



An
Bord
Pleanála

Inspector's Report

ABP-321151-24

Development

Modifications to previously approved permission (Reg. Ref. D18A/1112 and ABP-303816-19) to include the addition of 8 apartments via an additional floor increasing the number of floors from 4 to 5 and the number of apartments from 28 to 36 and all associated site works.

Location

Funchal and Garryknock, Stillorgan Road, Foxrock, Dublin 18

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D24A/0614/WEB

Applicant(s)

Kingscroft Developments Limited.

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Mary Phelan O'Connell
Jane & Michael Donnelly

	Niamh Hurley
	Nuala Hurley.
Observer(s)	Fairways Park Company Ltd
	Margretta Nolan and Eoin Healy
	Avonmore Residents Association
	Vincent Mulvey & Majella Hillery.
Date of Site Inspection	5 th February 2025.
Inspector	Jennifer McQuaid

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1.0 Site Location and Description

- 1.1. The subject site (0.477ha) is located in the townlands of Funchal and Garryknock, along Stillorgan Road, Foxrock, Dublin 18. The site comprises of the combined former grounds of 2 no. detached residential dwellings. Both dwellings have been demolished, at the time of my site visit, construction works were underway.
- 1.2. The site is located on the western side of the N11. The surrounding area is characterised by residential development, generally large detached or semi-detached dwellings and apartments blocks along the N11. The grounds of Foxrock Golf Club are located to the west of the site. Avonmore housing estate is located to the northwest and Fairways Park is located to the southeast.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - Modifications to previously approved permission (Reg. Ref. DA18A/1112 and ABP-303816-19). The amendments consist of:
 - 8 additional apartments from 28 to 36.
 - an additional floor increase from 4 to 5.
 - And all ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 9 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Principle of development is acceptable as the site is zoned as “A” as per CDP.
- Policy objective BHS3 is of particular note as it relates to Building Height of Residual Suburban Areas. The proposed height satisfies the required criteria

and is compliant with the content of Policy Objective PHP42 and the Building Height Strategy of the CDP.

- The overall footprint of the building has not been altered, as such the orientation of the proposal with regard to overlooking and separation distances will not have any additional impact on adjoining residential amenity.
- Overshadowing is not considered as an issue due to the orientation by virtue of the broadly north-west to south-east layout, facing towards the N11 and Foxrock Golf Club.
- Boundary treatments, landscaping and screening are currently the subject of compliance for condition no. 8 of ABP decision. The submissions will be considered in accordance with condition no. 8 compliance.
- Density is considered acceptable at 75.5uph and complies with City-Urban Neighbourhood as per Table 3.1 of the Compact Settlement Guidelines and subject to site context, proximity to public transport services and nearby employment centres.
- No increase in car parking proposed, but the ratio of 1.22 spaces per units is considered acceptable and in compliance with Compact Settlement Guidelines.
- It is noted the unit mix is not materially altered from the parent permission and the proposed amendment are considered acceptable.
- The overall units will have 20no. of the 36no. being dual aspect (or c. 55.5%) this is acceptable.
- Public open space is as parent permission and considered acceptable.
- A condition shall be attached for the applicant to specify the communal open space.
- No changes proposed to material, colours or textures, a condition shall be attached.
- Part V shall be dealt with by way of condition.

3.2.2. Other Technical Reports

- Drainage: All drainage-related conditions and obligations of the parent planning permission D18A/1112 (ABP PL06D.303816) shall apply.
- Transportation: As the proposal relates to an amendment, no changes proposed to car parking but 1 space per unit should be provided. Applicant shall submit a Cycle Audit for the proposed modified development in accordance with the requirements of section 12.4.6.1.
- Parks: No objection. The landscape architect is liaising with the Parks Department on a revised landscape scheme as per requirement of condition 8.
- Housing: Demand for 1 bedroom apartment. The applicant shall enter a section 96(3)(b) agreement.

3.2.3. Conditions

- Condition 2: This permission shall expire on the same date as the planning permission issued under the Board Order of ABP Ref.303816-19 (DA18A/1112).

Reason: In the interest of consistency and development management.

- Condition 3: The applicant shall submit for written agreement from the Planning Authority a Cycle Audit for the proposed modified development, in accordance with Section 12.4.6.1 Requirements for New Development of the DLR County Development Plan 2022-2028, setting out how it meets the requirements of the Council's Standards for Cycle Parking and Associated Cycling Facilities for New Developments' (2018) and any relevant additional requirement of the DLR County Development Plan 2022-2028 Sections 12.4.6, 12.4.6.1 and 12.4.6.2 and in particular the appropriate provision of both secure, covered resident (long stay) cycle parking spaces and visitor (short stay) cycle parking spaces. It should also be noted that Section 12.4.6 Cycle Parking of the DLR County Development Plan 2022-2028 states, referring to the above standards, that "These are minimum cycle standards. In car parking Zones 1 and 2 these minimum standards should be exceeded". The proposed modified development is located in car parking Zone 2. All long stay (resident) cycle parking spaces are required to be convenient/readily

accessible, secure, covered cycle parking spaces, and should not all be double rack spaces, but rather a variety of bike stand types including “Sheffield” stands to provide for cyclists of all ages and abilities, and also accommodate non-standard bikes such as cargo bikes, bike trailers and e-bikes. Low cycle stands which support bicycles by means of front wheels are not considered acceptable. All short stay (visitor) cycle parking spaces are required to be convenient/readily accessible cycle parking spaces and be “Sheffield” type stands. Approximately 50% of visitor spaces should be covered.

Reason: In the interest of orderly development and proper planning and sustainable development of the area.

- Condition 4: Prior to commencement of development, the applicant is required to submit details for the agreement of the Planning Authority of the location and form of communal open space for the proposed development. The communal open space is required to be for the exclusive use of the residents of the subject development. The location and form of the communal open space shall be clearly demarcated on all revised plans/drawings.

Reason: In the interest of clarity.

3.3. Prescribed Bodies

- TII: The PA should have regard to the provisions of official policy for development proposals as follows: proposals impacting national roads, to the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities and relevant TII publications and proposals impacting the existing light rail network, to TII’s “Code of engineering practice for works on, near, or adjacent the Luas Light rail system”.

3.4. Third Party Observations

13 no. observations were received. The following concerns were raised:

- The proposal will further injure residential amenity.
- Increased pedestrian and traffic safety.
- The site has history of planning refusals.
- Increased height, overshadowing, monolithic and overbearing, overlooking.
- Right of way concern, re: 24 Avonmore.
- The permitted 4 storey should be reduced to 3 storeys. Why were 5 storeys not applied for in the first instance.
- The photomontages are misleading.
- Parent permission due to expire in January 2025.
- Negative noise impacts.
- A condition protecting the operational capacity of the adjoining golf club should be included in any grant of permission.
- The provision of public open space adjacent to the 2nd green of the golf club would warrant the developer to undertake protective measures.
- The developer should provide a physical safety net on the subject site at their own cost (to prevent balls from the golf course exiting those grounds and potentially causing damage/injury).

4.0 Planning History

D18A/1112/E2: Extension of Duration granted. Permission expires 30th January 2028.

D18A/1112/E: Extension of Duration refused.

The Planning Authority is not satisfied that substantial works have been carried out pursuant to the permission, as per the Applicant's statement that construction works related to the project would commence in 2025. The Application, therefore, does not meet the criteria set by Section 42(1)(a)(i)(III) of the Planning and Development Act, as amended.

ABP Ref: 303816-19: (PA ref: D18A/1112): Permission granted for demolition of 2 detached dwelling and construction of apartment building of 4 no. storeys over basement consisting of 28 no. residential units and all ancillary works. The permanent closure of the current “Garryknock” vehicular and pedestrian access from the neighbouring “Fairways” residential development; the permanent closure of 1 no. existing “Funchal” vehicular access and 1 no. dedicated pedestrian access from the N11 Stillorgan Road; upgrade and enhancement of 1 no. existing “Funchal” vehicular access from the N11 Stillorgan Road, and all ancillary site works.

ABP: PL06D.247655: (PA Ref: DA16A/0670): Permission refused for demolition of 2 no. dwellings and construction of 2no. 4 storey apartment buildings along with 8 no. three storey semi-detached dwelling consisting of 29no. residential units.

1. Having regard to the size, four-storey design and siting of the proposed apartment blocks, it is considered that the proposed development would be overbearing in relation to the residential properties to the north-west and would lead to excessive overlooking and overshadowing of these properties. The proposed development would, therefore, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the car dominated layout of the proposed development, the Board considered that it would fail to create an adequate sense of place. Furthermore, the Board considered, having regard to the proposal to use land zoned “F” in the current Development Plan for the area, that the level of open space would be inadequate and at a poor peripheral location. The proposed development would, therefore, seriously injure residential amenity and be contrary to the proper planning and sustainable development of the area.

ABP PL06D.244399: (PA Ref: D14A/0689): Permission refused for demolition of 2 detached dwelling and construction of 9 no. houses and all ancillary site works.

1. Having regard to:
 - (a) The location of the site within an area zoned for residential development where it is an objective, as set out in the Dun Laoghaire-Rathdown County Development Plan 2010-2016, to promote higher residential densities provided that proposals ensure a balance between the reasonable

protection of existing residential amenities and the established character of areas with the need to provide for sustainable residential development,

- (b) The pattern of residential development in the area which generally comprises large houses on individual sites on immediately adjacent lands, and
- (c) The design, layout and the three-storey nature of the proposed development and the proximity of the proposed dwellings to adjacent property boundaries,

It is considered that the proposed development, by reason of overlooking and physical proximity to adjacent properties, would seriously injure the residential amenities of the area and of property in the vicinity, and would therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to Policy RES7 of the Dun Laoghaire-Rathdown County Development Plan 2010-2016 which encourages the “establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided in the County in accordance with the provisions of the Housing Strategy” and to the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages)” issued by the Department of Environment, Heritage and Local Government in May 2009, it is considered that the proposed development fails to contribute to the overall mix of housing typologies in an area dominated by traditional suburban type housing. The proposed development would, therefore, set an undesirable precedent for similar types of development and would be contrary to the proper planning and sustainable development of the area.
3. The proposal to include land zoned “F” within the rear gardens of a number of dwellings does not comply with the policy of the planning authority and would contravene this zoning objective, which is, “to preserve and provide for open spaces with ancillary active recreational amenities”. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

D07A/0170: Permission granted for construction of a 2.4m wall.

D04A/0360: Permission refused to demolish existing dwelling and provide 14 no. dwellings.

5.0 Policy Context

5.1. Development Plan

Dun-Laoghaire-Rathdown County Development Plan 2022-2028.

The subject site is zoned as “A”. the zoning objective is to provide residential development and improve residential amenity while protecting the existing residential amenities.

Chapter 2 relates to Core Strategy.

Chapter 4 relates to neighbourhood development and people, homes and places.

Section 4.3.1.1 Policy Objective PHP18: Residential Density which promotes higher residential densities in the interests of promoting more sustainable development, whilst ensuring a balance between this and ensuring the reasonable protection of residential amenities and established character of areas.

Section 4.3.1.2 Policy Objective PHP19: Existing Housing Stock – Adaption, which encourages the densification of existing housing stock to retain population levels.

Section 4.3.2.3 Policy Objective PHP27: Housing Mix which encourages the provision of a wide variety of housing and apartment types.

Section 4.4.1.8 Policy Objective PHP44: Design Statements relate to the building height and overall design.

Chapter 5 relates to Transport and Mobility.

Section 5.4.1 Policy Objective T1: Integration of Land Use and Transport Policies.

Section 5.7.1 Policy Objective T16: Travel Demand Management.

Section 5.7.2 Policy Objective T17: Travel Plans

Section 5.7.3 Policy Objective T18: Car Sharing Schemes

Section 5.8.4 Policy Objective T26: Traffic and Transport Assessment and Road Safety Audits.

Chapter 8 relates to Green Infrastructure and Biodiversity

Chapter 9 relates to Open Space, Parks and Recreation

Chapter 12 relates to principles of development and contains the urban design policies and principles for development including public realm design, building heights strategy, and car and cycle parking.

Appendix 5 refers to County's "Building Height Strategy".

5.2. National Policy

- National Planning Framework – Project Ireland 2040
- Sustainable Residential Development and Compact Settlement Guidelines 2024. (Compact Guidelines)
- Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2022) (Apartment Guidelines)
- Design Manual for Urban Roads & Streets (DMURS) 2019.
- Urban Development & Building Height Guidelines (2018).

5.3. Natural Heritage Designations

5.4. The subject site is not located within a designated area. The most relevant are:

- South Dublin Bay pNHA (site code: 000210) & South Dublin Bay and River Tolka Estuary SPA (site code: 004024) are located c.2.7km east.
- Fitzsimon's Wood pNHA (site code: 001753) is located c.3.3km west.
- Dalkey Coastal Zone and Killiney Hill pNHA (site code: 001206) is located c. 4km southeast.
- Rockabill to Dalkey Island SAC (site code: 003000) is located c. 6km east.
- Knocksink Wood SAC (site code: 000725) is located c. 7km south.
- Wicklow Mountains SAC (site code: 002122) & SPA (site code: 004040) is located c.7.5km southwest.

5.5. EIA Screening

- 5.5.1. The proposal relates to the amendments to a previously permitted apartment scheme to include an increase of 8 apartments from 28no. to 36no. in total and an increase in the number of floors from 4 to 5. The site is within the development boundary of Dublin 18. The site is located on zoned lands and not within a designated area. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Please refer to Form 1 and Form 2 as per Appendix 1 below.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal have been received from local residents. The following concerns are raised:

- Overshadow, overlooking and overbearing. Negative Visual impact.
- The proposal will deliver a dominant northwestern gable elevation from a block c.20.8m in length and 12.6m high (at 4 storey) extending to 15.75m at penthouse level (before roof ridge) at a setback of c.6m. current garden is shallow at c.7.3-8m deep.
- Site zoning relates to protection of existing residential amenities.
- Density is too high at c58.7uph instead of minimum of 50 units per hectare. A further increase of c75.5uph
- Planners report is misleading.
- Planning history of refusals on site, the previous grant was only issued following the Board's decision to overturn the inspector.
- Noise & light pollution during construction.

- Road Safety issues for vehicles and pedestrians. An additional 13 car parking and 10 bicycle/e-bikes spaces should have been applied for. Entrance directly onto N11, is unacceptable and dangerous. No parking should be provided and full reliance on public transport. A stop/go system should be required at the exit. Clear line of sight required at the entrance/exit.
- The proposal does not comply with the Building Height Guidelines/SPPR 3 or the County Development Plan
- Parking congestion in the cul-de-sac
- No. 25 on the cul de sac has been airbrushed out of the photos. The photos submitted are not representative of the area.
- Request to reduce the proposed scheme.
- Request either the applicant extends the footprint of the building or sink the building to add the additional apartments.
- Access to the terrace or main roof would be injurious to privacy of Avonmore residents and annul any intent to introduce “opaque glazing” in gable windows/balconies to prevent overlooking. Roofs should be maintenance only.

6.2. Applicant Response

The applicant has made the following comments:

- D18A/1112/E2 extension of duration submitted and granted.
- The proposal is consistent with the zoning and policy objectives of the CDP.
- The applicant outlines the planners report and positive response.
- A response is offered for each appellant.
 - Appellant one is located at sufficient distance from the development and will not experience noise or light impact from the development. In relation to construction noise, this is temporary in nature.
 - Appellant two acknowledges that the previous grant of permission cannot be overturned and recommend expanding the building rather than building

upwards. The works have started, and the building footprint cannot be altered. The appellants own property exits the N11. The entrance and exit to the site are appropriately regulated in order to avoid any incidents.

- Appellant three has concerns regarding overbearing, the proposed building will be located at a distance of 15m to 18m from the appellant's property, the gable height is set at 12.6m and the gable height is within permissible height. In terms of overshadowing, the building is south-southeast of the appellants property, the impact on sun will be minimal when the sun is higher in the sky, the additional floor will create minimal overshadowing. Reference is also made to the previous decision and its legal standing. It is claimed that the Building Height Guidelines do not support a building of this height at this location, a two storey is more appropriate but is contrary to proper planning and sustainable development. Extension of duration was granted, and the permission is still live.
 - Appellant four, this appeal discusses previous refusals on site. The appellant's property backs onto the open space to the front the apartments.
- Overall, the proposal complies with National Policy and the CDP.
 - The proposal is sufficient use of zoned land, the proposal will help meet housing demand and reduces the need for greenfield development on the outskirts of the built-up area.
 - The site is located along excellent public transport access.
 - The construction will create employment opportunities and stimulate the local economy.
 - The urban intensification will reduce low-density urban sprawl, thereby reducing ecological footprint per resident.
 - Taller buildings create a sense of urban character, provided the design is architecturally sensitive, the density adds vibrancy, and the residents support local businesses and amenities.

- The additional height is designed to minimise overshadowing and maintain privacy for nearby properties, the increase from 4 to 5 storeys is unlikely to have a noticeable impact on or be out of character with the surrounding area.

6.3. Planning Authority Response

- It is considered that the grounds of appeal to not raise any new matter, which in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.4. Observations

The following comments were received from observers:

- Extensive planning history, all files were refused planning permission. The most recent application was refused by the inspector and granted by the Board.
- Previous inspector for planning reference PL.06D.247644 deemed the permitted height and length of the building would be an unacceptable visually dominant and overbearing outlook and consequently cause a significant impact on residential and visual amenity. Therefore, the increase in height cannot be acceptable.
- The additional floor level will injure residential amenity by way of overshadowing. The height will increase by over 3.15m and represents an increase of 33% in height.
- The applicant has failed to demonstrate compliance with the criteria of the Building Height Guidelines and no reference to impact on existing residents, Zone A requirements and the specific “infill” requirements per the DLRCC 2022-2028 CDP.
- The area is described as mostly largely detached/semi-detached dwellings, the proposal cannot be compared to Roselawn/Aberdour and One Springfield Park as these are located on the other side of the road, with mature trees and greater separation distance to dwellings.
- The proposal will be overbearing in relation to the adjoining properties.

- The applicant has no community interest or appreciation of the visual amenity of this section of Stillorgan Road.
- Access should not have been granted onto the N11. The proposal will create an additional 150 vehicle movements comprising of cars, bikes, e-bikes, e-scooters etc. A stop/go traffic light system should have been installed. The entrance/exit should have a clear line of sight for all road users.
- “Substantial Works” were not carried out to justify granting the 2nd extension of duration since the 1st was refused permission.
- Permission expires on 2nd January 2025.
- Zoning “A” to protect residential amenity should override building height guidelines.
- Photomontages submitted as misleading, but it is clear the development will appear as monolithic and out of character in a visual context.
- Open space noted as “maintenance only” could be used as open space and will overlook nearby residents. These areas should be restricted to maintenance only.
- The Planning Report failed to address the submissions/observations.

6.5. Further Responses

- None

7.0 Assessment

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

- Residential Amenity – Overlooking, overshadowing and overbearing.
- Design - Building Height and Open Space.
- Traffic Issues

- Other Issues
- Appropriate Assessment

7.2. Residential amenity - Overlooking, overshadowing and overbearing.

- 7.3. The subject site has permission for a 4-storey apartment block over basement car park. The apartment block has permission for 28 apartments and the proposal will increase this number to 36, consisting of an additional 8 apartments on one additional floor level. The overall permitted height is 12.6 metres, and the proposed height will be 15.75 metres. The footprint and the permitted apartment block layout have not been altered, the building is located 6 metres from the northwestern boundary at the nearest point, and 3 metres from the southeastern boundary at the nearest point. The building is set back over 29 metres from the eastern boundary along the N11 and located between 3 metres and 26 metres from the boundary to the rear western boundary.
- 7.4. The grounds of appeal have been received from residents to the north, south and east of the subject building, the concerns raised relate to overshadowing and overlooking. The appellants have stated the building will be overbearing due to the dominant northwestern gable elevation at a height of 12.6m high (at 4 storey) extending to 15.75m at penthouse level (before roof ridge) at a setback of c.6m. The appellants requested the footprint of the building is extended or sink the building to add the additional apartments. The appellants also have concerns regarding the terrace at 3rd floor level, it is indicated as “maintenance only” and should remain as so to avoid overlooking.
- 7.5. I have examined the proposed site layout, floor plans and elevation drawings in order to assess the potential for overlooking from the proposed apartment block to the neighbouring properties. I note there are no windows proposed on the northwestern or southeastern elevation of the building.
- 7.6. In accordance with Section 5.3.1, SPPR1 – Separation Distances of the Compact Settlement Guidelines, which states that a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartments units, above ground floor level shall be maintained. In this instance, there are no windows on the side elevation of the proposed building or proposed additional floor level overlooking the existing dwellings.

- 7.7. The proposed separation distance between the dwelling to the northwest will be c. 15 metres. And I do not consider overlooking will be an issue given the separation distance and as there are no direct windows overlooking each other.
- 7.8. The nearest dwelling to the southeast is located at c.6.6metres from the proposed building southeastern elevation. A small window is noted in the side elevation of the existing dwelling to the southeast; however, no windows are proposed on the southeastern elevation of the additional floor. Therefore, no direct windows serving habitable rooms overlook each other. In my opinion, I do not consider overlooking to be an issue.
- 7.9. The windows proposed on the front elevation (eastern elevation) do not overlook to the northwest or southeast. The distance between the proposed building and the nearest dwellings/apartments to the east is over 70 metres, in my opinion, given the separation distance, there will be no negative overlooking impact on the adjacent residential properties.
- 7.10. The appellants have raised concerns in relation to the access to the terrace area on the 3rd floor. The floor plans indicate this area will be for “maintenance only”. I consider an appropriate condition can be applied in order for this area to be retained as “maintenance only” in order to avoid any undue overlooking.
- 7.11. In relation to overshadowing, the proposed apartment block is orientated on northwest to southeast axis with an overall width of 20 metres, the proposed building is located directly to the rear/southeast of No. 23 Avonmore. The proposed separation distance between both buildings will be c. 15 metres. The overall height of the proposed apartment block with the set back level on the 4th floor will be 15.75 metres, the overall height to the 3rd floor will be 12.6 metres. This is an overall increase from 12.6 metre to 3.15 metres.
- 7.12. I have reviewed the site layout and the orientation of the subject building in relation to adjacent properties. Due to the location of the property to the northwest, the subject building is located to the southeast, the morning sun from the east and the evening sun from the west, will not be impacted or create overshadowing to the private garden space of the dwelling to the northwest. During the midday sun, there may be a slight impact and create a short timespan of over shadowing to the private rear garden of the dwelling to the northwest. It is my opinion that due to the minimal

overshadowing that will occur, this will not have a negative impact on the residential amenity of the adjacent property.

- 7.13. In regard to the property directly to the southeast, their garden space is located to the west of the existing property, the building is located to the northeast/west and therefore, in my opinion, it will not create any overshadowing to the private amenity space of the dwelling to the southwest.
- 7.14. The appellants have raised concerns in relation to the overbearing impact the proposed building will have on their property. As noted above the nearest dwelling to the southeast is located at c.6.6metres from the proposed building and the separation distance between the dwelling to the northwest will be c. 15 metres elevation. The proposed additional floor will increase the overall height by 3.15 metres to 15.75 metres, the 4th floor will be stepped back from the front building line. However, the overall height viewed by local residents will be 12.6 metres. It is in my opinion, due to the orientation of the dwelling to the southeast, the proposed location of the building which follows the building line of the existing dwelling to the southwest, the proposed additional floor level will not cause an overbearing impact to this dwelling.
- 7.15. In regard to the dwelling to the northwest, at a separation distance of 15 metres, the proposed additional floor level will be viewed from the rear of this property. However, the applicant has proposed additional screening by way of trees and hedgerow and boundary wall in order to reduce the overbearing impact. It is my opinion given, the separation distance and the proposed landscaping, I do not consider overbearing will have a negative impact on residential amenity. The building is set back at a sufficient distance for the proposed height increase.
- 7.16. Having regard to the orientation of the proposed building and additional floor, the overall height and set back of the 4th floor, the separation distance to the adjacent properties and the proposed landscaping, I do not consider that the proposed additional floor level will negatively on the residential amenity of the adjacent properties.
- 7.17. **Design, Building Height and Open Space**
- 7.18. The subject site has permission for a height of 12.6 metres for 28 apartments. The proposed additional floor will increase the apartment number to 36 and overall height

will be 15.75 metres. The footprint and the permitted apartment block layout have not been altered. The external materials proposed were permitted under the original planning reference ABP-303816-19 (PA Ref: D18A/1112).

- 7.19. The grounds of appeal have stated the proposed building height does not comply with the Building Height Guidelines/SPPR 3 or the County Development Plan. The proposed height will create a negative visual impact. The appellants also raised concerns in relation to density of c. 75.5uph (units per hectare) is too high.
- 7.20. I have assessed the proposed building height in relation to Policy Objective BHS3 of the CDP as it relates to building heights of residual suburban areas: and in relation to criteria set out in table 5.1, Section 5 of the Building Height Strategy, Appendix 5 of the CDP. The main criteria being met as the site is in close proximity to Dublin City Centre, well served by public transport, the proposal is not visually intrusive, there are no protected views in the immediate surroundings or in an ACA, the site is identified as Tier 1 in Core Strategy of the CDP, the proposal complies with the criteria of the Design Manual, the proposal will not negatively impact the receiving environment, will provide additional required 1-3 bed units in the locality, the scale and height is acceptable given the pattern of development along the N11 and will not be out of character with the area, the proposal is in accordance with BRE Guidelines and Part L of Building Regulations and no overlooking, overbearing or overshadowing negative impacts predicted. Therefore, I consider the proposed increase in height by 3.15 metres complies with the criteria as set out in Table 5.1 of the Building Height Strategy of the CDP.
- 7.21. In relation to density, the number of residential units will increase from 28 to 36, this will increase in density from c. 58.7uph to c. 75.5uph. The proposal is in accordance with Section 4.3.1 of the CDP which encourages higher densities at a minimum of 50 units per hectare. In addition, the subject site could be considered as a “City-Urban Neighbourhood” as per Table 3.1 of the Compact Settlement Guidelines where residential densities in the range of 50 uph to 250 uph shall be generally applied in urban neighbourhoods of Dublin. Therefore, I consider the proposed increase in density at 75.5uph is considered acceptable and in accordance with the CDP and Compact Settlement Guidelines.

7.22. Having regard to the proposed height and increase in density, I consider the proposal complies with the relevant section 28 guidelines and complies with the Building Height Strategy of the CDP and section 4.3.1 of the CDP. Therefore, the proposed height and increase in density will have a positive impact on the surrounding area and will not negatively impact on the residential amenity of the area.

7.23. Traffic Issues

7.24. The subject site is utilising an existing entrance onto the N11, the entrance was approved under planning reference ABP-303816-19 (PA Ref: D18A/1112) along with 43 car parking spaces at basement level and 32 bicycle parking spaces.

7.25. The grounds of appeal have raised serious concerns in relation to road safety and that an entrance onto the N11 is unacceptable. The appellant's highlight that an additional 13 car parking and 10 bicycle/e-bikes spaces should have been applied for.

7.26. I have reviewed the permitted development under planning reference ABP-303816-19 (PA Ref: D18A/1112). I note the entrance onto the N11 is permitted, no changes are proposed under this current amendment application to the entrance. I also note that no additional car parking spaces are proposed, therefore, I consider the entrance as permitted is acceptable and is not considered a traffic hazard as per previous assessment approval.

7.27. In relation to car parking spaces, the applicant has provided 43 no. car parking spaces as per previous permitted application. The number of units proposed is 36, and I have assessed the proposal in relation to SPPR 3 of the Compact Settlement Guidelines, 1 car parking space per dwelling can be provided in city centre and urban neighbourhoods of the five cities once this is justified by the Planning Authority. The subject site is located in an urban neighbourhood and the proposal will provide 1.22 car parking spaces per unit. Transportation Section of Dun Laoghaire Rathdown County Council have not raised any objection to the proposed parking provision. Therefore, I am satisfied, the applicant has provided adequate car parking in accordance with the Compact Settlement Guidelines.

7.28. In relation to bicycle parking, SPPR 4 – Cycle Parking and Storage of the Compact Settlement guidelines state generally a minimum standard of 1 cycle storage space

per bedroom shall be applied and that visitor cycle parking shall also be provided. I note the applicant has provided 32 bicycle spaces. And I note Transportation Section have conditioned the applicant to provide a Cycle Audit to facilitate improved active travel measures at the proposed site. The proposal provides a shortfall in bicycle parking; however, I consider this can be dealt with by way of a condition. In the event of a grant of permission, I recommend that the Board shall apply a similar condition to that of the Planning Authority.

7.29. Having regard to the Compact Settlement Guidelines, the existing and permitted entrance onto the N11, I do not consider the proposed development will have a negative impact on traffic safety in the area. The applicant shall provide additional bicycle parking, as this will facilitate for less car-based travel and increase bicycle travel.

7.30. **Other Issues**

7.31. Planning History.

7.32. A number of concerns were raised in relation to the planning history on this subject site. I would like to confirm to the Board that planning permission was granted under planning reference ABP 303816-19 (PA Ref: D18A/1112) for demolition of 2 habitable dwellings and construction of a four-storey apartment block over basement consisting of 28 no. residential units and all associated site works.

7.33. Permission was due to expire on 2nd January 2025 (planning expiry date 23.09.2024 plus additional 101 days for Covid and Christmas leave). An extension of duration under planning reference D18A/1112/E2 was granted on 13th December 2024 for an additional 3 years and due to expire on 30th January 2028.

7.34. Documents Submitted.

7.35. The appellants and observers raised concerns in relation to the photos submitted and outlines that no. 25 Avonmore was airbrushed out of the photo. I accept the photos submitted as part of the application provide a simple view of the proposed apartment block and do not represent the surrounding accurately. However, the information provided is adequate to provide an understanding of the proposed visual impact.

7.36. I am satisfied that the above issues did not prevent the concerned party from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

8.0 AA Screening

8.1. Having regard to the amendments to a previously permitted apartment scheme to include the number 28 to 36 and increase the number of floors from 4 to 5 the development boundary of Dublin 18 with existing connection to public sewer and public water and discharge of surface water to the existing public storm water network. The nearest European site is South Dublin Bay and River Tolka Estuary SPA (site code: 004024) are located c.2.7km east of the subject site. It is considered that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant impact individually or in combination with other plans or projects on a European site.

9.0 Recommendation

9.1. I recommend that permission should be granted subject to conditions as set out below:

10.0 Reasons and Considerations

10.1. Having regard to the grounds of appeal, the planning history, the residential use on site, the separation distance to adjacent properties and the provision of the Dun Laoghaire Rathdown Development Plan 2022-2028, Compact Settlement Guidelines and Building Height Guidelines, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of the adjoining properties of the area and would be acceptable in terms of pedestrian and traffic safety and would therefore be in accordance with the proper planning and sustainable development for the area.

11.0 Conditions

1. 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 9th day of August 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.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission Register Reference ABP-303816-19 unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

3. This permission shall expire on the same date as the Planning permission issued under the extension of duration D18A/1112/E2.

Reason: In the interest of consistency and development management.

4. Prior to commencement, the applicant shall submit for written agreement from the Planning Authority a Cycle Audit for the proposed modified development, in accordance with Section 12.4.6.1 Requirements for New Development of the DLR County Development Plan 2022-2028 and Compact Settlement Guidelines.

Reason: In the interest of orderly development and proper planning and sustainable development of the area.

5. Prior to commencement of development, the applicant is required to submit details for the agreement of the Planning Authority of the location and form of communal open space for the proposed development. The communal open space is required to be for the exclusive use of the residents of the subject development. The location and form of the communal open space shall be clearly demarcated on all revised plans/drawings. The roof terrace at the 3rd floor level shall be used for “maintenance only”.

Reason: In the interest of clarity.

6. 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.

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.

7. 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.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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.

Jennifer McQuaid
Planning Inspector

11th February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála		ABP-321151-24	
Case Reference			
Proposed Development Summary		Modifications to previously approved permission (Reg. Ref. D18A/1112 and ABP-303816-19) to include the addition of 8 apartments via an additional floor increasing the number of floors from 4 to 5 and the number of apartments from 28 to 36 and all associated site works.	
Development Address		Funchal and Garryknock, Stillorgan Road, Foxrock, Dublin 18	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes X No
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10 Infrastructure Projects: (b) (i) Construction of more than 500 dwelling units. (b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial uses.)	Proceed to Q3.
No			

3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10 Infrastructure Projects: (b) (i) Construction of more than 500 dwelling units. (b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial uses.) The site consists of permitted 28. no residential units and to amend to 36 no. residential units on a site area of 0.477ha.	Preliminary examination required (Form 2)

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

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321151-24
Proposed Development Summary	Modifications to previously approved permission (Reg. Ref. D18A/1112 and ABP-303816-19) to include the addition of 8 apartments via an additional floor increasing the number of floors from 4 to 5 and the number of apartments from 28 to 36 and all associated site works.
Development Address	Funchal and Garryknock, Stillorgan Road, Foxrock, Dublin 18
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	- The development will consist of amendments to a permitted apartment block increasing the number of apartments from 28 to 36 and increase the floors from 4 to 5. The development is within the settlement boundary of Dublin 18. - the development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution

	or nuisance. The development by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health. • Surface water will be discharged to public sewer or drain. • Wastewater to be discharged to public sewer.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The subject site is not located within any designated site. The nearest sites are: • South Dublin Bay pNHA (site code: 000210) & South Dublin Bay and River Tolka Estuary SPA (site code: 004024) are located c.2.7km east. • Fitzsimon's Wood pNHA (site code: 001753) is located c.3.3km west. • Dalkey Coastal Zone and Killiney Hill pNHA (site code: 001206) is located c. 4km southeast. • Rockabill to Dalkey Island SAC (site code: 003000) is located c. 6km east.

			- Knocksink Wood SAC (site code: 000725) is located c. 7km south. - Wicklow Mountains SAC (site code: 002122) & SPA (site code: 004040) is located c.7.5km southwest. - My appropriate Assessment screening undertaken concludes that the proposed development would not likely have a significant effect on any European Site. - The subject site is not located in Flood Zones A and B.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).			Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is not potential for significant effects on the environment factors listed in Section 171A of the Act.
Conclusion			
Likelihood of Significant Effects	Conclusion in respect of EIA		Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.		

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)