most buildings are a distance of at least 3 times the height of the building. Where this does not occur, with one exception (Woodfield, discussed below), no part of a building is within 90 degrees of due south of a main window/wall. Therefore, there is unlikely to be noticeable loss of sunlight to these buildings.

9.5.13.4. The proposed development is within 90 degrees of due south of windows on the eastern elevation of the dwelling to the west (Woodfield). I note that these windows are within an annex to the main building, close to a mature boundary to east which already affects sunlight. Nevertheless, the analysis shows that the obstruction angles is less than 25 degrees for windows on the eastern elevation. In addition, while VSC for four windows is reduced, it does not go lower than .8% of its current value, and is therefore acceptable in terms of standards. I also note

that the overall property benefits from uninterrupted amenity space and separation distance to the west and south

9.5.13.5. In terms of overshadowing, having regard to BRE guidance, all the outdoor areas of adjacent properties areas receive at least 2 hours of sunlight on 21st March as per shadow diagrams provided.

9.5.13.6. I am satisfied regarding the adequacy of the daylight and sunlight assessment submitted. 21<sup>st</sup> March is accepted as an average date for use in shadow analysis. No analysis of APSH (Annual Probable Sun Hours) was warranted as the 25 degree angle and VSC standards were satisfied, as set out in the BRE guidance. Loss of daylight, sunlight and overshadowing is not likely to be significant.

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

9.5.15. **Conclusion on Residential Amenity/Zoning Objective:** Having regard to the foregoing, I conclude that, subject to the revisions set out above, the proposed development would adequately protect exiting residential amenities and thus satisfies the zoning objective relating to the site, as set out at 9.2 above *To provide residential development and improve residential amenity while protecting the existing residential amenities.*

## 9.6. Density

9.6.1. Section 4.3.1 of the DLRCDP sets out density policy. In summary, the provisions set out:

- Consolidation and intensification of infill sites is a key approach in terms of delivering housing supply and compact urban growth.

- In determining density, proximity and accessibility are considerations. The DLRCDP states that where a site is located within circa 1 kilometre pedestrian catchment / 10 minute walking time of a Luas line, higher densities at a minimum of 50 units per hectare (net density) will be encouraged.
- Regard is to be had to the Sustainable Residential Development in Urban Areas Guidelines (since superseded by the Compact Settlements Guidelines).
- The development management criteria set out in Chapter 12 of the DLRCDP must be considered.
- ACAs and Protected Structures are acknowledged as possible constraints to higher density. New residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity.
- High quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area must be provided with higher density developments.

9.6.2. Figure 3.3 of the Compact Settlements Guidelines sets out the process for identifying appropriate density for a plan or development. The density range is first established in accordance with Table 3.1 Areas and Density Ranges in Dublin, then having regard to accessibility and then having regard to local character/environment/amenity.

- Areas: I do not consider that the site is within a City-Urban Neighbourhood; noting in this regard that the only category which could be considered would be category (iv) lands around existing or planned high-capacity public transport nodes or interchanges (defined in Table 3.8). While the site is within 1km of light rail service corridor and station, it is not within 1km of a node/interchange (which implies the coming together of more than one route/mode). I therefore consider that the lands come within the City – Suburban/Urban Extension definition, with the wider area being consistent with the description of *low density car orientated residential areas constructed at the edge of cities in the latter half of the 20th and early 21st*

century (while noting the earlier formation of the immediate Foxrock area itself).

- **Accessibility:** It is a policy and objective of the Guidelines that residential densities in the range 40 dph to 80 dph (net) shall generally be applied at suburban and urban extension locations in Dublin and Cork, and that densities of up to 150 dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations (as defined in Table 3.8). I note again that Table 3.8 of does not refer to light rail corridors. However, I note Section 3.4.1 of the Guidelines Consideration of Proximity and Accessibility to Services and Public Transport differentiates between *accessible* and *intermediate* locations with regards to bus services:

*Accessible Location: Lands within 500 metres (i.e. up to 5-6 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services*

*Intermediate Location: Lands within 500-1,000 metres (i.e. 10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services;*

The Guidelines state that planning authorities should encourage densities at or above the mid-density range at the most central and accessible locations in each area and densities closer to the mid-range at intermediate locations.

Given the location of the site c. 800m from a Luas stop with > 10 minute peak hour frequency<sup>1</sup>, the comparable provisions of the Guidelines in relation to bus services and noting that light rail is typically a higher quality form of public transport in terms of capacity and reliability etc, in the absence of a specific parameter for light rail, I consider these lands to be an "*Accessible Location*" that application of upper density range would be appropriate in the context of the Compact Settlements Guidelines, ie. 80dph net.

- **Local Character/Environment Amenity:** These are addressed in section 8.4 onwards of this report.

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<sup>1</sup> <https://www.luas.ie/carrickmines.html>

- 9.6.3. With regard to the DLRCDP the site is c. 800m from a Luas stop, therefore densities at a minimum of 50 units per hectare (net density) will be encouraged.
- 9.6.4. Therefore I am of the view that, in numbers alone, a minimum of 50 dph (net) should be considered the target for the site, but densities of 80 dph (net) are to be encouraged, subject to considerations relating to character, environment and amenity.
- 9.6.5. The density of the proposed development is c 61 units per hectare as per application and 58 units per hectare as per grant of permission, which is acceptable in terms of the above standards. However, based on my assessment at 8.4 and 8.5 above this density can only be achieved with negative impact on the ACA and a nearby Protected Structure, and impacts on the amenities of 2 nearby residences in particular. Therefore the desirable density is constrained in this case and development will be required to minimise any adverse effect in terms of height, scale, massing and proximity.
- 9.6.6. The omission of floor 3 as set out above, will result in the loss of 9 units, resulting in 37 units on a site of .79 hectares i.e. c. 47 units per hectare. This is approaching the minimum 50 units per hectare desirable for the site.

## **9.7. Building height/design and open space**

- 9.7.1. **Building Height/Design:** The National Planning Framework in particular BPO 13 and BPO 35 sets out the role of increased heights in terms of achieving increased density and compact growth. The Section 28 Urban Development and Building Heights, Guidelines for Planning Authorities put forward an area based and a performance criteria-driven approach and these along with other guidance are implemented through the Building Heights Strategy contained within Appendix 5 of the DLRCDP.
- 9.7.1.1. Policy Objective BHS 1- Increased Height is to support the consideration of increased heights and also to consider taller buildings where appropriate in ....suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of LUAS stop.... provided that proposals ensure a balance

between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. (NP0 35, SPPR 1& 3).

- 9.7.1.2. Policy Objective Policy Objective BHS 3 - Building Height in Residual Suburban Areas is to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between the reasonable protection of existing amenities including residential amenity and the established character of the area.

*Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban areas. Any such proposals must be assessed in accordance with the criteria set out below in table 5.1 as contained in Section 5. The onus will be on the applicant to demonstrate compliance with the criteria.*

- 9.7.1.3. The site is within 1000m and 10 minutes' walk of a Luas stop, and therefore increased height is supported (subject to consideration of amenities/environmental sensitivities/character). Policy objective PHP20 requires an assessment under Table 5.1, due to the height of the apartment building over 4 storeys. I note same has been provided by the appellant and my assessment of the criteria is as follows:

**Criteria 1 County Level:** The proposal is an infill brownfield site and will support compact growth within a key urban area. The site is well served by public transport within 10 minutes of a Luas stop. The proposal largely integrates into the character and public realm of the area, however there are some concerns in relation to the prominence of the apartment building, due to views into the site from Brighton Road, and the impact on one Protected Structure, addressed in greater detail elsewhere in this report. No protected views and prospects are affected. The skyline is not affected. There is

infrastructural capacity in the area. Irish Water and internal services sections raised no concerns.

**Criteria 2 District//Neighbourhood/Street Level:** Setting aside issues relating to the ACA and Protected Structure addressed in greater detail elsewhere in this report, I consider the proposed building responds to the environment and makes a positive contribution to the urban neighbourhood in terms urban design criteria. The building is not monolithic and all elevations show vertical and horizontal movement. The design uses a palette of materials which have been selected in consideration of the character of nearby properties and the impact on same. Considerations regarding existing public spaces, key thoroughfares and the street interface are not relevant given the context of the site. However the proposed street is enclosed with active frontage/entrances etc. and while proposed open space would benefit from being more centrally located, the constraints to the site are noted and these spaces remain supervised and of a quality/design to favour activity. All elevations are active allowing interaction with the building, and there are no long uninterrupted forms. I am satisfied that the proposal is largely a positive contribution to the neighbourhood (aside from views into ACA and impact on Tullow Church Sextons House). Subject to the amendments set out I consider that the proposal will provide an appropriate interface with existing adjacent development.

**Criteria 3 At site/building scale:** Access to natural daylight, ventilation, aspect are acceptable. There is no significant overshadowing. Daylight Sunlight performance has been assessed and is satisfactory. It is considered that there would be a significant impact on two adjoining properties in terms of overlooking and overbearing nature, and an impact on the ACA and Protected Structure, as set out above. A reduced height is recommended accordingly. Subject to these changes I consider the height is acceptable at site building scale.

**Criteria 4: County Specific Criteria:** Considerations relating to coastal, mountain settings, along with air navigation, telecommunications channels etc are not applicable having regard to location and limited height of proposed

building. This is not a large development site. Relevant assessments or screening for same have been carried out, EIA, AA, EcIA.

9.7.1.4. In conclusion, I have considered the proposed apartment building in accordance with Appendix 5 Building Heights Strategy and am of the view that, subject to the amendments set out above, which I acknowledge are not insignificant, the proposal meets these requirements.

#### 9.7.2. **Precedent**

Both applicant and appeal refer to precedent of grants of planning permission and refusal in the area to support their cases in terms of appropriate building height and density. In the interest of completeness and consistency I have reviewed planning decisions in the immediate vicinity. However, this exercise only leads me to conclude that precedent is not an applicable concept, particularly for infill urban development, as each site is unique in context. The proposed development site cannot be directly compared to such other sites which are less backland in nature, or have more regular site form, or have more regular building line, or more regular surrounding pattern of development, which front onto larger open areas or which are not adjacent/within an ACA. The proposal must be considered on its own merits, having regard to relevant planning policy.

#### 9.7.3. **Open Space**

The appeals consider the public open space provision deficient.

9.7.3.1. Table 12.7 of the DLRCDP defines categories of open space

***Public open space** is defined as being generally freely available and accessible to the public, and in the case of certain residential developments has, or is intended to be, 'taken-in charge' by the Local Authority.*

*In all new residential development schemes, there should be some appropriate provision made for public open space within the site. In all instances where public open space is not provided a contribution under Section 48 will be required for the short fall.*

**Communal Open Space** *Communal open space is for the use of a set group of residents within the development only and would ordinarily be maintained by a Management Company i.e. is privately owned.*

*This would be typical of apartment - type residential developments and can be gated/ located adjacent to one/two specific apartment blocks for their exclusive semi-private use. It can also apply to some housing schemes*

9.7.3.2. Communal space is also required as per Table 12.9. Communal open space to serve the apartments is 254 sq metres. 310 sq metres is provided to the north east, outlined in yellow on the Landscape Plan. This relates well to the apartment building, has direct access, and a woodland garden with sculptures and existing mature trees will provide separation from the public open space area. I consider the communal open space adequate.

9.7.3.3. Table 12.8 of the CDP requires a minimum open space provision of 15% of site area as public open space.

9.7.3.4. The Compact Settlement Guidelines, which came into effect since the adoption of the DLRCDP, states:

*Public Open Space Public open spaces in residential schemes refers to the open spaces that form part of the public realm within a residential development. This is distinct from a public park. Open spaces provide for active and passive recreation, nature conservation, pedestrian and cycle connection and provide an important visual break between streets and buildings. All residential developments are required to make provision for a reasonable quantum of public open space. There is a need to focus on the overall quality, amenity value and biodiversity value of public open spaces. The spaces should integrate and protect natural features of significance and green and blue infrastructure corridors within the site and should*

*support the conservation, restoration and enhancement of biodiversity. The public open space should also form an integral part of the design and layout of a development and provide a connected hierarchy of spaces, with suitable landscape features, including seating and provision for children's play.*

Policy and Objective 5.1 states: *The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances. Different minimum requirements (within the 10-15% range) may be set for different areas.*

- 9.7.3.5. The proposed development has an area of public open space of 1233 sq metres at the south east of the apartment building. This equates to c. 16% of the site area. I acknowledge the space could be more centrally located, however I accept how the location and design response to the developmental constraints of the site.

The space is located towards the front of the site, with open views into it from the west. It is the location of a children's play area, and provides opportunities for community interaction, including communities from outside the site. The playground space connects to a kickabout area and incorporates hedgerows and trees. It connects well to communal open space and is integrated with the remainder of the development. There are windows and terraces adjacent the space to provide passive surveillance.

I am satisfied that the quantitative standards for public open space have been met, and while it is not of the optimal central location it is designed to a good standard in terms of quality, recreation, amenity and biodiversity. I note that it may not be intended that this space be taken in charge, and this may result in impediment to the space being fully 'public' in terms of use by those from outside the development. However, given the quantity and quality of space provided, I consider the application of a condition requiring the payment of a special contribution (in lieu of the provision of the minimum quantum of public open space given it may not be taken in charge) would be excessively onerous.

## 9.8. Ecology, loss of trees and impact on retained trees.

9.8.1. I note the Ecological Impact Assessment (EclA) submitted with the application which largely provides the following:

- A habitats classification was carried out and a field survey in August 2023 (and building inspection in October 2023). The site consists of residential buildings/built land, amenity grassland, hedgerows, treelines, flower beds/slash borders, small horticultural garden, an abandoned pool forming a pond, and some scrub. Both desk and field studies were carried out.
- No habitats of conservation significance were noted. No rare or plant species of conservation value were noted. Some invasive species plants were found on site including rhododendron, butterfly bush, cherry laurel and travellers-joy.
- No resting or breeding places of terrestrial animals were noted. No terrestrial fauna species of conservation importance were noted. Eastern gray squirrel which is an invasive animal species was noted.
- No frogs/amphibians were noted.
- No bats were found roosting. There was no evidence of bats within the buildings on the site. There was evidence of some foraging within the site. Bat activity is considered minor and of relatively low importance to the local bat population. It is noted that 2 trees of bat roosting potential are proposed to be removed. Mitigation measures (including inspection prior to felling and obtaining derogation license if required) pollinator friendly planting, bat friendly lighting and provision of 5 bat boxes are noted.
- The bird survey noted six species with Green conservation status on site and one species (swallow) of Amber conservation status foraging overhead.
- NBDC records were considered in terms of biodiversity and species of interest in the surrounding 2 sq. km area.
- Overall, construction impacts are considered low adverse, negative, not significant, short term and limited to site or local. Operational impacts are considered to be low adverse negative and not significant and long term.

Mitigation is noted (e.g. standard construction practices, compliance with licensing/legislation, site clearance outside nesting season etc are noted and deemed sufficient.

9.8.2. I am satisfied that the Ecological Impact Assessment has had regard to relevant guidance and been prepared according to standard methodology. There is limited detail in the appellant's appeal in relation to ecology and no submission from an ecological expert has been made. I have carried out AA Screening and EIA Screening separately. I am therefore satisfied, particularly having regard to the infill urban location of the site and the site characteristics, as per the field survey and my own observations, that the conclusions of the EcIA are reasonable, that the development would not impact significantly on ecology and biodiversity in the area.

9.8.3. An Arboricultural assessment, Arboricultural Impact and Tree Protection Strategy Report was submitted with the application.

- 97 trees were identified as assessed with 9 (8.3%) Category A High Quality/Value, 39 (40.2%) Category B Moderate Quality/Value, 29 (29.9%) Category C Low Quality/Value and 20 (20.6%) Category U (Trees showing immediate and irreversible decline). A large majority of ornamental garden types of trees were noted.
- 52 trees are intended to be removed which is 67% of viable trees within the site. This means 33.3% of the Category A trees within the site, 80% of the Category B trees within the site and 65.5% of the Category C trees within the site.
- The report sets out mitigation measures for a number of trees, within proposed gardens, or where they intersect with footpaths. A Tree Protection Strategy is set out, including appointment of arborist to oversee all works relevant to trees, scheduling of works, establishment of tree protection areas, monitoring, supervision and post construction re-assessment.

9.8.4. On the matter of tree loss, there is always a balance to be found between retention of trees and development. I note that the development of urban areas at greater densities, i.e. compact settlements, will typically result in less extensive

tree/hedgerow/habitat loss that at an urban edge, where such features often are of higher quality and biodiversity value. In this instance, having regard

- to the infill location of the site,
- proximity to public transport,
- densification that will be achieved on site,
- the absence of any Tree Protection Orders or objectives to protect and preserve Trees and Woodlands relating to the site,
- the limited number of higher quality trees to be removed,
- the ornamental and non-native nature of many of species being removed,
- the quantity of native species to be replanted,

I consider the level of tree removal is acceptable.

9.8.5. I do not consider that the scheme should be revised to retain trees, or to provide an alternative layout in relation to tree retention. I consider that the approach taken to retain those primarily at overall site boundaries retains more of the higher quality trees which also offer amenities to the adjoining sites, in terms of screening, lessening visual impact and outlook.

9.8.6. I accept that a root protection area differs from tree constraints area. A root protection area is an area of ground immediately under a tree and typically just beyond the extent of its crown. A tree may present different constraints to proposed development, its shape, crown spread, layout of proposed buildings etc. compared to root protection area.

9.8.7. I agree with the appellants that the tree protection area indicated on drawings appears to be inadequate for 1370 and 1371 given root protection areas indicated and given guidance in *BS5837 Trees in Relation to Design Demolition and Construction*. However, I note that proposed structures are outside the indicated root protection area, and the proposed basement level is also more removed than ground floor, and consider that indicated fencing can therefore be amended to reflect same. I also note that there is an existing surfaced/built area within these root protection areas, and an existing building within the root protection area of tree 1371. These may have affected root growth/spread and will require

assessment on site. Along with the foregoing, I note that a detailed survey and assessment of trees has been carried out by a qualified and experienced individual and in this regard, given the recommendations in the report and in response to the appeal, including re-routing of surface water infrastructure, I do not consider there is a basis to require redesign for greater separation distance to these trees. I note the application of a condition by DLRCC in granting planning permission requiring the engagement of an Arboricultural Consultant for the entire period of construction and also the requirement for payment of a bond for tree protection. I therefore consider the matter of risk to trees for retention to be adequately assessed for the purposes of planning permission.

## **9.9. Traffic and transport**

- 9.9.1. **Access point and internal road:** I note that the access point has been designed in accordance with DMRUS rather than the TII Design Manual for Roads and Bridges (DMRB) which is appropriate. DMURS states that “the DMRB shall not henceforth apply to urban roads and streets other than in exceptional circumstances”. I note that this is a 50kmph road which is also a bus route. Therefore the stopping sight distance is 49m as per Table 4.2 of DMURS which is indicated on drawings, with a setback of 2.4m applicable. The applicant has confirmed that the arrangement has been proposed based on measurements on the ground rather than OS maps. I egressed the location by car, and I consider that the visibility indicated consistent with that which I observed. I also accessed and egressed the site as a pedestrian, and considered visibility good (I note utilities pole is intended to be moved). I do not consider it appropriate to seek a greater set-back; part of the DMURS approach is to constrain vehicular movements in order to slow them, for a safer traffic environment which cater better for vulnerable road users.
- 9.9.2. I accept that the proposed street within the development is intended to be a shared surface and as such the proposed 4.8m in width is in accordance with DMURS. I do not consider that the presence of a separate additional footpath to the east changes the nature of this carriageway. However, I do consider that

clarity of the material, colour and texture of the shared carriageway is required, having regard to Section 4.4.2 of DMURS, which states that changes in colour and texture should be applied to the full length of the street; which is not indicated on landscaping plans.

- 9.9.3. Swept path analysis has been undertaken for a high reach fire tender and a refuse vehicle entering and exiting the proposed development. This analysis acknowledges that on these occasions, vehicle movements will cross the centreline of the road. I consider this is acceptable in the context of DMURS, being larger vehicles which account for relatively few movements.
- 9.9.4. I note the appellant raises several further issues such as surface conditions, potential obstructions to visibility from planting, lack of clarity in design details within the proposed development. I consider that much of this comes down to detailed design matters. An independent Stage 1 Road Safety Audit & Quality Audit was carried out, which identified four issues. These matters were responded to by the designer and alternative measures incorporated in response as required. A further Road Safety & Quality Audit was carried out at Further Information stage and no additional issues were identified.
- 9.9.5. With regard to these more detailed issues raised in the appeal, these would be more appropriately be addressed through a Stage 2 Road Safety Audit, along with a statement of DMURS compliance, which may be applied in the event of a grant of planning permission. I note also that Condition 15 of grant of planning permission which requires design and construction to DLR County Council's 'Taking-in-Charge Development Standards Guidance Document' (June 2022) requirements and 'Taking In Charge Policy Document (May 2022)': and all to the satisfaction of the Planning Authority (Municipal Services Department) which reflects the requirements of DMURS to a notable extent.
- 9.9.6. I consider the provision of lighting improvements, carriageway improvements, parking restrictions, bus stop removal, and speed monitoring in the vicinity of the site would be an onerous requirement given the level of development proposed. Where the proposed development contributes to the need for such works, I consider this cost is covered by the applicant's payment under the General Development Contributions Scheme.

9.9.7. **Brighton Avenue Junction:** I have reviewed the TTA and note the following key points relevant to my assessment of traffic and transport matters below.

- The TTA was prepared in accordance with the TII Traffic and Transport Assessment Guidelines 2014.
- Surveys were carried out in May 2023 when schools were fully open.
- Modelling/junction simulation was carried out in accordance with TRICS and PICARDY which are accepted industry modelling applications
- Growth rates in accordance with TII Travel Demand Projections for the Dublin Metropolitan Region were used.
- Worst case scenarios were considered
- 6 junctions were analysed
- Peak additional traffic movements identified in accordance with the above are 16-17 cars per hour, with 148 movements 2 way over a 24 hour period.

9.9.8. Brighton Avenue serves a number of residential cul de sacs and is not a through-route. As such I consider it unlikely that the proposed development will, as per the appeal, create significant volumes of traffic queuing to turn right from the development onto Brighton Avenue at peak times, when journeys are predominantly to workplaces and to schools. This is supported by data in the TTA. While there may be more significant volumes of traffic leaving Brighton Avenue at these times, and queuing/congestion is more of a concern, an analysis of the assignment of the completed/occupied development to the road network is included within the TTA. This indicates 12 additional movements leaving the proposed site and 5 movements entering the site, at peak times. I do not consider these volumes significant. I also note that note from the TTA that this represents 3.4% operational impact on the junction, at peak times, which is below the 5% threshold over which further analysis of impact is required. I note that visibility between Brighton Road and the site access point is good. Therefore I do not consider the impact of the development on the Brighton Avenue junction likely to be significant.

9.9.9. **Public transport capacity.** The applicant submitted a report on public transport capacity in response to the FI request. Existing services and capacity are set out

along with planned services under Bus Connects. The assessment extracted CSO SAPS 2022 data from the three CSO small areas in the immediate vicinity, and applied the split (between bus and Luas modes for those aged 5+, going to work school or college) to the population generated by the proposed development, based on existing travel patterns and the proportion of people leaving from 7-9am at peak time. This generates an additional .07% demand on existing Luas capacity and 0.7% on bus capacity. An observational study of Luas trams and busses was also carried out and it was observed that there was always capacity on busses and trams during peak periods. I consider this a practical and reasonable approach to analysis capacity at the nearest points of entry to public transport. The appellants, while citing case law, claim lack of capacity, but have not submitted any data or study in relation to same. I accept the results of the study. I do not consider that the proposed development is likely to place significant demand on public transport.

- 9.9.10. **Parking:** The DLRCDP designates car parking zones with standards for each zone. (These standards pre-date the Compact Settlements Guidelines.) The majority of the site is within Car Parking Zone 2 of the CDP, and the site is consistent with the description of this location. The CDP states that within parking zone 2 maximum standards shall apply for all uses except for residential where the standard is required. For residential uses reduced provision may be acceptable dependent on criteria set out in Section 12.4.5.2. The applicable standard is 1 space per 1 and 2 bed house or apartment, and 2 spaces per 3+ bed apartment or house. This generates a standard provision of 62 spaces.
- 9.9.11. As per Section 8.3 above, I consider this an Accessible City – Suburban/Urban Extension, within the meaning of the RSDCSG, and not a City – Urban Neighbourhood, as per the local authority. SPPR 3 of the Compact Settlements Guidelines states: In accessible locations, defined in Chapter 3 (Table 3.8) car-parking provision should be substantially reduced. The maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 1.5 no. spaces per dwelling. (This equates to 72 spaces for the proposed 48 units). The development proposes 63 spaces (including 3 visitor spaces included in standards as required by

SPPR3). This is a 12.5% reduction from the maximum allowable under the Compact Settlements Guidelines. I am of the view that the parking provision of 63 spaces (including visitor spaces) is acceptable for 48 units.

I also note the condition of the Planning Authority that, along with 1 space per residential unit, 2 car-share spaces, 2 accessible spaces, and 3 no. on-street EV charging stations is more appropriate to a scheme of this size. I concur with this view.

9.9.12. Therefore, in the event of permission being granted I consider appropriate that the parking provision be in accordance with the CDP standards for Area 2, which are within with the parameters of the Compact Settlements Guidelines for Accessible City. For the 37 units recommended to be granted that is as follows

9 No. 1 bed Apt x 1 space = 9

15 No. 2 bed Apt x 1 space =15

3 No. 3 bed Apt x 2 space 3 = 6

10 no. dwellings 3+bed x 2 spaces =20

Therefore, in accordance with the DLRCDP a total of 50 spaces (plus 2 car share, + 2 accessible + 3 on-street EV = 57)

In accordance with the Compact Settlement Guidelines, for the 37 units recommended to be granted a total of 55 spaces (37 units x 1.5 spaces) are allowable (plus 2 car share, + 2 accessible + 3 on-street EV = 62)

As it is policy that car parking ratios should be reduced at all urban locations, and should be minimised, substantially reduced or wholly eliminated at locations that have good access to urban services and to public transport, I consider it appropriate to adopt the lower number.

#### **9.10. Permeability and relationships with adjoining sites:**

9.10.1. The proposed development was revised at Further Information to provide potential access to lands to the rear. This is acceptable and addresses matters raised by third parties. I consider that a condition for a S47 agreement allowing future

connection to the proposed development's utilities by other developers is outside the scope of planning permission and a separate matter for the parties involved.

9.10.2. I note that the existing access to the site, to the west of Brighton Grove, is to be closed off at the location of the red site boundary. The intention for the laneway is unclear, other than that it is to be closed off at completion of development and landscaped. I accept that this is a concern for the occupant of the house to the west, in terms of potential nuisance or anti-social behaviour. However correspondence has been submitted by the applicant's legal agent confirming that this laneway is not in the ownership of the applicant and that it has been transferred to a third party. In this regard it would not be appropriate to attach any condition relating to works to, or use of, this laneway.

## **10.0 AA Screening**

10.1. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) is not required. This conclusion is based on:

- Distance from European Sites,
- Lack of direct connections to European Sites
- The limited zone of influence of potential impacts, restricted to the immediate vicinity of the proposed development
- Objective information presented in the Screening Report
- The AA Screening conclusions of the Planning Authority

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

See Appendix 2 Appropriate Assessment Screening.

## **11.0 Recommendation**

I recommended that condition be granted, subject to the conditions below.

## **12.0 Reasons and Considerations:**

The proposed development is located on lands zoned 'A - To provide residential development and improve residential amenity while protecting the existing residential amenities'. Having regard to the zoning of the site, and its location c. 800m from a Luas stop and noting the existing dwellings on the site are not of particular architectural merit, the principal of demolition and intensification of residential use on site is acceptable.

Having regard to the location of the site partly within, but mostly outside of, the Foxrock Architectural Conservation area, and subject to the omission of the third floor of the apartment block and other minor modifications, the proposed development is of scale, form and design which would not significantly detract from the character of the Foxrock ACA or Protected Structures in the vicinity, would not seriously injure the residential amenities of property in the vicinity or the visual amenities of the area and would be acceptable in terms of traffic safety therefore.

The proposed development would therefore, subject to compliance with conditions set out below, be in accordance with the provisions of the current Dún Laoghaire-Rathdown County Development Plan 2022-2028 and in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 9<sup>th</sup> day of May 2024 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>                                                                                                                                                                             |
| 2 | <p>The development shall be modified as follows:</p> <ul style="list-style-type: none"><li>i. The third floor of the proposed apartment building shall be omitted;</li><li>ii. The balcony sections on southern elevation shall be removed, as set out on page 17 of the response to the appeal, submitted to the Board on 23<sup>rd</sup> July 2024, where above first floor level;</li><li>iii. The penthouse balcony shall be permanently affixed with planters (or the structure modified) to reduce vantage points to the south, set out on page 17 of the response to the appeal, submitted to the Board on 23<sup>rd</sup> July 2024;</li><li>iv. The glazing on the northern elevation of the northern-most dwelling, and the southern elevation on the southern-most dwelling shall, where above ground level, be permanently fitted obscure/frosted glass;</li></ul> |

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|   | <p>v. The roof areas of the apartment block, other than identified terraces/roof gardens for the penthouse units, shall be access for maintenance purposes only and shall not be used as private or communal amenity space or purposes.</p> <p>Prior to the commencement of development, revised plans shall be submitted for the written agreement of the Planning Authority providing for the above.</p> <p>Reason: In the interest of protecting the character of Protected Structure RPS1972 Tullow Church Former Sextons House, in the interest of the protection of the character of the Foxrock Architectural Conservation Area, and in the interest of residential amenity.</p> |
| 3 | <p>The mitigation measures recommended in the submitted Ecological Impact Assessment Report shall be implemented in full.</p> <p>Reason: In the interest of the protection of ecology and the environment.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 4 | <p>a) Details of the materials, colours and textures of all the external finishes to the proposed structures, and</p> <p>b) Details of the materials, colour and texture of the shared carriageway (which shall comply with DMURS requirements)</p> <p>shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development</p> <p>Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.</p>                                                                                                                                                                                                   |

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| 5 | <p>Each house or apartment shall be occupied as a single dwelling unit and shall not be sub-divided.</p> <p>Reason: To avoid unauthorised development</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 6 | <p>The development shall not be gated</p> <p>Reason: In the interest of permeability and in building communities</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 7 | <p>a) Private car parking provision for residential units shall not exceed 50 spaces. A minimum of one car parking space per five car parking spaces for the apartments shall be equipped with one fully functional EV charging point. All proposed residential car parking shall be constructed to be capable of accommodating future electric charging points for electrically operated vehicles.</p> <p>b) 2 No. car share spaces, 2 no. accessible spaces and 3 no. EV charge spaces shall be provided in addition to the above. Remaining proposed car share spaces at basement level shall be repurposed for bulky storage and 1 no. proposed accessible space at surface level shall be landscaped.</p> <p>c) Cycle parking provision shall be in accordance with Dun Laoghaire Rathdown County Council Standards for Cycle Parking and associated Cycling Facilities for New Developments 2018.</p> <p>d) Prior to commencement the applicant shall submit a revised site layout plan and basement plan showing the above for the written agreement of the planning authority.</p> <p>Reason: To accord with the provisions of the Sustainable Residential Development and Compact Settlements Guidelines.</p> |

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| 8  | <p>(i) Prior to the commencement of development, the applicant shall submit</p> <p>a) A statement of DMURS compliance and</p> <p>b) A Stage 2 Road Safety Audit</p> <p>for the proposed development, setting out any required modifications, for the written agreement of the planning authority. The requirements of the audit shall be implemented in full by the applicant/developer.</p> <p>(ii) A Stage 3 Road Safety assessment shall be carried out upon completion of construction and submitted for the written agreement of the planning authority. The requirements of the audit shall be implemented in full by the applicant/developer.</p> <p>Reason: In the interests of orderly development and traffic safety.</p> |
| 9  | <p>Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the development. Such lighting shall be provided prior to the making available for occupation of any residential unit.</p> <p>Reason: In the interest of amenity and public safety.</p>                                                                                                                                                                                                                              |
| 10 | <p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>                                                                                                                                                                                                                                                                                                                                                            |
| 11 | <p>Prior to the commencement of development, the developer shall appoint a qualified arborist as an Arboricultural Consultant for the entire period of</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

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|    | <p>construction. The applicant shall inform the planning authority in writing of the appointment and the name of the Consultant and agree the consultant's brief, in writing, with the planning authority, prior to any mobilisation of plant, machinery or construction equipment.</p> <p>Reason: To secure the protection of trees on the site, in the interest of visual amenity, residential amenity, the character of the area, ecology and biodiversity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 12 | <ul style="list-style-type: none"> <li>i. The landscaping scheme shall be implemented in full, within the first planting season following substantial completion of external construction works and prior to the occupation of the new dwellings.</li> <li>ii. The developer shall appoint and retain the services of a qualified Landscape Architect throughout the life of the construction works. The applicant shall inform the planning authority in writing of the appointment and the name of the Landscape Architect and agree their brief, in writing, with the planning authority, prior to any mobilisation of plant, machinery or construction equipment.</li> <li>iii. All planting shall be adequately protected from damage until established. Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting, shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species, unless otherwise agreed in writing with the planning authority.</li> <li>iv. Installation of attenuation tree pits shall be supervised by the project landscape architect.</li> </ul> <p>Reason: In the interest of visual amenity, residential amenity, the character of the area, ecology and biodiversity.</p> |

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| 13 | <p>All mitigation measures in relation to archaeology and cultural heritage as set out in the Archaeological Impact Assessment Report shall be implemented in full. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/ excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.</p> <p>Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.</p> |
| 14 | <p>Drainage arrangements including the attenuation and disposal of surface water and SuDS features shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 15 | <p>Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network. All development shall be carried out in compliance with Uisce Éireann's Standard Details and Codes of Practice.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>                                                                                                                                                                                                                                                                              |
| 16 | <p>Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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|    | <p>house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>                                                                                            |
| 17 | <p>A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, traffic management, construction lighting, site housekeeping, public liaison management, emergency response planning, site environmental policy, and project roles and responsibilities.</p> <p>Reason: In the interest of residential amenities, public health and safety and environmental protection.</p> |
| 18 | <p>Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p>                                                                     |

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|    | Reason: In the interest of reducing waste and encouraging recycling.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 19 | <p>An Operational Waste Management Plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, within each house plot and/or for each apartment unit, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p> |
| 20 | <p>(a) The communal open spaces, including hard and soft landscaping, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company</p> <p>(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity</p>                                                                                         |
| 21 | Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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|    | <p>authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To secure the protection of trees on the site.</p>                                                                                                          |
| 22 | <p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p> |
| 23 | <p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority [in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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|    | <p>section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.</p>                                                                                                                                                                                                                                                                               |
| 24 | <p>(a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> |

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|    | <p>(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>                                                                                                                                                                                                                                                                                                                                                                     |
| 25 | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p> |

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| 26 | <p>The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford Depot to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p> |
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Bébhinn O'Shea  
Planning Inspector

18<sup>th</sup> February 2024



**Form 1**  
**EIA Pre-Screening**

|                                                                                                                                                                                                                    |                                                                                                                                                                              |                                                                                                                                                                                                                                           |                                                  |
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| <b>An Bord Pleanála</b>                                                                                                                                                                                            | <b>319996-24</b>                                                                                                                                                             |                                                                                                                                                                                                                                           |                                                  |
| <b>Case Reference</b>                                                                                                                                                                                              |                                                                                                                                                                              |                                                                                                                                                                                                                                           |                                                  |
| <b>Proposed Development Summary</b>                                                                                                                                                                                | The omission of one permitted dwelling from (per reg. ref. D18A/0143) at site no. 3, Brighton Grove to provide access to the site; and construction of 48 residential units. |                                                                                                                                                                                                                                           |                                                  |
| <b>Development Address</b>                                                                                                                                                                                         | Brighton Grove, Brighton Avenue Foxrock Co. Dublin                                                                                                                           |                                                                                                                                                                                                                                           |                                                  |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br><br>(that is involving construction works, demolition, or interventions in the natural surroundings) |                                                                                                                                                                              | <b>Yes</b>                                                                                                                                                                                                                                | <b>X</b>                                         |
|                                                                                                                                                                                                                    |                                                                                                                                                                              | <b>No</b>                                                                                                                                                                                                                                 |                                                  |
| <b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>                                                                |                                                                                                                                                                              |                                                                                                                                                                                                                                           |                                                  |
| <b>Yes</b>                                                                                                                                                                                                         | <b>X</b>                                                                                                                                                                     | Class 10(b)(i) Construction of more than 500 dwelling units<br><br>Class 10(b)(iv) Urban development in a built-up area                                                                                                                   | <b>Proceed to Q3.</b>                            |
| <b>No</b>                                                                                                                                                                                                          |                                                                                                                                                                              |                                                                                                                                                                                                                                           |                                                  |
| <b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>                                                                                                      |                                                                                                                                                                              |                                                                                                                                                                                                                                           |                                                  |
| <b>Yes</b>                                                                                                                                                                                                         |                                                                                                                                                                              | <b>State the relevant threshold here for the Class of development.</b>                                                                                                                                                                    | <b>EIA Mandatory EIAR required</b>               |
| <b>No</b>                                                                                                                                                                                                          | <b>X</b>                                                                                                                                                                     |                                                                                                                                                                                                                                           | <b>Proceed to Q4</b>                             |
| <b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>                                                                                       |                                                                                                                                                                              |                                                                                                                                                                                                                                           |                                                  |
| <b>Yes</b>                                                                                                                                                                                                         | <b>X</b>                                                                                                                                                                     | Class 10(b)(i) Threshold is 500 dwelling units, 48 units proposed.<br><br>Class 10(b)(iv) Urban development which would involve an area greater than .....10 hectares in the case of other parts of a built-up area. Site is .79 hectares | <b>Preliminary examination required (Form 2)</b> |

| 5. Has Schedule 7A information been submitted? |   |                                                                    |
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| No                                             |   | Pre-screening determination conclusion remains as above (Q1 to Q4) |
| Yes                                            | X | Screening Determination required                                   |

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## From 3 EIA Screening Determination

| A. CASE DETAILS                                                                                                                                                                                          |                                                                                                                  |                                                                                  |
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| <b>An Bord Pleanála Case Reference</b>                                                                                                                                                                   | 319996-24                                                                                                        |                                                                                  |
| <b>Development Summary</b>                                                                                                                                                                               | Demolition of 2 dwellings, construction of 10 houses and a 5 storey over basement apartment block with 38 units. |                                                                                  |
|                                                                                                                                                                                                          | <b>Yes / No / N/A</b>                                                                                            | <b>Comment (if relevant)</b>                                                     |
| <b>1.</b> Was a Screening Determination carried out by the PA?                                                                                                                                           | No                                                                                                               | PA concluded the need for EIA could be excluded at preliminary examination stage |
| <b>2.</b> Has Schedule 7A information been submitted?                                                                                                                                                    | Yes                                                                                                              | Yes                                                                              |
| <b>3.</b> Has an AA screening report or NIS been submitted?                                                                                                                                              | Yes                                                                                                              | AA Screening Report                                                              |
| <b>4.</b> Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?                                                             | No                                                                                                               |                                                                                  |
| <b>5.</b> Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA | Yes                                                                                                              | SEA and AA of the Dun Laoghaire Rathdown County Development Plan 2022-2028       |

| B. EXAMINATION                                                                                                                                                                                           | Yes/ No/<br>Uncertain | Briefly describe the nature and extent and Mitigation Measures (where relevant)<br><br>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)<br><br><b>Mitigation measures</b> –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect. | Is this likely to result in significant effects on the environment?<br><br>Yes/ No/ Uncertain |
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| <b>This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith</b>                                                                             |                       |                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                               |
| <b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)                                                                                    |                       |                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                               |
| <b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?                                                                                      | No                    | Area is residential with growing pattern of infill and densification and a number of recent multistorey/multi unit developments in the area                                                                                                                                                                                                                                                           | No                                                                                            |
| <b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?                                                 | No                    | No change to land use, but intensification.<br>No changes to topography.                                                                                                                                                                                                                                                                                                                              | No                                                                                            |
| <b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply? | Yes                   | Raw materials to be used as per typical construction scheme but not of such scale and quantity that there would be significant effects on the environment                                                                                                                                                                                                                                             | No                                                                                            |
| <b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance                                                                                                     | Uncertain             | Construction activities will require the use of potentially harmful materials such as fuels and give rise to waste for disposal. Possible asbestos                                                                                                                                                                                                                                                    | No                                                                                            |

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| which would be harmful to human health or the environment?                                                                                                                              |     | in demolition. Noise and dust emissions are likely. Such impacts would be local and temporary in nature and the Construction Management Plan and Resource and Waste Management Plan would mitigate potential impacts. Pre-demolition survey propose to inform any necessary response to asbestos.                                                                                                                                                                                    |    |
| <b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?                                                                      | Yes | Construction activities will require the use of potentially harmful materials such as fuels and give rise to waste for disposal. Pollutants such as dust emissions are likely. Waste during demolition and construction works, arising from demolition and more significantly from basement excavation. Outline Resource Waste Management Plan and Operational Waste Management Plan sets out mitigation and management measures which are typically standard construction practice. | No |
| <b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea? | No  | Typical construction management practices as set out in Outline Construction Management Plan to mitigate against contamination. No watercourses on site.                                                                                                                                                                                                                                                                                                                             | No |
| <b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?                                                                   | Yes | Vibration and noise is likely from basement excavation during construction, temporary and local. Construction Noise and Vibration assessment was undertaken. Hydraulic breaking proposed. No piling Selection of quiet plant. Noise control at source. Screening. Liaison with the public Monitoring. These measures feed into the Construction Management Plan.                                                                                                                     | No |

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| <b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?                                                                                                                                                                                                                                                                                                             | No  | Typical construction management practices as set out in Outline Construction Management Plan to mitigate against contamination of noise, dust (both temporary and local) and water.<br><br>Operationally potential for air pollution from noise, traffic etc. However, noting traffic levels generated, existing urban environment this is not considered significant. | No |
| <b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?                                                                                                                                                                                                                                                                                                                  | No  | Site not in the vicinity of any site with a risk, or within an area at risk of flooding.                                                                                                                                                                                                                                                                               | No |
| <b>1.10</b> Will the project affect the social environment (population, employment)                                                                                                                                                                                                                                                                                                                                      | Yes | The proposed development will provide housing and population of 120 based on household size of 2.5 (DLRCDP)                                                                                                                                                                                                                                                            | No |
| <b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?                                                                                                                                                                                                                                                                                                | Yes | Yes. DLR population is projected to grow by 31,125 – 38,125 to Q1 2028 and has a housing target of 18,515 for the same period as per the CDP. However, this has been subject to Strategic Environmental Assessment during the preparation of the CDP                                                                                                                   | No |
| <b>2. Location of proposed development</b>                                                                                                                                                                                                                                                                                                                                                                               |     |                                                                                                                                                                                                                                                                                                                                                                        |    |
| <b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:<br><ul style="list-style-type: none"> <li>- European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>- NHA/ pNHA</li> <li>- Designated Nature Reserve</li> <li>- Designated refuge for flora or fauna</li> <li>- Place, site or feature of ecological interest, the preservation/conservation/</li> </ul> | No. | Nearest pNHA 2km from site.<br><br>Nearest European Sites c. 4 km from development site. AA Screening included, Appendix 2, concludes that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.                                                                       |    |

|                                                                                                                                                                                                                                          |            |                                                                                                                                                                                                                                                                                         |    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan                                                                                                                                        |            | No features/species of ecological interest identified for protection/conservation.                                                                                                                                                                                                      |    |
| <b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project? | No.        | Ecological Impact Assessment included with application. No rare or plant species of conservation value present. No resting or breeding places of terrestrial animals. No terrestrial fauna species of conservation importance. No bats roosts or within buildings.                      | No |
| <b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?                                                                                                           | No and Yes | None evident- archaeological features. Testing recommended.<br><br>Site is within ACA with Protected Structures nearby. Assessed in report. AHAI submitted. Subject to conditions not considered to be a significant impact. Not considered significant enough to warrant EIA in itself | No |
| <b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?          | No         | Urban land area                                                                                                                                                                                                                                                                         | No |
| <b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?               | No         | The development will incorporate SUDS measures to control surface water run off. The development will not increase the risk of flooding. No surface water features within the site.                                                                                                     | No |
| <b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?                                                                                                                                                             | No         |                                                                                                                                                                                                                                                                                         | No |
| <b>2.7</b> Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or                                                                                                | No         | Site served by local road network.                                                                                                                                                                                                                                                      | No |

|                                                                                                                                                                                                                                                                                                                                          |    |                                                                                                                                                                                     |    |  |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|--|--|
| which cause environmental problems, which could be affected by the project?                                                                                                                                                                                                                                                              |    |                                                                                                                                                                                     |    |  |  |
| <b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?                                                                                                                                                                                       | No |                                                                                                                                                                                     | No |  |  |
| <b>3. Any other factors that should be considered which could lead to environmental impacts</b>                                                                                                                                                                                                                                          |    |                                                                                                                                                                                     |    |  |  |
| <b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?                                                                                                                                                              | No | No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project. | No |  |  |
| <b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?                                                                                                                                                                                                                                                | No | -                                                                                                                                                                                   | No |  |  |
| <b>3.3</b> Are there any other relevant considerations?                                                                                                                                                                                                                                                                                  | No | -                                                                                                                                                                                   | No |  |  |
| <b>C. CONCLUSION</b>                                                                                                                                                                                                                                                                                                                     |    |                                                                                                                                                                                     |    |  |  |
| <b>No real likelihood of significant effects on the environment.</b>                                                                                                                                                                                                                                                                     | X  | EIAR Not Required                                                                                                                                                                   |    |  |  |
| <b>Real likelihood of significant effects on the environment.</b>                                                                                                                                                                                                                                                                        |    | EIAR Required                                                                                                                                                                       |    |  |  |
| <b>D. MAIN REASONS AND CONSIDERATIONS</b>                                                                                                                                                                                                                                                                                                |    |                                                                                                                                                                                     |    |  |  |
| <p>Having regard to: -</p> <ol style="list-style-type: none"> <li>the criteria set out in Schedule 7, in particular               <ol style="list-style-type: none"> <li>(a) the limited nature and scale of the proposed housing development, in an established residential area served by public infrastructure</li> </ol> </li> </ol> |    |                                                                                                                                                                                     |    |  |  |

(b) the absence of any significant environmental sensitivity in the vicinity,  
(c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)

2. the results of other relevant assessments of the effects on the environment submitted including results of an Appropriate Assessment and Strategic Environmental Assessment under the Dun Laoghaire Rathdown County Development Plan and the Appropriate Assessment Screening attached to the Inspectors Report
3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment,

The Board concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

Inspector \_\_\_\_\_

Date \_\_\_\_\_

Approved (DP/ADP) \_\_\_\_\_

Date \_\_\_\_\_

## Screening for Appropriate Assessment

### Screening Determination

#### Step 1: Description of the project

I have considered the proposed housing development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is located c. 4km from South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC c 3.9km.

Surface water, following SUDS, discharges to piped network which discharges to the Shanganagh Carrickmines River which outfalls at Killiney Bay, south close to Rockabill and Dalky Island SAC.

The proposed development comprises the omission of the construction of one dwelling permitted under previous permission a, and the construction of 36 apartments and 10 dwelling houses.

No comments were received from Prescribed Bodies.

#### Step 2: Potential impact mechanisms from the project [consider direct, indirect, temporary/permanent impacts that could occur during construction, operation and, if relevant, decommissioning]

The proposal will not result in any direct impacts on SACs or SPAs. Potential impacts to be considered are as follows:

##### Construction

- Habitat impact  
Vegetation clearance for the construction of structures, and to provide areas for storage of materials and access to site during construction, causing ex situ habitat loss  
  
Construction activities causing visual, noise, lighting disturbance of foraging and roosting activities.
- Water quality  
Possible sediment release into watercourses during excavations, earthworks, landscaping in the site.  
  
Potential for contaminated run off e.g. hydrocarbons, cement residues during construction.

##### Operation

- Habitat impact

Visual, noise, lighting disturbance from people, vehicles, activities occupying the development.

- Water quality

Potential for pollution from contaminated surface water run off or increased surface water run-off from the operational development.

Ground water pollution/ alteration of flows.

Potential for pollution from wastewater discharge.

### Step 3: European Sites at risk

I have considered the sites in the zone of influence, and other than those below have excluded other sites on the basis of distance and lack of or weak ecological connection.

Table 1 outlines European Sites at risk.

**Table 1 European Sites at risk from impacts of the proposed project**

**Conservation objectives:**

To maintain favourable conservation condition **C**

To restore favourable conservation condition **R**

| European Site                                                 | Effect mechanism      | Impact pathway/Zone of influence                                                                                                                                                  | Qualifying interest features at risk                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------------------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| South Dublin Bay and River Tolka Estuary SPA c. 4km from site | A Habitat loss        | None. No direct habitat loss. Site does not form ex situ habitat                                                                                                                  | Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] <b>M</b>                                                                                                                                                                                                                                                                                                                                                                              |
|                                                               | B Habitat disturbance | Air borne noise, lighting etc                                                                                                                                                     | Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] <b>M</b>                                                                                                                                                                                                                                                                                                                                                                                          |
|                                                               | C Water quality       | No direct hydrological connection.<br><br>Indirect hydrological connection: Surface water and foul water dispose to network, ultimate SW outfall at Killiney, FW at the Irish Sea | Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] <b>M</b><br><br>Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] n/a to be de-listed.<br><br>Knot ( <i>Calidris canutus</i> ) [A143] <b>M</b><br><br>Sanderling ( <i>Calidris alba</i> ) [A144] <b>M</b><br><br>Dunlin ( <i>Calidris alpina</i> ) [A149] <b>M</b><br><br>Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] <b>M</b><br><br>Redshank ( <i>Tringa totanus</i> ) [A162] <b>M</b> |

|                                                                   |                       |                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                       |  |
|-------------------------------------------------------------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|                                                                   |                       |                                                                                                                                                                                           | <p>Black-headed Gull (Chroicocephalus ridibundus) [A179] <b>M</b></p> <p>Roseate Tern (Sterna dougallii) [A192] <b>M</b></p> <p>Common Tern (Sterna hirundo) [A193] <b>M</b></p> <p>Arctic Tern (Sterna paradisaea) [A194] <b>M</b></p> <p>Wetland and Waterbirds [A999] <b>M</b></p> |  |
| <p>South Dublin Bay SAC</p> <p>000210</p> <p>c 4 km from site</p> | A Habitat loss        | None.                                                                                                                                                                                     | Mudflats and sandflats not covered by seawater at low tide [1140] <b>M</b>                                                                                                                                                                                                            |  |
|                                                                   | B Habitat disturbance | Air borne noise, lighting etc                                                                                                                                                             | Annual vegetation of drift lines [1210] <b>M</b>                                                                                                                                                                                                                                      |  |
|                                                                   | C Water quality       | <p>No direct hydrological connection.</p> <p>Indirect hydrological connection: Surface water and foul water dispose to network, ultimate SW outfall at Killiney , FW at the Irish Sea</p> | <p>Salicornia and other annuals colonising mud and sand [1310] <b>M</b></p> <p>Embryonic shifting dunes [2110] <b>M</b></p>                                                                                                                                                           |  |
| <p>Rockabill to Dalkey SAC</p> <p>c 3 km from site</p>            | A Habitat loss        | None. No direct habitat loss. Site does not form ex situ habitat                                                                                                                          | Reefs [1170]                                                                                                                                                                                                                                                                          |  |
|                                                                   | B Habitat disturbance | Air borne noise, lighting etc                                                                                                                                                             | Phocoena phocoena (Harbour Porpoise) [1351]                                                                                                                                                                                                                                           |  |
|                                                                   | C Water quality       | <p>No direct hydrological connection.</p> <p>Indirect hydrological connection: Surface water and foul water dispose to network, ultimate SW outfall at Killiney , FW at the Irish Sea</p> |                                                                                                                                                                                                                                                                                       |  |

**Step 4: Likely significant effects on the European site(s) 'alone'**

**Table 2: Could the project undermine the conservation objectives 'alone'**

| European Site and qualifying feature                          | Conservation objectives:<br>To maintain favourable conservation condition <b>M</b><br>To restore favourable conservation condition <b>R</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Could the conservation objectives be undermined (Y/N)?                                                                                       |                                                                                                                                  |
|---------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
|                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Effect B<br>Disturbance                                                                                                                      | Effect C<br>Water quality                                                                                                        |
| South Dublin Bay and River Tolka Estuary SPA c. 4km from site | <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046] <b>M</b></p> <p>Oystercatcher (Haematopus ostralegus) [A130] <b>M</b></p> <p>Ringed Plover (Charadrius hiaticula) [A137] <b>M</b></p> <p>Grey Plover (Pluvialis squatarola) [A141] n/a to be de-listed.</p> <p>Knot (Calidris canutus) [A143] <b>M</b></p> <p>Sanderling (Calidris alba) [A144] <b>M</b></p> <p>Dunlin (Calidris alpina) [A149] <b>M</b></p> <p>Bar-tailed Godwit (Limosa lapponica) [A157] <b>M</b></p> <p>Redshank (Tringa totanus) [A162] <b>M</b></p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179] <b>M</b></p> <p>Roseate Tern (Sterna dougallii) [A192] <b>M</b></p> <p>Common Tern (Sterna hirundo) [A193] <b>M</b></p> <p>Arctic Tern (Sterna paradisaea) [A194] <b>M</b></p> | <b>No.</b> At a distance of c. 4km, and intervening urban environment already creates noise and light to which increase would be negligible. | <b>No.</b> Distance (c. 7km) from outfall point and dilution affects would rule out significant indirect effects from wastewater |

|                                                                   |                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                     |                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                   | <p>Wetland and Waterbirds [A999]</p> <p><b>M</b></p> <p>1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) <b>M</b></p> <p>2110 Embryonic shifting dunes <b>R</b></p> <p>2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) <b>R</b></p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes) <b>R</b></p> |                                                                                                                                                     |                                                                                                                                                                                                                                                                       |
| <p>South Dublin Bay SAC</p> <p>000210</p> <p>c 4 km from site</p> | <p>Mudflats and sandflats not covered by seawater at low tide [1140] <b>M</b></p> <p>Annual vegetation of drift lines [1210] <b>M</b></p> <p>Salicornia and other annuals colonising mud and sand [1310] <b>M</b></p> <p>Embryonic shifting dunes [2110] <b>M</b></p>                                                                                                 | <p><b>No.</b> At a distance of c. 4km, and intervening urban environment already creates noise and light to which increase would be negligible.</p> | <p><b>No.</b> Distance (c. 7km) from outfall point and dilution affects would rule out significant indirect effects from wastewater</p>                                                                                                                               |
| <p>Rockabill to Dalkey SAC</p> <p>003000</p>                      | <p>Reefs [1170]</p> <p><i>Phocoena phocoena</i> (Harbour Porpoise) [1351]</p>                                                                                                                                                                                                                                                                                         | <p><b>No.</b> At a distance of c. 4km, and intervening urban environment already creates noise and light to which increase would be negligible.</p> | <p><b>No.</b> Distance from SW outfall point to SAC 1.5 km. Pollutants would settle within the SW network and be dispersed/diluted. FW discharge point is adjacent/within SAC however discharge/ treatment under EPA licence. There is capacity in the Shanganagh</p> |

|  |  |  |                                                                                      |
|--|--|--|--------------------------------------------------------------------------------------|
|  |  |  | WWTP. Significant indirect effects from wastewater discharge are therefore unlikely. |
|--|--|--|--------------------------------------------------------------------------------------|

I conclude that the proposed development would have no likely significant effect 'alone' on any qualifying feature(s) of South Dublin Bay and River Tolka Estuary SPA, South Dublin Bay SAC, and Rockabill to Dalkey SAC

Further AA screening in-combination with other plans and projects is required.

**Step 5: Where relevant, likely significant effects on the European site(s) 'in-combination with other plans and projects'**

**Table 3: Plans and projects that could act in combination with impact mechanisms of the proposed project.**

e.g. approved but uncompleted, or proposed

| Plan /Project                        | Effect mechanism                              |
|--------------------------------------|-----------------------------------------------|
| D21A/0051 311671-21 58 dwellings     | Wastewater discharge impact on water quality. |
| D21A/0999 ABP 315103-22 2 dwellings  |                                               |
| D21A/0632 APB-313943-22 4 dwellings  |                                               |
| D22A/0411 ABP-314540-22 26 dwellings |                                               |
| D23A/0001 ABP-317457-23 2 dwellings  |                                               |

I have reviewed recent planning applications in the immediate vicinity, which are not significant in scale. As above, surface water will travel through the network and settlement and dilution between discharge point and SACs will rule out in-combination indirect impacts on water quality from surface water.

The site is located within a larger urban area where there are numerous developments of varied scale. Foul water will go to the network and ultimately to Shanganagh WWTP area which serves a wider area. There will be an increased cumulative volume to the WWTP as developments are completed. However, as above the WWTP had capacity and operates under EPA licence, no in-combination issues arise.

I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s). No further assessment is required for the project.

### **Overall Conclusion- Screening Determination**

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- Distance from European Sites,
- Lack of direct connections to European Sites
- The limited zone of influence of potential impacts, restricted to the immediate vicinity of the proposed development
- Objective information presented in the Screening Report
- The AA Screening conclusions of the Planning Authority

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_