

An  
Bord  
Pleanála

**Board Direction**  
**BD-016071-24**  
**ABP-314540-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/04/2024.

The Board (in a majority 2 to 1 decision) decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

#### **Reasons and Considerations**

The proposed development is located on lands zoned 'A - To provide residential development and improve residential amenity while protecting the existing residential amenities' and is within the Foxrock Architectural Conservation Area designated in the Dún Laoghaire-Rathdown County Development Plan 2022 to 2028. Having regard to the unexceptional architectural quality of the existing house on site and to the proposal to provide for the intensification of residential use on this zoned site, the nature and scale of the proposed development, the pattern of development in the area, and, subject to compliance with the conditions set out below, it is considered that the proposed development would comply with Policy Objective HER13 which seeks to ensure development proposals within an Architectural Conservation Area (ACA) be appropriate to the character of the area, would not significantly detract from the character of the Foxrock ACA, would not seriously injure the residential amenities of property in the vicinity or the visual amenities of the area, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the provisions of the Dún Laoghaire-Rathdown County

Development Plan 2022-2028. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The proposed 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 submitted with the appeal on the 05th September 2022, 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, or as otherwise stipulated by conditions hereunder, and the proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity

2. Prior to the commencement of development, revised plans shall be submitted to the planning authority for agreement in writing providing the following:
  - (a) Secure external storage space for each apartment for storage of bulky items.
  - (b) a minimum of 6 metres offset between car parking spaces and the proposed vehicular entrance.
  - (c) provision of a pedestrian crossing/treatment across the proposed vehicular entrance
  - (d) the omission of the proposed wall and railing boundary treatment along Westminster Road and it's replacement with a revised railing and hedge/planting boundary and entrance treatment consistent with the sylvan nature of Westminster Road

Reason: In the interest of residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual and residential amenities.

5. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

6. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

7. The applicant or developer shall enter into water and waste water connection agreement(s) with Uisce Eireann, prior to commencement of development.

Reason: In the interest of public health.

8. (a) The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters.

(b) The internal road serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.



Reason: In the interest of pedestrian and traffic safety and the proper planning and development of the area.

9. A minimum of 10% of the communal car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date.

Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the developer shall submit such proposals to be agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

10. Proposals for an estate name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

11. Public lighting and any works to public roads / footpaths adjoining the site, shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting/works to public roads and paths. Such lighting/works shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

12. The demolition and construction of the development shall be managed in accordance with a Demolition and Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and

location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

Reason: In the interests of public safety and residential amenity

13. Construction and demolition waste shall be managed in accordance with a final construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

14. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive and 0800 to 1400 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

15. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.



16. No additional development shall take place above the apartment block's roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

17. (a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 ' Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.'

(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

18. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

19. 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.

20. 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 for Monaghan County Council 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.

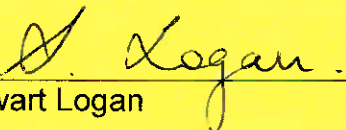
21. The developer shall pay to the planning authority a financial contribution in lieu of the public open space requirement in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of



development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions for Monaghan County Council 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.

**Board Member**

  
Stewart Logan

**Date:** 15/04/2024

**Note:** In considering the appeal, the Board noted the concerns of the local authority in relation to the demolition of an existing dwelling and the impact on the proposal on the Foxrock Architectural Conservation Area. However, the Board considered the replacement of the dwelling with a residential apartment scheme was appropriate and that the proposed development was of a high quality that was sympathetic to the context and character of the ACA. The Board also considered that the location of the site in Foxrock village, close to local services and amenities and adjacent to an existing four-storey residential building, was an important context for the proposed development that was consistent with Objective PHP18 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028.