



An
Bord
Pleanála

Inspector's Report ABP-305497-19

Development

Permission is sought for demolition of an existing barn structure; the construction of 4 no. dwellings, consisting of 2 no. 2-storey and 2 no. 2-storey dormer houses; provision of a new entrance; together with all associated works and services.

Location

'Wynward', Foxborough Manor, Balgaddy, Lucan, Co. Dublin.

Planning Authority

South Dublin County Council.

Planning Authority Reg. Ref.

SD19A/0213.

Applicants

William Murphy & Breda Shier.

Type of Application

Planning Permission.

Planning Authority Decision

Refused.

Type of Appeal

First Party.

Appellants

William Murphy & Breda Shier.

Observers

1. Michael & Martin Murphy.
2. Marie & Alan Kavanagh.
3. Austin Reilly.

Date of Site Inspection

14th day of March, 2020.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. This appeal site has a stated area of 0.1025ha and it is situated on the north-eastern corner of the intersection between Foxborough Manor and Foxborough Green, with the northernmost boundary of the site approximately 32.5m to the south of Newlands Road and c2km to the south west of Junction 2 of the N4, as the bird would fly, in the Dublin city suburban of Lucan, c11km to the west of the city centre.
- 1.2. The site has the appearance of forming part of a farmstead with the site itself containing a traditional in appearance corrugated metal barn structure that is setback from its western and a staggered in alignment southern boundary that benefit from frontage onto the public domain of Foxborough Manor and Foxborough Green. Within this setback area there a number of mature trees and the land is mainly overgrown and unkempt. The shed structure appears to be bound by a number of diminutive shed type structures on its north eastern corner. These adjoining structures appear to form part of the buildings and spaces associated with three residential in appearance properties that collectively are called 'Wynward'. These period structures appear to date to early 1900s and form part of a collection of single and two storey buildings as well as associated spaces that are served by one entrance onto Newlands Road.
- 1.3. The westernmost boundary is setback from the carriageway of Foxborough Manor by a tree planted deep grass verge that also contains a footpath that terminated on the south eastern corner of the Foxborough Manor and Newlands Road T-junction. This space also contains a number of utilities including a number of streetlights. The western boundary of the site contains a mature dense mixed indigenous species hedgerow which together with the trees within the site obscure views into the main site area. On the opposite side of Foxborough Manor there is also a deep grass verge that is similarly planted with individual birch trees. There is a detached dwelling house located to the west of the majority of it and on the north western most corner of the Foxborough Manor and Foxborough Green intersection there is a 2-storey pair of semi-detached dwellings.
- 1.4. The southern boundary of the site similarly is comprised of a dense indigenous mixed species hedgerow with trees obscuring the views into the main area of the site. This boundary has a jagged alignment and is bound by a grass verge and that contains a

public footpath. There is one tree planted between it and the public road of Foxborough Green. Directly opposite are pairs of 2-storey semi-detached dwellings.

- 1.5. The eastern boundary of the site adjoins a private amenity space that would appear to be associated with 'Wynward'. Neighbouring it and addressing Foxborough Green is a 2-storey semi-detached pair that forms part of a larger group that characterises the Foxborough Green streetscape scene on either side to the east.
- 1.6. To the immediate east of 'Wynward', on the southern side of Newland Road, there is a Dublin Bus stop and the residential scheme of Foxborough Hall which is characterised by its 3-storey terrace built. On the opposite side of the road from Wynward is another Dublin Bus stop. Both bus stops cater for Bus Route 25a and 25b.
- 1.7. The topography of the ground appears to slope in a southerly direction from Newland Roads to Foxborough Green where the ground levels appear to level out.
- 1.8. The surrounding area has a mature residential character.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of an existing agricultural building which is described as a 'derelict barn' with a stated gross floor space of 333m² and the construction of 4 no. dwellings, consisting of 2 no. 2-storey and 2 no. 2-storey dormer houses with a stated gross floor space of 463m² associated parking and private open space. The gross floor area of House Unit No. 1 is 133m²; House Unit No. 2 is 100m²; House Unit No. 3 is 100m²; and, House Unit No. 4 is 130m².
- 2.2. This application is accompanied by:
 - A cover letter from the applicant's architect providing an overview of the development;
 - A document titled: "*Brief Specification for the Works for the 4 New Houses at Wynward, Foxborough Manor, Lucan South, Co. Dublin*", also prepared by the applicant's architect;

- A document titled: “*Foxborough Downs/Foxborough Green Lucan Dublin, Bat Survey and Assessment of Associated Buildings*”, prepared by an ecological consultant;
- A letter of conditional consent from South Dublin County Council to include lands that are in their ownership to make this application, as this land is required for access purposes; and,
- A statutory declaration in relation to Part V of the Planning and Development Act, 2000, as amended.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse planning permission in accordance with their Planning Officer’s recommendations. The stated reasons for refusal read:

- “1. *The design of the proposed dwellings provides insufficient aggregate living space. The proposed dwellings are therefore considered substandard and would be seriously injurious to the amenity of the future occupants and contrary to the provisions of Table 5.1 of the ‘Quality Housing for Sustainable Communities-Best Practice Guidelines’, Department of the Environment, Heritage and Local Government.*
2. *The proposed development constitutes haphazard piecemeal development and would poorly integrate with the surrounding area. Having regard to the proposed access arrangements, layout and the impact on the surrounding residential development, the proposed development would contravene the zoning objective, RES ‘To protect and/or improve residential amenity’ and would not be in accordance with the proper planning and sustainable development of the area.*
3. *The proposed development would result in the creation of an unnecessary additional entrance on to a main link road to several streets within an existing estate. The proposed development would seriously injure the amenities of property in the vicinity, would contravene the zoning objective of the area and*

would not be in accordance with the proper planning and sustainable development of the area.

4. *The provision of the access to the development site would require the removal of existing trees on a Public Open space. The proposed development would therefore seriously injure the amenity value of the open space and would be contrary to the Development Plan policy in relation to the preservation, protection and augmentation of trees. The proposed development therefore would not be in accordance with the proper planning and sustainable development of the area.*
5. *An ecological survey has not been submitted as part of the planning application. Insufficient information has been provided to make a determination as to whether the proposed development would impact upon protected species such as bats to which the disturbance or destruction of their roosting sites is a prosecutable offence under the EU Habitats Directive and S.I. No. 477 of 2011 (European Communities (Birds And Natural Habitats) Regulations 2011)."*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report is the basis of the Planning Authority decision. It can be summarised as follows:

- Insufficient information has been given in relation to the site levels;
- No architectural design statement accompanies this application;
- There is no clarity on the future intentions for the land to the east;
- The internal residential amenity of the proposed dwellings fails to meet required standards;
- Reference is made to recommendations of the Roads Department and to the Parks Department.
- The proposed development is contrary to local planning provisions.

3.2.2. Other Technical Reports

Water:

Additional information requested. I note that in relation to surface water drainage.

Roads:

Recommendation for refusal is made. I note the following comments from their report:

- Access from Foxborough Green would be preferable.
- The parking provision is inadequate for the car parking spaces.
- The proposed entrance is considered an unnecessary additional entrance on a main link to several housing streets. It also cuts through a green space which is suboptimal.

Parks & Landscape:

Additional Information sought. I note the following comments from their report:

- No landscape scheme has been provided.
- The existing and proposed topography of the site is not adequately depicted.
- There is no public open space provision.
- No arborist report submitted.
- There is an intention to remove trees in order to gain access. It is considered that this is not in accordance with local planning provisions.
- The proposed entrance is not a favourable option as it would require the removal of many trees on public lands as well as involve cutting through public open space.
- It is recommended in keeping with G4 Objective 2 of the Development Plan that parks and areas of open space with ecological and recreational corridors to aid the movement of biodiversity and people should be provided.
- No ecological survey has been provided. Bats frequent outbuildings and hedgerows for shelter and for food.

3.3. Prescribed Bodies

3.3.1. Irish Water: Additional information requested.

3.4. **Third Party Observations**

- 3.4.1. Several 3rd Party submissions were received by the Planning Authority during the course of their determination of this application. I have noted the various concerns and issues raised in them. I consider that they correlate with those raised by the Observers in their submissions to the Board which I have summarised under Section 3 of this report below.

4.0 **Planning History**

- 4.1. None relevant.

5.0 **Policy & Context**

5.1. **National**

- Project Ireland - National Planning Framework, 2018.
- Urban Development & Building Heights – Guidelines for Planning Authorities, 2018.
- Design Manual for Urban Roads and Streets, (DMURS).
- Sustainable Residential Development in Urban Areas, (Cities, Towns & Villages) (DoEHLG, 2009) and its companion, the Urban Design Manual - A Best Practice Guide (DoEHLG, 2009).
- Quality Housing for Sustainable Communities, (DoEHLG, 2007).

5.2. **Local**

- 5.2.1. The South Dublin County Development Plan, 2016 to 2022, is applicable under which the site and its setting is zoned 'RES' which has the stated objective "*to protect and/or improve residential amenity*". Residential development is permissible subject to safeguards.
- 5.2.2. Chapter 2 of the Development Plan deals with the matter of 'housing'.

5.2.3. Chapter 3 of the Development Plan deals with the matter of 'Green Infrastructure' in the plan area.

5.2.4. Chapter 11 Section 11.3.2 of the Development Plan deals with the matter of corner sites.

5.3. **Heritage Designations**

5.3.1. None relevant.

5.4. **EIA Screening**

5.4.1. Having regard to the modest nature, scale and extent of the proposed development, the appeal sites location on serviced lands as well as the distance of the site from nearby sensitive receptors with the nearest European site being Rye Water Valley/Carton SAC (Site Code: 001398) which is located c5km to the north west, I consider that 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.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The grounds of appeal can be summarised as follows:

- The site forms part of a larger area of what was once agricultural lands that have been residentially redeveloped.
- The Transportation Division would prefer an entrance onto Newlands Road; however, the lands in between are in private ownership of a person who has objected to the proposed development and this is not considered a realistic option.
- The Parks Department of the Planning Authority suggest that access should be taken from Foxborough Green, however, this is not a realistic option either as it is not possible to provide a safe entrance to the public road from this boundary and it also adjoins an informal play area.

- A cross over drive would not undermine the visual amenities of the area.
- Internal modifications would allow the aggregate living area to meet required national standards.
- The existing dwellings on the opposite of the road on Foxborough Manor are only 600mm lower and the proposed houses are lower than the high point of the barn.
- The provision of a vehicle entrance is necessary for the development of this land and the sightlines are acceptable with the presence of two roundabouts in the vicinity which control speed.
- An ecological study was submitted with this application. This report confirms that there is no presence of protected species on the site.
- The proposed development is an acceptable response to this site, and it would not give rise to any significant loss of residential and/or visual amenities. Moreover, it is consistent with planning policy provisions.
- Legal issues are not for the Board to determine upon.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The issues raised have already been considered by them in their determination of this application.

6.3. Observations

6.3.1. The Board received 3 no. 3rd Party Observations in relation to this 1st Party appeal. The concerns raised in each of these submissions generally overlap. I therefore consider that they can be summarised collectively under the following broad headings:

Decision of the Planning Authority

- The decision of the Planning Authority is supported.

Impact on Amenities of Properties in the Vicinity

- The proposed development, if permitted, would block visibility from their properties towards Foxborough Green. This is objected too.

- Given the raised topography of the site the proposed buildings, if permitted, would impact adversely on daylight, would result in overshadowing and would result in decreased levels of privacy for their properties by way of overlooking. This is objected to.

Design Concept

- The proposed development in terms of its design is not in accordance with relevant local planning policy provisions.
- The design does not harmonise with the established building line.
- Existing built and natural features like boundary treatments, pillars, gateways and vegetation should be retained.
- The size of the residential units is substandard and any increase to their size cannot be accommodated on this restricted in size site.

Suitability of the Site

- This site is not suitable for the type of residential development proposed.
- The proposed development would give rise to piecemeal development.

Visual Amenity Impact

- The proposed development is out of character with its setting.
- The height of the proposed development is at odds with existing buildings in this area.
- The existing buildings on site add to the character of this area and they are part of the built heritage of the area.
- It is not accepted that the proposed development would positively improve the visual amenities of its setting.
- The removal of trees would result in a diminishment to the sylvan character of the area and their loss in order to make room for an inadequate as well as an overly congested development would negatively impact on the visual amenities of its setting.
- The trees that would be lost at present result in a break and/or bridge between two different styles of residential buildings in this locality.

Biodiversity

- The proposed development, if permitted, would detrimentally impact on the flora and fauna of the area.
- Green spaces are rare in this area and this development, if permitted, would adversely impact on available green spaces for kids to play in.
- The loss of trees would be contrary to local planning provisions.
- The applicant only carried out a bat survey.

Traffic

- Traffic in this area is already excessive and the proposed development, if permitted would adversely add to it.
- The road network connection onto Foxborough Road and Rosewood Grove are narrow and on-street parking is a significant problem along it.
- The sightlines from the proposed entrance serving the site are restricted.
- The proposed development, if permitted, would give rise to road safety, traffic hazard and other related issues.
- An access onto Foxborough Manor would not be acceptable as it would give rise to serious road safety and traffic hazard issues.

Ownership

- The applicants are not the registered owners of the property. One of the observers contend that they are one of the parties with legal interest in this land. They contend that the applicant has not been given consent to make this application nor have, they been consulted with in relation to the making of this application.
- No right-of-way exists through the property from the Old Clondalkin Road through one of the observer's properties land. It is therefore considered inappropriate to open or provide an entrance through their property.

Nuisance

- Concerns are raised that the proposed development, if permitted, during demolition, construction and completion would give rise to significant nuisance.

- The nuisance that would arise from construction traffic is a cause of concern.

Drainage

- No consent has been given to access drainage infrastructure that is not in public ownership and for which is outside of the legal interest of the applicants.

7.0 Assessment

7.1. Introduction

7.1.1. Having inspected the site, considered all the documentation and correspondence on file, had regard to the relevant policy provisions pertaining to this type of development and the suburban setting of the site, I consider that the main issues that arise in this appeal case are those raised in the grounds of appeal and those by the Observers. I am satisfied that no other substantive planning issues arise. I have dealt with the issues under the following headings:

- Principle of the Proposed Development
- Compliance with Development Plan
- Residential Impact
- Biodiversity: Bats
- Services
- Other Matters Arising

7.1.2. The issue of 'Appropriate Assessment' also needs to be addressed. Notwithstanding, before I commence my assessment, I note that concerns have been raised in relation to the applicant's legal interest in the appeal site. On this matter there appears to be some substantive evidence provided by one of the Observers to this appeal that there is some degree of merit in this concern, despite the documentation provided by the 1st Party in relation to their interest in the site, alongside their ability to make this application in the first instance, to the Planning Authority.

7.1.3. Moreover, while it would appear that the applicants have obtained consent from the Planning Authority to provide access to the site over public land, it would also appear on the other hand that no consent has been given for the removal of trees to facilitate

the access onto the public road network as it is proposed in this application onto Foxborough Manor.

7.1.4. Further, the Planning Authority's Roads Department also objects to the provision of the access in the manner proposed in this application for various reasons, in particular traffic hazard and road safety grounds. As such there appears to be a stumbling block in terms of the applicant being able to demonstrate a safe access and egress to the site onto the public road network.

7.1.5. This in my view is a fundamental issue with the application sought and as further discussed in my assessment below in my opinion goes hand in hand with the concerns with regards to achieving a coherent and site suitable response for not only the site itself which is in a derelict, overgrown and unkempt state through to the parcel of land associated with it and the historical access to the existing barn structure.

7.1.6. Notwithstanding, on the matter of ownership and title I am of the view that any decision on the planning application itself does not purport to determine the legal interests held by the applicants or indeed any other interested party. I also refer to Section 34(13) of the Planning and Development Act, 2000, as amended. It indicates that "*a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development*". I am also of the view that any grant of permission should be accompanied by this as an advisory note and that the proposed development despite relating to a corner plot of land with no access onto the public road network should be considered on its merits.

7.2. Principle of the Proposed Development

7.2.1. The appeal site lies within a larger parcel of land zoned 'RES' in the Development Plan. The objective for such land is to protect and/or improve residential amenity. In principle the proposed development which essentially consists of the demolition of an existing barn structure, that is in a poor state of condition, and the provision of a terrace group of four dwelling units that are of density that accord with that recommended for this suburban setting is generally acceptable.

7.2.2. I also consider that the proposed development is also consistent with national planning provisions including but not limited to Project Ireland – National Planning Frameworks which includes objectives like National Policy Objective 33 which seeks to "*prioritise the provision of new homes at locations that can support sustainable development and*

at an appropriate scale of provision relative to location"; and, National Policy Objective 35 which seeks to *"increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights"*.

- 7.2.3. In addition, guidance such as *"Sustainable Residential Development in Urban Areas"* advocates for greater intensification in such locations, subject to the residential amenities of existing properties being safeguarded and the guidance provided in *"Urban Development & Building Heights"*, advocates for greater building heights in such locations also subject to residential amenities of existing properties being safeguarded.
- 7.2.4. It also generally accords with the focusing of this type of development on zoned residential land, with infrastructure capacity to meet water and foul drainage requirements through being in proximity to public transport as well as other services synergistic to residential developments like this.
- 7.2.5. For example, in close proximity to the north of the site are Dublin Bus - Foxborough Hall Stops (4629 and 4605); there are a number of schools in walking distance including Lucan National School and Devine Mercey Junior School which are located to the south east; there is several various sizes of communal open space including Ballyowen Park which is located to the north east; there are shops including a Centra shop located to the south and a plethora of other facilities that would be of benefit to future occupants of any residential development of this site.

7.3. Compliance with Development Plan

- 7.3.1. Having examined the proposed development against relevant Development Plan standards for this type of development I raise a number of substantive concerns and as a result I question that the proposed development is one that accords with the local planning provisions. At this junction I also consider it appropriate to note that the Development Plan provisions in relation to this type of development accord with national provisions and as such I consider that they are reasonable.
- 7.3.2. *Corner Site:*

This appeal site occupies a corner location with its western boundary addressing Foxborough Manor and its southern boundary addressing Foxborough Green. It is also a brownfield site that historically appears to have formed part of a period

farmstead that included a number of existing buildings and spaces to north and east. This collection of buildings which contains a single storey and two two-storey detached dwellings appear to be known as 'Wynward'.

It would appear that overtime other land that was associated with this farmstead has been residentially redeveloped in the form of mainly 2-storey detached and semi-detached highly homogenous and coherent in design, built form, appearance through to palette of materials, residential schemes.

Section 11.3.2 of the Development Plan deals with the matter of corner sites and includes a number of criteria including but not limited to that they should be generally designed and sited to match the building line; that the architectural language of the development should respond to the character of adjacent dwellings to create a sense of harmony; and, that contemporary as well as innovative proposals are encourage that respond to their local site context; through to corner development should provide a dual frontage in order to avoid blank facades and maximise surveillance of the public domain.

In relation to these criteria I raise concern that not only does the proposed development fail to match with the building line of either Foxborough Green to the east and arguably that of Foxborough Manor when regard is had to the positioning of buildings that address it in the immediate visual curtilage of the site. In particular the semi-detached properties that address its roundabout intersection with Foxborough Green to the south.

Also, on this point there appears to be no harmonisation or staggering of the building line in terms of the existing residential buildings to the north of it that address Newlands Road or in terms of the highly coherent building that characterises Foxborough Green to the east of it.

In terms of the architectural language of the development, it should respond to the character of adjacent dwellings to create a sense of harmony whilst the design concept in terms of its built appearance includes the use of materials in a more contemporary to that which characterises existing dwellings in its vicinity the introduction of a terrace built form is out of character with the building typologies that characterise residential developments in this established residential area.

Moreover, whilst I acknowledge that in general there is support for taller buildings having regard to new residential developments within urban areas the addition of a 3rd floor element may end up being visually incongruous and potentially visually more dominant depending on what approach is taken to deal with the significant fall in ground levels that exist at this location.

It is quite evident on site that the lands to the north occupy much higher ground levels and the sloping ground levels are very evident as one journeys from Newlands Road towards the roundabout intersection of Foxborough Manor and Foxborough Green.

Thus, if the higher ground levels are maintained relative to the ground levels that characterise the streetscape scenes that surround the site, particularly those on the northern portion of the site, and having regard to the stated Finished Floor Level of 57.8 of the terrace group against the limited topographical details provided with this application, in my view the proposed terrace building has the potential to be a dominant and visually overt built form in its setting.

The submitted drawings and visual representation of the terrace group as submitted with this application also includes no graduation in ridge height or staggering of principal building line which could lessen its visual overbearance and help harmonise it with more successfully within its streetscape setting.

Of further concern the design concept does not seek to address or provide reference to the site's location on a corner addressing a roundabout intersection of two streets and offers a design solution that is more akin to what one would expect when a site has only the benefit of one road frontage.

By failing to have regard to the site context by choosing for the terrace group to address Foxborough Manor solely, not only is an opportunity lost to adequately address the site's prominent position at an intersection, what also arises is the orientation of the terrace group results in its principal façade visibly turning its back to Foxborough Green alongside resulting in a rear elevation that due to the inclusion of a 3rd floor attic level would also be highly visible and visually incongruous as appreciated from the public and semi-private domain of Foxborough Green. The proposed rear elevation would in my view become a very dominant and incongruous

feature in terms of buildings addressing the intersection of Foxborough Manor and Foxborough Green.

I also raise a significant concern that the site fails to respond further to its local site context by essentially eradicating the sylvan character of this site with the design chosen not seeking to carry this forward in any way. This in my view is a real loss of opportunity not just in terms of the loss of biodiversity, but it would also eradicate natural features that add positively to the visual amenities of this site and its setting.

Moreover, these together with the barn building add character, uniqueness of place and identity which together with the other surviving farmstead buildings associated with 'Wynward' sets this area apart in an otherwise highly homogenous setting of residential developments that could be anywhere but here. This I acknowledge is a huge problem in terms of residential development schemes deciding not to respond to the unique latent potential of natural features through to buildings that may be present on such sites in favour of their eradication in order to make way for easier more standard less innovative design approaches. This approach in my view would be a shame to take for this site and would be of detriment to this locality's sense of place.

Indeed, contemporary and innovative design responses are encouraged on sites like this and at the very minimum such a corner site should seek to respond by putting forward dual frontage in its design through to showing cognisance in its design to the topography of the site as well as its setting and it should at seek to maintain at least some of the existing features present that positively contribute to the site's streetscape setting. It could also respond in some way to the agricultural past of this site and the expression of built forms that remain in this now fragmented farmstead of 'Wynward'. In my view the design concept put forward fails to include any of these basic responses to this corner site context.

Having regard to the above, I am of the view that the proposed development is one that does not accord with many of the criteria set out under Section 11.3.2 of the Development and arguably as result there is merit to the Planning Authority's concerns that the proposed development, if permitted, in the form proposed would be haphazard and piecemeal.

7.3.3. *Residential Amenity:* Whilst the appellant in their appeal submission to the Board contend that the simple internal reconfiguration of the ground floor level of the dwelling

units proposed that fail to meet the relevant standards would suffice to overcome the Planning Authority's reasons for refusal relating to substandard residential amenity it is my view that this does not go far enough to overcome the fact that the proposed development, if permitted, even with this reconfiguration would still give rise to a substandard level of amenity for future occupants.

On this concern I firstly note that the access onto the public domain of Foxborough Manor cannot achieve the required sightlines due to these sightlines being obscured by existing tree planting in its vicinity and in its location with the Council not consenting to removal or relocation of the existing trees in the wide grass verge. Additionally, the proposed combined entrance would be located in close proximity to a roundabout which I observed accommodated a steady flow of traffic in a north-south direction, i.e. towards Newlands Road to the north and Griffeen Avenue to the south.

As such I consider that there is potential for conflict to arise for other road users should permission be granted for the proposed development with the entrance as proposed and I would concur that it would be more preferable that access would be from the less trafficked Foxborough Green or indeed that a co-ordinated plan was prepared for the site that used the historical entrance onto Newlands Road that served the land parcel associated with the farmstead of 'Wynward'.

I consider that the provision of a new entrance onto Foxborough Manor would not only give rise to additional road safety and traffic hazard issues for road users it would also impact on the linear strip of open space that runs along the western boundary of the site and continues in a northerly direction towards the roundabout with Newlands Road and adjoins the roundabout intersection accommodating traffic flow from Foxborough Manor and Foxborough Green.

Within the site itself there is no dedicated or designed accompanying open space provision that could be considered to qualitatively or quantitatively meet the required 10 percent requirement set out in the Development Plan provisions.

Of further concern the pocket of grass provided in the south western corner of the site appears to be more of an afterthought and it would require access over a limited in width shared surface area that is required for car manoeuvring.

Together with the other green areas indicated within the site including treatment of the site boundaries these lack clarification and would appear to be unaccompanied by any real landscaping measures of substance.

In relation to the shared surface area, this area appears to be substandard to accommodate the turning movements required for vehicles to safely access and egress in a forward gear from the entrance proposed onto the public road network via Foxborough Manor.

I also concur with the Roads Department that the car parking space dimensions are substandard, and I am not convinced that the car parking space arrangement for Unit No. 1 is acceptable as it would not allow for two cars to access and egress independently at all times.

I further raise a concern that Unit No. 2 and 3 only marginally exceed the minimum private open space standard and that the proposed design does not include any exclusion for storage of waste in a manner that accords with relevant requirements in the semi-private domain to the front of them as their rear private amenity spaces are only accessible from their rear elevations.

Internally, I share the concerns raised by the Planning Authority's that this provision is substandard both in quantitatively and qualitatively when regard is had to Table 5.1 of the Quality Housing for Sustainable Communities-Best Practice Guidelines in relation to the aggregate living spaces for both the 3 bedroom 5 person dwelling units and the 4 bedroom 7 person dwelling units.

I also concur that Unit 2 and 3 do also not meet the minimum bedroom sizes and I also question whether the attic bedroom level meet current Building Regulation requirements in terms of habitable rooms in Units No. 1 and 4.

In relation to this concern I note that H14 Objective 1 of the Development Plan states *"to ensure that all residential units and residential buildings are designed in accordance with the relevant quantitative standards, qualitative standards and recommendations contained in Sustainable Urban Housing: Design Standards for New Apartments (2015), the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), the companion Urban Design Manual and have regard to the standards and targets contained in Quality Housing for Sustainable Communities (2007), particularly the standards and recommendations*

that relate to internal amenity/layout, overall unit size, internal room sizes, room dimensions, aspect, sound insulation, communal facilities, storage, sustainability and energy efficiency”.

I therefore consider that the proposed development fails to accord with local and national planning provision which seek to provide a basic quantitative and qualitative standard for dwelling units like those sought under this application.

This is not acceptable on grounds of residential amenity for future occupants.

7.3.4. Varying Topography: In addition to the concerns already raised in terms of the appropriateness of the proposed design concept for what is a site and setting with varying topography.

On this point I note that Section 2.3.6 of the Development Plan indicates residential developments in such situations should utilise the natural slope of the landscape and avoid intrusive engineering features.

In my view the design put forward results in an engineering solution for this sloping site by virtue of seeking for the finished floor level of each of the four terrace units proposed to have the same finished floor level despite the varying topography of the site and its setting particularly in terms of the sloping ground levels from Newlands Road to the roundabout intersection of Foxborough Manor and Foxborough Green.

It is in my view very unclear from the documentation submitted the actual level of engineering solutions and/or modifications of ground levels required to accommodate the proposed development at what appears to be one consistent ground level.

This concern also includes the access road to Foxborough Manor and the actual boundary heights that will be provided to ensure that an appropriate level of privacy is achieved for future occupants and existing occupants of residential properties in its immediate vicinity.

In this regard, I am not satisfied that this proposal has satisfactorily demonstrated that H16 Objective 1 which seeks *“to ensure that all developments including buildings, streets and spaces are designed and arranged to respond to and complement the site’s natural contours and natural drainage features in accordance with the recommendations of the Urban Design Manual – A Best Practice Guide (2009)”* and H16 Objective 2 which states *“to avoid the use of intrusive engineered solutions”* has

been accorded to, based on the inadequate information provided, in the design resolution put forward.

- 7.3.5. *Trees and Hedgerows*: The design proposal put forward makes little attempt to integrate natural features present within the site as part of setting. It also provides little clarification in terms of what natural features will be kept and no definitive landscaping scheme has been provided.

As such I consider that the proposed development as put forward in this application has the high probability of resulting in the loss of mature natural features on this site which would result in the diminishment of the biodiversity of this area but also would diminish the visual amenities of its setting due to the loss of the sylvan character that arises from this site.

I therefore consider that the proposed development, if permitted in the manner proposed, would be contrary to G2 Objective 9 of the Development Plan which seeks “*to preserve, protect and augment groups of trees, woodlands and hedgerows within the County*”.

7.4. Residential Amenities

- 7.4.1. Having regard to all the information available on file, I am of the view that the proposed terrace group of four dwelling units, will have no serious, or disproportionate negative impact on the prevailing residential amenity of properties in its vicinity. In particular, the existing properties to the north and east of it.
- 7.4.2. In reaching this conclusion I have considered potential threats to residential amenity including but not limited to visual obtrusion/overbearance, loss of daylight, overshadowing and overlooking arising from the proposed development. I consider that the proposed design includes ample lateral separation distance between the rear and side elevations of the proposed terrace group between it and these properties. In addition, the number of window openings on the rear and northern elevations above ground level have been kept to a minimum.
- 7.4.3. In this context I consider that the level of overlooking that would arise is not inconsistent with its suburban context and the requirement to provide permanent opaque/obscure glazing on WC/bathrooms on the rear and side elevations is an appropriate solution to lessen the resulting overlooking of properties in its vicinity. It

is also a type of glazing that can be conditioned and as such be enforced in future should it be omitted.

- 7.4.4. While I acknowledge that the proposed development, if permitted, would change the context for dwellings in its vicinity, in the round; notwithstanding, subject to the appropriate boundary treatments and a more site sensitive landscaping scheme which includes the consideration of the provision of semi-mature trees as part of one of the measures to negate the loss of mature trees and vegetation on site I consider that the residential amenities of properties near the proposed development would not be significantly adversely impacted should permission be granted for the development sought.

7.5. **Services**

- 7.5.1. The proposed development is located within the suburban area of Lucan to the west of Dublin city's centre. The applicants propose to connect to the existing public water supply mains and public sewer for wastewater management. They also propose a number of sustainable drainage measures including the provision of soakaways to the rear of each dwelling unit proposed and the shared surface area would appear to be semi-permeable. The site is not located within a flood risk zone and is remote from land identified for flooding risk.
- 7.5.2. I note that the Planning Authority's Environmental Services Department concluded with a request for further information as they considered that the information provided to be insufficient in terms of the soakaway provision. In addition to this I also noted that Irish Water requested the provision of further information in relation to surface water design.
- 7.5.3. Should the Board be minded to grant permission the lack of clarity in terms of the issues raised by the Planning Authority and Irish Water need to be addressed either by way of further information or by way of robust conditions requiring such matters to be satisfactorily clarified and if deemed necessary the design resolution amended prior to the commencement of any development on site, in writing with the Planning Authority.

7.6. **Bats**

- 7.6.1. I note that this application is accompanied by a bat survey and there is further clarification on this matter provided as part of the appellants submission to the Board.

There was no access to the main area of the site available at the time of my inspection and the findings provided in terms of the barn building through to the planting present appear to correlate with what is observable from vantage points into the site. The results of the surveys undertaken included that there were few opportunities for bat use of the building on the site for roosting as there was no available access to cavities in the roof space and the like. There was no evidence such as droppings, or physical presence of bats species at dusk.

- 7.6.2. It concluded that as there are no bats present in the buildings there is no requirement for compulsory mitigation measures.
- 7.6.3. In addition, there also appears to be no evidence that would support that the site is used for feeding by bats but should bats be present in this area in my view is not unlikely that an overgrown site like this may provide food opportunities for them.
- 7.6.4. As such it would be appropriate in my view that any development of this site has regard to the biodiversity that sites like this afford in suburban Dublin and where possible good quality natural features should be kept as part of the design proposals and reinforced with site sensitive landscaping schemes. Unfortunately, the latter does not appear to be an approach taken with this proposed development and the preparation of an ecological survey could have been of use in making a determination on the potential impact of the proposed development on valuable biodiversity that may exist or is linked to this site in some way
- 7.6.5. Based on the precautionary principle and having regard to fact that bats are afforded protection under Annex II of the European Union Habitats Directive the Board may wish to include reason five of the Planning Authority's notification to refuse planning permission. However, there is no evidence to support that there would be any disturbance or destruction of an Annex II roosting or feeding site and there is substantive reasons given in this assessment above as to why the proposed development, if permitted, would be contrary to the proper planning and sustainable development of the site.

7.7. **Other Matters Arising**

- 7.7.1. *Overspill of car parking:* Having inspected the site and its setting alongside having regard to the substandard provision of car parking for the proposed dwelling units in terms of their dimensional sizes, the limited manoeuvring space on site to allow cars

to safely access and egress in a forward gear, I consider that there is a likelihood that the proposed development, if permitted, has the potential to give rise to additional car parking demands in the vicinity of it. The parking on street of cars is already an issue in this area and I observed that it does at present hamper the free and safe flow of traffic in the vicinity of the site.

7.7.2. *Demolition and Construction Nuisance:* I consider concerns raised in relation to these matters could be dealt with by way of appropriate conditions should the Board be minded to grant permission for the development sought under this application.

7.8. **Appropriate Assessment**

7.8.1. Having regard to the nature and scale of the proposed development, the location of the site within an established serviced urban area, and the distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. I recommend that planning permission is **refused** for the reasons and considerations set out below:

9.0 **Reasons and Considerations**

1. It is considered that the proposed layout and design of the proposed four terrace dwelling units would produce a substandard form of development on this site at a density that cannot be accommodated to a level where qualitative residential amenities can be provided for future occupants in a manner that accords with local planning policy provisions, in particular, H14 Objective 1 of the South Dublin County Development Plan, 2016 to 2022, and, in turn the national standards such as those set out in the 'Sustainable Urban Housing Design Standards for New Apartments: Guidelines for Planning Authorities', 2018, which this Development Plan objective seeks that such residential developments in terms of the quantitative and qualitative standards of individual dwellings should accord to. The proposed

development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development constitutes haphazard piecemeal development and would poorly integrate with its site context and the surrounding area. Having regard to the proposed design resolution; the inappropriate location of a proposed new access point onto the public road network at a point where the entrance would be in close proximity to a busy roundabout (Foxborough Manor/Foxborough Green), would result in loss of public open space and trees thereon; the built form of the terrace group and its layout; the lack of innovative response to this corner plot including but not limited to the lack of dual frontage address, the lack of a sympathetic response to natural features present on the site through to lack of a site sensitive response to the varying topography of the site's setting, it is considered that the proposed development would be contrary to the land use zoning which seeks to protect and/or improve residential amenity and it would be contrary to the approach advocated under Section 11.3.2 of the South Dublin County Development Plan, 2016 to 2022, for corner sites. The proposed development would therefore seriously injure the visual and residential amenities of its setting in a manner that would not be in accordance with the proper planning and sustainable development of the area.
3. Adequate car parking spaces, loading areas and turning space have not been provided within the curtilage of the site. In addition, the proposed location of the entrance to serve the proposed development onto Foxborough Manor is not deemed to a suitable nor a safe provision for future occupants and road users. The proposed development, would, therefore, result in on-street parking and would endanger public safety by reason of traffic hazard and the obstruction of road users. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector - 18th day of March, 2020.