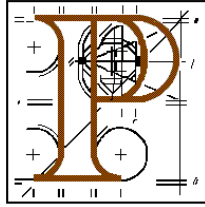


## An Bord Pleanála



## Inspector's Report

### Development:

Permission for a residential development consisting of 72 no dwelling units including a vehicular access from Firhouse road, all associated site and infrastructural works including foul and surface water drainage, 106 no. car parking spaces, landscaping and public open space, boundary walls and fences, roads, cyclepaths and footpaths all on a site area of approximately 2.3hectares. The site is within the curtilage of a protected structure RPS Reference 284).

The development consists of 22 no two storey two bed and 3 bed semi-detached houses, 8 corner blocks comprising 24 no three storey 2 bed apartment units with balconies and 8 no two storey 3 bed duplex units, and 2 blocks comprising 18 no three storey 1 bed and 2 bed apartments to be provided as follows:

- (i) 18 no 3 bed semi-detached houses (House type B)
- (ii) 4 no 2 bed semi-detached houses (House type A)
- (iii) 24 no 2 bed corner apartments (Apartment type 02, 03, 04),
- (iv) 8 no 3 bed corner duplex units (Apartment Type 01)
- (v) 6 no 1 bed apartments (Apartment Type 02),
- (vi) 12 no 2 bed apartments (Apartment Type 01, 03 & 04).

The proposal also includes the provision of approximately 0.7hectares of land to the north of the subject site boundary to be transferred into public ownership as part of the Dodder Valley public open space.

Location: Lands adjacent to the Carmel of the Assumption  
Convent, Firhouse Road, Firhouse, Dublin 24.

Planning Application:

Planning Authority: South Dublin County Council  
Planning Authority Reg. Ref.: SD15A/0336  
Applicant: Fitzwilliam Real Estate Construction  
Limited  
Type of Application: Permission  
Planning Authority Decision: Refuse Permission

Planning Appeal:

Appellant(s): Fitzwilliam Real Estate Construction  
Limited  
Type of Appeal(s): 1<sup>st</sup> Party v Refusal  
Date of inspection: 9<sup>th</sup> May 2016  
Inspector: Bríd Maxwell

## 1.0 THE SITE

- 1.1 The appeal site is located to the west of the M50 close to Junction 11 Tallaght, bordering north of the R114 Firhouse Road and south of the Dodder Valley Park. The site is a greenfield site within the grounds of the Carmelite Convent and surrounded by a high rendered rubble wall to Firhouse Road. The residential areas of Firhouse & Knocklyon are situated to the west and south respectively. Adjacent to the east of the site is a compact residential block of two storey dwellings on Mount Carmel Park and Morton's public house, a hair salon and betting office adjoin to the south east fronting onto Firhouse Road. The River Dodder flows from south-west to north-east approximately 80m to the north of the site.
- 1.2 The appeal site which has a stated area of 2.3 hectares comprises sections of two field patterns and is dissected by a mature hedgerow containing good specimen trees. The site is currently in pasture and is associated with Mount Carmel, Carmelite Convent which is located to the west of the site. The southern boundary is defined by mature trees behind a random rubble stone wall the original boundary to Mount Carmel. The wall continues along the southeastern boundary and eastern boundary. The northern and southwestern boundaries of the site are undefined. Site levels fall gradually from west to east with the existing levels varying from approximately 74mOD to 70.5m OD.
- 1.3 The surrounding area is both suburban and semi-rural in character characterised by large residential estates on Firhouse Road together with the open lands and Carmelite Convent and largely semi-rural lands from the site north to the Dodder Valley. Development in the surrounding area is predominantly medium density housing, ranging from two to three storeys in height.

- at
- 1.4 The site is within the curtilage of the Carmelite Monastery of the Assumption protected structure RPS Reference 284 described as Detached Three-Bay Single Storey Former School House. The City Watercourse, Firhouse located to the northeast of the site is also a protected structure (RPS Reference 246). Relates to the Mill Race Weir and Sluice (RM). Located to the south of the site is Sally Park – House and Gateway, RPS Reference 285 a detached three storey Georgian Country Houses now in use as a nursing home. Sally Park is also listed as an 18th century dwelling on the Sites and Monuments Record (SMR ref: DU022-103)
- 1.5 Photographs taken of the subject site and vicinity during the Inspection are included as an Appendix to this Assessment.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposal seeks permission for a residential development consisting of 72 no dwelling units including a vehicular access from Firhouse road, all associated site and infrastructural works including foul and surface water drainage, 106 no. car parking spaces, landscaping and public open space, boundary walls and fences, roads, cyclepaths and footpaths. The development consists of 22 no two storey two bed and 3 bed semi-detached houses, 8 corner blocks comprising 24 no three storey 2 bed apartment units with balconies and 8 no two storey 3 bed duplex units, and 2 blocks comprising 18 no three storey 1 bed and 2 bed apartments. The proposal also includes the provision of approximately 0.7hectares of land to the north of the subject site boundary to be transferred into public ownership as part of the Dodder Valley public open space.<sup>1</sup>
- 2.2 The application to the Council was accompanied by a number of documents which set out the proposal in some detail including
- Planning Statement by John Spain Associates.
  - Design Statement - Reddy Architecture and Urbanism

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<sup>1</sup> It is noted that the area of land to be ceded 0.7ha adjoin to the north of the site but is outside the appeal site boundary.

- Conservation Report by Cathal Crimmins, Conservation Architect.
- Ecological Impact Statement compiled by OPENFIELD Ecological Services.
- A bat assessment by Brian Keeley, Zoologist
- An Arboricultural Assessment by Arborist Associates Ltd.
- A Screening Report for Appropriate Assessment compiled by Openfield Ecological Services.
- A landscape Concept Design Report by Doyle O Troithigh, Landscape Architecture
- A landscape and visual assessment by Doyle O Troithigh, Landscape Architecture
- An Archaeological impact Assessment by Courtney Deery Heritage Consultancy.
- An Engineering Planning Report by Muir Associates Limited, Consulting Engineers.

2.3 Proposed access to the development is from Firhouse Road (Regional Road R114). Pedestrian access gates are to be created in the north east and south boundary wall to provide direct pedestrian access to Dodder Vally Park and the Firhouse Road. The design statement outlines that the overall design concept is based on three clusters developed around a network of shared surface streets surrounded by open space. The two three storey apartment blocks are proposed adjacent to the proposed area of open space to be transferred into the public ownership of South Dublin County Council. The dwellings are two or three storeys in height. The planning report outlines that the proposal is to provide a broad mix of dwelling types to cater for varied needs and comply with development plan standards. Car parking is provided at a ratio of approximately 1.5 spaces per residential unit. The quantum of public open space within the site is 0.63ha which equates to 26% of the total site area.

- 2.4 As regards compliance with the provisions of Part V applicant indicates willingness to comply with Council requirements. Seven ground level units were identified as possible Part V units.

### **3.0 PLANNING POLICY**

#### **3.1 NATIONAL POLICY**

3.1.1 Sustainable Residential Development in Urban Areas, 2009. The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout.

3.1.2 DoEHLG 'Sustainable Urban Housing: Design Standards for New Apartments', 2007. These guidelines provide recommended guidance for internal design standards, storage areas and communal facilities, private open spaces and balconies, overall design issues and recommended minimum floor areas and standards.

3.1.3 The Planning System and Flood Risk Management, DoEHLG OPW 2009 – describe good practice in the consideration of flood risk in planning and development management. The key principles set out in the guidelines are:

- (a) Avoid development in areas at risk of flooding (sequential approach);
- (b) If this is not possible, consider substituting a land use that is less vulnerable to flooding,

(c) Only when both avoidance and substitution cannot take place should consideration be given to mitigation and management of risks.

Exceptions to the restriction of development due to potential flood risks are provided for through the use of the Justification Test, where the planning need and the sustainable management of flood risk to an acceptable level can be demonstrated.

Section 5.24 states that an appropriate flood risk assessment must be submitted for major proposals in areas of flood risk currently zoned for development. A strategic flood risk assessment of the general environs should be undertaken and the Justification Test carried out. Where the information is not sufficient to fully assess the issues involved it should be considered as premature prior to a review of flood risk in the current development plan for the area.

- 3.1.4 The Design Manual for Urban Roads and Streets, Department of the Environment Community and Local Government, 2013. – DMURS provides guidance relating to the design of urban roads and streets. It presents a series of principles, approaches and standards that are necessary to achieve balanced best practice outcomes with regard to street networks and individual streets.

### **3.2 South Dublin County Development Plan 2010-2016**

- 3.2.1 The site is zoned Objective A which seeks “to protect and / or improve residential amenity as indicated in the Development Plan.”

Specific Local Objective SLO 77 in the South Dublin County Development Plan 2010-2016 refers to the site and is as follows:

*“Provide for residential development on approximately 2 hectares of land in the vicinity of the former Carmelite Convent Firhouse. In conjunction with the bringing into public ownership of part of the Dodder Valley lands as public open space. There is also an objective to protect and preserve trees and woodlands on the subject lands.*

*Specific Local Objective 7 Areas of Flooding Potential – Assessment of Planning Applications.*

*The areas of flooding potential as indicated in the Dodder Catchment Flood Risk Assessment Management Study (CFRAMS) and the OPW alluvial soils floodplain maps are to be taken into account along with the requirements of Section 5 of The Planning System and Flood Risk Management Guidelines (November 2009) when assessing planning applications, with a view to restricting or, if necessary, refusing development proposals within such areas in order to avoid flooding events.*

### 3.2.2 Policy H8: Outer Suburban / Greenfield sites densities.

It is the policy of the Council to ensure the greatest efficiency of land usage on such lands through the provision of net residential densities in the general range of 35-50 dwellings per hectare, involving a range of housing types where possible. Development at net densities less than 30 dwellings per hectare will generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares. Development in Outer Suburban/ 'Greenfield' sites will be subject to safeguards outlined in Sustainable Neighbourhoods in Section 1.4 or being in accordance with Local Area Plans or Approved Plans

### 3.2.3 Policy H25: Mix of house types and sizes.

It is the policy of the Council to promote Dwelling Mix to ensure the provision of a wide range of house types and sizes to cater for the different needs of the population, in accordance with the provisions of the Housing Strategy.

### 3.2.4 Policy SCR 41 requires the provision of good quality well located and functional open space in new residential developments.

### 3.2.5 Policy SCR 42. It is Council Policy that public open space be provided in new developments at a minimum rate of 14% in areas zoned objective A and 10% of the total site area in all other cases.



3.2.6 To the north of the site is the Dodder Valley which is zoned objective “G – To protect and /or improve high amenity areas.”

3.2.7 I note according to the News section of the South Dublin County Council website <http://www.southdublindcvplan.ie> the South Dublin County Development Plan 2016-2022 was adopted by the elected members at a special council meeting on May 16<sup>th</sup> 2016. The Plan will become operational on Sunday June 12<sup>th</sup> 2016.

3.2.8 I note that the draft plan as published on the Council website the land use zoning of the site is High Amenity Dodder Valley (HA-DV) the objective is to protect and enhance the outstanding natural character and amenity of the Dodder Valley. An amendment to the adjoining lands (site of Morton’s public house, hair salon and betting office) proposes the alteration from High Amenity Dodder Valley (HA-DV) zoning to Local Centre (LC) zoning.

3.2.9 The draft plan also includes a medium to long term roads objective to provide a new bridge from Firhouse Road to the N81 (Glenview Roundabout).

#### **4.0 RELEVANT PLANNING HISTORY**

4.1 No previous applications on the current site.

#### **5.0 DELIBERATIONS AND DECISION OF THE PLANNING AUTHORITY**

##### **5.1 SUBMISSIONS**

5.1.1 A number of submissions by individuals and groups of local residents of Mount Carmel Park objected to the development on the basis of a number of concerns including

- Development is out of scale and character with Mount Carmel Park and would overwhelm it.
  - Light pollution and noise pollution.
  - Negative impact on protected structures.
  - Apartment design out of keeping with the historic character of the area.
  - Flooding hazard.
  - Concerns regarding water availability,
  - Issue of raw sewage in vicinity of the weir.
  - Negative impact on trees, wildlife, car parking school capacity.
- Dodder Anglers Association assert that large high rise development adjacent to the Dodder River is unsuitable. Concern regarding Dodder Valley Drainage System which is overloaded and gives rise to serious health and safety issues. Preference for these lands to remain in parkland. Maintenance of access for anglers and no culverting of streams.
  - Record of Meeting of Rathfarnham Templeogue Terenure Area Committee. Councillors S Holland, P Kearns, D Looney, P Donovan, F N Duffy and D O Donovan noted the application.
  - Councillor Mick Murphy AAA opposes the development.
  - Councillor John Lahart objects to the development.
  - Councillor Deirdre O Donovan indicates concern regarding the timing of the application. Notes that the draft County Development Plan proposes to change the zoning from residential to public amenity. Flooding risk and serious problems with sewage are of concern. A three storey development is considered inappropriate.
  - An Taisce, South County Dublin Association, asserts that the application should be assessed with regard to impact on the amenity of the area and the relevant provisions of the South Dublin County Council Development Plan.
  - Inland Fisheries Ireland submission notes location of the development within the catchment of the River Dodder, an important salmonid system. Notes the River Dodder is exceptional among most urban

rivers in having salmon, sea trout and brown trout populations. Measures should be taken to ensure the necessary protection of local aquatic ecology. Only clean uncontaminated surface waters must be permitted to discharge to surface water network. Construction management plan and best practice in terms of all activities that may impact on groundwater and surfacewater.

- Firhouse Village Community Council object to the proposal. Raises procedural issues regarding public display of relevant documents by South Dublin County Council. Notes Council's failure to recognise the village status for Firhouse. Proposed development would constitute an eyesore and is inappropriate in a village setting. Question the ownership of lands. An alternative development proposal for the site would include a small Mill house providing an interpretive centre related to the history of Dodder with provision for charging stations for electric bikes and cars. Capacity and public health issues related to sewage and water are a significant concern.
- Dodder Action submission notes concern in regard to sewage network capacity. Impact on Mount Carmel and River Park. Visual intrusion by reason of scale. Impact on natural heritage of the Dodder.
- Irish Water – Revised layout required to comply with the requirements of South Dublin County Council Specification for Laying of Watermains. Connection agreement with Irish water. Irish Water infrastructure capacity requirements and proposed connections to water and wastewater infrastructure will be subject to the constraints of the Irish water Capital Investment Programme

## **5.2 Internal Reports**

- Report from Housing Department recommends that a Part V condition should be attached to any grant of permission.
- Environment, Water and Climate Change – No objection subject to conditions.
- Water Services Report indicates no objection subject to conditions relating to the separation of foul and surface water drainage and

compliance with the Greater Dublin Regional Code of Practice for Drainage Works.

- Architectural Conservation Officer asserts that there is no direct impact to the protected structures in the vicinity due to distance. The design for the apartments shows no design coherence with the existing building stock in the area nor the adjacent Carmelite Monastery. The palette of materials is void of architectural interest and the fenestration and window detail has not been considered fully thereby presenting a design which is not fluid in its overall execution. As the proposed development is being located within the boundaries of the established residential and religious sites, the design should relate to the area in some way and should be of high quality ensuring the use of materials shows some consideration with regard to a design rationale. The Conservation report does not provide adequate details in terms of the impact of the proposed changes to the existing boundary wall. No rationale for the extent of wall removal proposed.
- Parks and Landscape Services report expresses concern regarding the loss of valuable trees and hedgerows from an amenity and biodiversity perspective, with particular impact on badger setts and bats. An ideal planning approach would involve retention of trees and hedgerows. Trees 001 to 040 and Hedge no 2. An alternative layout would provide entrance off Mount Carmel Park in the vicinity of trees 046 to 050.
- Heritage Officer's report notes location adjacent to the Dodder Valley proposed Natural Heritage Area pNHA (Site Code 000991) an area of significant importance in an urban context as it supports a number of rare species and protected habitats. Insufficient information is provided to determine full impact on the bat population along the Dodder. Cumulative impact on bat population from the current project in conjunction with other projects in the vicinity along the Dodder would need to be considered. A more detailed analysis of the importance of this location in the context of the badger populations in the wider Dodder area is also required. Refusal is recommended due to the potential impacts on biodiversity and in particular on protected species

including bats and badgers that are likely to arise from the loss of habitat and disturbance arising from additional lighting.

- Urban Design Officer's report considers the proposal in the context of the 12 criteria within the Urban Design Manual. It concludes that a major redesign is required. Refusal is recommended on the grounds that the proposed development is of poor quality and has not adequately responded to the sensitive location and unique characteristics of the site by minimising the environmental footprint of the development to provide a sense of transition from the more built up areas to the south and the special amenity area of the Dodder Valley. Particular attention is drawn to the failure to respond to the field patterns and removal of centrally located hedgerow / tree clusters. Lack of high quality and direct connection to Dodder Valley Park to Firhouse Road. Truncated block layout of the eastern cluster results in alcove and interface of blank walls to the adjoining area of open space. Fragmented layout of the northern cluster. Proposal entails an inharmonious architectural language. Layout shows non-compliance with DMURS.
- Roads Department. As there is no on street car parking in the vicinity two spaces should be provided for every 2 & 3 bedroom unit and one for the 1 bed apartments resulting in a total parking requirement of 138 spaces. Concern is expressed regarding location of proposed entrance close to the Morton's Pub entrance and Ballycullen Avenue signals which will increase the confusing road layout at this location. Traffic speeds are potentially higher on Firhouse Road than the nominal 50kph speed limit therefore a right turning lane would be required. However this would require the removal of a large section of the existing bus lane which is a key piece of public transport infrastructure in the area. There is a long term proposal to construct a road connecting the N81 at Mount Carmel as shown in the Draft County Development Plan and the applicant has shown a proposal to have a future connection to this road which would be more suitable than the planned junction. The report concludes that the location of the

proposed junction is incompatible with the long term strategy of the Roads Department and the Draft County Development Plan and therefore is premature pending delivery of this infrastructure.

- Senior Planner's report asserts that the proposed density is excessive and out of character. Reference is made to the urban design assessment in the context of the 12 urban design criteria set out in the Sustainable Residential Development in Urban Areas Guidelines. The percentage of apartment dwellings is too high within this suburban context. Proposed SUDS system does not address the unique importance of the site. Significant concerns arise regarding impact on biodiversity, layout and level of residential amenity for the future occupants. Non compliance with DMURS and unacceptable vehicular entrance.

### **5.3 Decision**

5.3.1 By Order dated 6<sup>th</sup> January 2016, the Planning Authority decided to refuse permission for five detailed reasons as follows:

1. *The proposed residential development on a sensitive site, adjoined alongside on three boundaries by High Amenity Zoned land, does not comply with the urban design criteria as identified in the 'Sustainable Residential Development in Urban Areas' Guidelines (Department of Environment Heritage and Local Government, 2008) and Section 4 Sustainable Neighbourhoods of the South Dublin County Council Development Plan 2010-2016 in terms of context, inclusivity, distinctiveness, layout, public realm, and detailed design by reason of the following:*
  - (a) *The failure to respond to the field patterns and in particular the removal of the centrally located hedgerow / tree clusters, contrary to Policy LHA 18 (Hedgerows) which sets out to protect hedgerows in the county from development which would impact adversely upon them and to enhance the County's hedgerows by increasing coverage, where possible, using locally native species (Section 4.3.7 xvi).*
  - (b) *the lack of high quality and direct connection between the Dodder Valley Park and Firhouse Road,*
  - (c) *The arrangement of dwellings (Particularly the eastern block) would result in predominantly high and blank boundary walls of proposed dwelling units onto open space to the side resulting in a lack of passive surveillance and visually unattractive environment.*
  - (d) *The fragmented layout of the 'northern cluster' and creation of 'stand-alone' or pavilion type apartment blocks that are poorly secured and do not offer an adequate degree of privacy and security for residents,*

(e) *The lack of Sustainable Urban Drainage Systems and integration of Green Infrastructure methods throughout the entire design and layout.*

(f) *The lack of viable planting along the internal streets and to the front of dwellings,*

(g) *The inharmonious architectural language*

(h) *The provision of a pedestrian route that would not be adequately overlooked.*

(i) *The creation of a poor quality streetscape onto the road which separates the pavilion type apartment blocks on one side and the corner apartments on the other which would comprise of wall and railings and a swathe of car parking space which will create a visual and physical barrier along the street that would preclude the provision of an active street frontage on both sides of the street.*

*The proposed development would therefore represent a substandard form of development and would seriously injure the amenities of property in the vicinity. The proposed development is of poor quality and would contravene the 'A' zoning objective of the site. 'to protect and /or improve residential amenity, as set out in South Dublin County Council Development Plan (2010-2016) and would, therefore, be contrary to the proper planning and sustainable development of the area.*

2. *Having regard to the layout of the proposed residential development, which would:*

(a) *necessitate the removal of a significant row of trees for vehicular access, a field boundary and ditch system in the centre of the site, a section of a historic townland boundary to the north west of the site (due to road and parking incursion) in the immediate vicinity of High Amenity Zoned lands,*

(b) *have a negative impact on biodiversity, in particular on protected species including bats and badgers through the loss of habitat (trees and hedgerows) and the disturbance arising from additional lighting in a currently dark corridor along the River Dodder,*

(c) *isolate a piece of this High amenity Zoned land (proposed to be ceded to the Local Authority) behind a 1.8m high high wall and railing, The proposed development would be visually obtrusive, would seriously injure the amenities of property in the vicinity and would be out of character with and negatively impact upon the High Amenity Zoned lands, Thus the proposed development would contravene the 'G' zoning objective 'to protect and improve High Amenity Areas' in the South Dublin County Development Plan 2010-2016 and would, therefore, be contrary to the proper planning and sustainable development of the area.*

3. *The proposed development would give rise to a substandard level of residential amenity for future occupants by reason of:*

*Six single aspect north facing apartments,*

*The shape and location of the proposed linear strip of open space along the south east site boundary, which primarily acts as a*

pedestrian walkway, with a significant section of this open space not passively surveilled.

The most eastern section of the site which is heavily shaded by coniferous trees and fails to integrate with the existing open nature of the immediately adjacent lands which are zoned High Amenity. Thus, the proposed development would seriously injure the residential amenities of future occupants and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. The proposed residential development does not comply with the basic standards as identified in the Design Manual for Urban Roads and Streets Guidelines (Department of Environment, Community and Local Government, 2013) in terms of layout, car parking, distinctiveness, public realm, and detailed design by reason of the following:

- (a) the use of standard 'black top' surface materials in a highly sensitive location within the immediate vicinity of the Dodder High Amenity zoned lands.

- (b) the carriageway widths and corner radii which exceed the minimum standards

- (c) the lack of self-regulating low speed environment

- (d) the predominance of in curtilage car parking and the lack of provision for visitor car parking.

Thus, the proposed residential development represents a substandard form of development and would seriously injure the amenities of properties in the vicinity. The proposed development is of poor quality and would materially contravene the South Dublin County Council Development Plan (2010-2016) 'A' zoning which sets out 'to protect and/or improve residential amenity; and would, therefore, be contrary to the proper planning and sustainable development of the area.

5. This application proposes to construct a new junction to this development adjacent to the Morton's pub entrance and the Ballycullen Avenue signals. The proposed junction is a priority junction with no right turning facility. It is also situated very close to the Morton's pub entrance and the Ballycullen Avenue Signals, which will increase the confusing road layout at this location. While the Firhouse Road is nominally a 50kph speed limit, due to its width, the traffic speeds are potentially higher than this. A right turning lane would need to be provided in order to protect right turning traffic. This would require the removal of large section of the existing bus lane, which is a key piece of public transport infrastructure in the area. Therefore the proposed entrance is unacceptable and would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise."

## **6.0 GROUNDS OF APPEAL**

### **6.1 First Party Appeal**



6.1.1 The first party appeal is submitted by John Spain Associates Planning and Development Consultants. Grounds of appeal include a number of enclosures including the following of particular note:

- Design Statement Update
- Landscape Report and Drawings
- Engineering and Planning Report and Engineering Drawings.
- Appeal Response Letter from Openfield Ecological Services.

The grounds of appeal address the individual refusal reasons and are summarised as follows:

- With regard to reason for refusal no 1, whilst not referenced in the planner's report the Urban Design Officer welcomes the overall approach to design statement approach. Proposal is in line with zoning objective as illustrated in the South Dublin County Development Plan 2010-2016 which notably does not follow existing field boundaries. The intention is to retain and increases hedgerow coverage where possible. On the basis of detailed survey having regard to the poor condition of the central hedgerow it was considered appropriate to replace this with new hedgerows planted along the northern and western boundaries resulting in a significant net increase in the extent of planting and hedgerows in and along the boundaries of the site. An option to address the concerns of the Council be revising the planting mix with native species is provided. If the Board consider it appropriate it would be possible to retain a number of additional trees within rear gardens as illustrated on revised landscaping drawings. TRR-02-ABP. Proposed development provides high quality and direct connections between the Dodder Valley Linear Park and the Firhouse Road. Pathways located to maximise passive surveillance and create safe and attractive walking and cycling routes from Firhouse Road to the Dodder valley.
- Eastern block of dwellings adjoining open space are carefully designed to ensure passive surveillance of open spaces and a visually attractive environment. Corner apartment units along fronting the linear have boundary of low level walls with railing allowing a visual connection.

Balconies provided at first and second floor level and window openings are positioned to ensure that passive surveillance is achieved by design.

- Refute allegations of fragmented layout insufficient privacy and security of the northern cluster. A balanced approach provides privacy and security for residents whilst also ensuring that the apartment blocks are integrated into the overall development in urban design terms as opposed to creating a sense of enclosure, a gated community and fragmentation. Design team propose some minor amendments to orientation and siting of one apartment block and landscaping works are provided to the Board to further enhance the development (Drawing LP-01-ABP). In addition to the communal open space associated with the apartment block to the north of the site these apartment units also have provision for balconies which form private open space.
- Refute assertion regarding lack of SUDS and Green Infrastructure. Engineering planning Report provided by Muir Associates clarifies that the proposed development incorporates extensive SUDS 78%. Applicant is willing to increase this percentage to 100% of run off passing through at least one type of SUDS. The green link and open space areas on the site have been designed as a multifunctional resource to facilitate the protection, management and enhancement of site features, passive and active recreational space.
- Viable planting is demonstrated along the internal streets.
- The architectural language is coherent, of a high quality and responds to the specific site features and constraints.
- Internal street network is overlooked and fronted with development.
- No adverse impact on properties in the vicinity. Provision of a new green link will enhance amenity.
- As regards reason no 2 and extent of removal of trees inconsistencies in drawings are noted and it is confirmed that access arrangement as shown in the Muir Associates drawing no D1782-C-02 should take precedence over drawings by Reddy Architecture and Doyle and O

Troithigh Landscape Architecture in this regard. The proposed entrance does not require a setback or any alteration to the existing trees / walls to the west of the application site for sightlines. Updated drawing TRR-02-ABP provided in response to appeal.

- If the Board consider it appropriate it is possible that all trees in the north west corner of the site can be retained.
- Central hedgerow to be removed is of poor structure and diversity. Trees to be removed along the eastern boundary consist of non native evergreens with low value for flora and fauna.
- Impact on protected species including badger and bats is assessed in detail in the Ecological Impact Statement and Bat Assessment Report.
- The retention of the majority of trees and hedgerows along the site boundary will maintain wildlife corridors and facilitate potential foraging for birds and bats as well as serving as landscaping and visual impact mitigation purposes.
- In response to council concerns regarding the mono species along the northern boundary proposal has been revised and replaced with a mix to include the development of a native hedgerow. Location of tree planting within native hedge mix also altered to irregular intervals to result in a 'natural' tree line.
- In relation to refusal reason no 3, six single aspect north facing apartments are designed to avail of the significant amenity and attractive views of the Dodder Valley Park and to maximise passive surveillance over the ceded lands and the Dodder Valley. If the Board considers it appropriate the six single aspect north facing units could be incorporated into the adjoining apartment units. Drawing 5-042 3 1 105 P05 illustrates this option.
- In order to further maximise the potential views and unique aspect across the Dodder Valley the apartment block to the north west of the site can be slightly rotated providing a north west aspect as illustrated in drawing 15-042- 3.1-004 P02.

- Units directly overlook and provide passive surveillance to the linear green link and all areas of open space internal streets and open space areas.
- Given the orientation of the site and setback distances from the eastern boundary overshadowing by trees is not significant.
- As regards reason for refusal number 4 a summary of measures in view of each DMURS requirement is set out. Carriageway widths and corner radii comply with the standards. Applicant is agreeable to an alternative material such as permeable paving or increasing the extent of the coloured bituminous road surface material already being proposed at junctions throughout the development. Measures are incorporated to provide a self-guided low speed environment by design.
- Proposal meets the development plan standards for car parking.
- In regard to refusal reason 5 the assertion that the proposed access and junction would constitute a traffic hazard is refuted.
- Drawing D1782-C-14 Rev A illustrates that South Dublin County Council's recommendation for a right turning lane can be provided without removal of a large section of the existing bus lane.
- Proposed entrance does not require a setback or any alteration to the existing trees/walls to the west of the application site for sightlines.
- The proposed development is an appropriate response to the site and surrounding context and it is respectfully submitted that planning permission should be granted for the proposed development.

## **7.0 RESPONSES TO THE APPEAL**

### **7.1 RESPONSE OF PLANNING AUTHORITY**

7.2.1 The Planning Authority's response confirms its decision. The issues raised in the appeal have been covered in the planner's report.

## **8.0 Observers**

### **8.1 Dodder Action**

8.1.1 Submission reiterates concerns regarding additional loading to sewerage system at this location on basis of regular overflow of wastewater and effluent. Development is excessive, incongruous, out of character and will have significant negative impact on Mount Carmel. Note failure to provide photomontage from the river park at the northwest corner of the site or from Mount Carmel Park. Light noise and general disturbance. Negative ecological impact. Serious concerns of landscape services / public realm department have not been addressed in the appeal. The proposed development is not in accordance with the principles of proper planning and sustainable development.

### **8.2 Dodder Angler's Association**

8.2.1 High rise development adjacent to the Dodder an important salmonid water is unsuitable. Additional foul and surface water discharge to an overtaxed system is inappropriate. Preference is for the site to remain as parkland. Access to anglers should be maintained and there should be no culverting of any stream. Requirements for the protection of fisheries habitats during construction and development works at river sites should be ensured.

### **8.3 Mount Carmel Park Residents.**

8.3.1 Stress the sensitivities in the area of Mount Carmel Park and the surrounding areas in relation to residential development, the local history wildlife, park recreation and the effects of all and any development on the current resident's homes and lifestyles. Urge An Bord Pleanála to refuse permission. Wastewater issues are of significant concern given problems of sewage overflow. Flooding and potential for impact on Mount Carmel Park. Impact on badger setts, trees and hedgerows. Survey of the site on behalf of the local residents indicates a highly active badger sett. Negative impact on bird population, biodiversity and local amenity. Traffic arising from the

development would exacerbate existing traffic issues particularly during three peak times during school term.

## 9.0 ASSESSMENT

9.1 From my review of the file, all relevant documents and my inspection of the site and its environs, I consider that the main issues for consideration in the Board's de novo assessment of the appeal may be evaluated under the following broad headings:

- Land use and development principle
- Design and layout. Visual Impact and Residential Amenity and on the amenities of the area.
- Access Traffic and parking.
- Drainage and Services.
- Appropriate Assessment

## 9.2 LAND USE AND DEVELOPMENT PRINCIPLE.

9.2.1 The lands are zoned A: to protect and / or improve residential amenity within the current<sup>2</sup> South Dublin County Development Plan 2010-2016 (pending the coming into operation on June 12<sup>th</sup> 2016 of the South Dublin County Development Plan 2016-2022). Specific objective 77 – Former Carmelite Content applies to the site which set out to *“Provide for residential development on approximately 2 hectares of land in the vicinity of the former Carmelite Convent, Firhouse in conjunction with the bringing into public ownership of part of the Dodder Valley lands as public open space.”* The development plan objective 77 is extremely vague (*“approximately 2 hectares”*) and is not at all prescriptive in regard to the nature or density of development envisaged or the extent

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<sup>2</sup> Pending the coming into operation of the South Dublin County Development Plan 2016-2022 on June 12<sup>th</sup> 2016.

of lands to be brought into public ownership as part of the Dodder Valley lands.

9.2.2 The appeal site relates to an area of 2.3 hectares. As noted above the proposed layout envisages an area of 0.7ha adjoining to the north of the appeal site to be ceded to South Dublin County Council. However this land to be ceded is outside the boundaries of the appeal site but is within the landholding boundary. In this regard the delivery of the lands as public open space is not within the remit of the current appeal. I consider that in the absence of certainty in terms of the delivery of the Dodder Valley lands into public ownership lands compliance with the specific objectives of the Development Plan is in question.

9.2.3 As noted above within the Draft South Dublin County Development Plan 2016-2022 which the site falls within the High Amenity Dodder Valley (HA-DV) zoning. The objective is *“To protect and enhance the outstanding character and amenity of the Dodder Valley”* Residential Development is Open for Consideration in limited circumstances in existing premises or in accordance with Council policy for residential development in rural areas. I note for the information of the Board that according to the News section of the South Dublin County Council Website <http://www.southdublindevplan.ie> the South Dublin County Development Plan 2016-2022 was adopted by the elected members at a special council meeting on May 16<sup>th</sup> 2016. The Plan will become operational on Sunday **June 12<sup>th</sup> 2016**.

9.2.4 The proposed development of 72 dwelling units on a site area of 2.3 hectares equates to a net residential density of circa 31 units per hectare. I note that Policy H8 of the South Dublin County Development Plan 2010-2016 refers to “Outer Suburban / Greenfield Sites densities” and recommends the provision of net residential densities in the range of 35-50 dwellings per hectare. The Sustainable Residential Development in Urban Areas – Guidelines 2009 similarly outlines in relation to outer suburban / greenfield sites that studies have indicated

that whilst the land take of ancillary facilities remains relatively constant, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range 35-50 dwellings per hectare and such densities (involving a variety of house types where possible) should be encouraged generally. The guidelines recommend that development at net densities less than 30 dwellings per hectare should generally be discouraged in the interest of land efficiency.

9.2.5 I note that on the issue of density the Council's Planning Officer's report asserted that the proposed density is excessive in the context of the location of the site within the grounds of a protected structure and adjacent to high amenity zoned land. The third party submissions further referred to an excessive density being out of character given the open nature of the site and having regard to the established pattern of development in the vicinity. I consider that in view of the scale, nature, and unique character of the appeal site the opportunity arises for an innovative design approach incorporating a significant housing mix achieving a density in accordance with the relevant standards could be achieved in principle. On the basis of the relevant policies of the current development plan<sup>3</sup>, I consider that there is no principled objection to the development of the site for residential purposes and therefore it is appropriate to consider the proposal in its detail.

### **9.3 DESIGN AND LAYOUT VISUAL IMPACT AND IMPACT ON ESTABLISHED RESIDENTIAL AMENITY AND ON THE AMENITIES OF THE AREA**

9.3.1 The application is accompanied by a design statement by Reddy Architecture and Urbanism and a landscape and visual

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<sup>3</sup> The South Dublin County Development Plan 2016-2022 will come into operation on June 12<sup>th</sup> 2016.



assessment by Doyle O Troithigh Architecture. These documents which were also updated within the appeal response set out to describe and assess in some detail the design concept and approach.

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9.3.2 On the matter of the scheme's approach to layout, I would concur with the planning authority that the proposal fails to positively address the site context in terms of its incorporation of existing site features – hedgerows and trees, site context and as regards its connection to adjoining lands. Furthermore the proposal in my view performs poorly in terms of the interface between the dwelling units and the public realm and proposed public open space areas. Whilst in response to the appeal the first party proposes some minor amendments including provision for retention of some trees within the central hedgerow by way of their incorporation into the rear gardens of proposed dwellings (as illustrated in plan TTR-02-ABP) the feasibility of this proposal is questionable and such a retrospective approach is at odds with the recommended design process which sets out to respond to the distinctiveness of the site and surroundings. I would tend to agree with the planning authority that in terms of the proposed mix of dwelling types that the excessive proportion of apartment types (60%) is out of character on this suburban site. I would consider that the proposed layout is at odds with its context and therefore consider the proposal to be contrary to the proper planning and sustainable development of the area. I consider that the visual impact assessment and choice of viewpoint locations, which are of little benefit in terms of appreciation of the proposal are indicative of the failure to positively address the site context both in terms of the natural environment context and the architectural and cultural heritage of the site. Having regard to the context of the site within the curtilage of the Carmelite Monastery of the Assumption, protected structure RPS Reference 284, I consider that a high architectural standard is required and on this basis a fundamental redesign is required.

9.3.3 As regards impact on established residential amenity, given the character of the site and distance to site boundaries, I consider that no undue residential amenity impact will arise.

9.3.4 As regards residential amenity provided to the proposed dwelling units the proposal in certain terms provides for a not unreasonable standard in terms of accommodation, private and public open space. There are a number of deficiencies however. Storage space for the three bed house types do not meet the minimum standard as set out in the Department of the Environment Quality Housing for Sustainable communities 2007. Area of main bedroom within duplex unit also does not meet the minimum size requirement. There are issues with regard to access to private rear open space for upper floor units on corner apartment blocks. As regards standard of amenity for the proposed three storey apartment unit adjacent to the northern site boundary, I would concur with the views expressed by the Local Authority Planning Officer there is an issue with regard to lack of privacy and security for the proposed dwelling units. It is envisaged that the future provision for waste and bin storage would be likely to give rise to significant visual and amenity issues within this layout. As regards the six single aspect north facing apartments within the apartment blocks, the first party notes in response to the appeal that these could be eliminated and floor area incorporated into the adjoining apartment units (demonstrated on drawing 15-053 3.1 105 P-2). As regards architectural merit, I do not consider that the scheme proposed is of exceptional quality in terms of place making, design and layout. The proposal lacks an overall design coherence, is somewhat at odds with its setting and does not demonstrate any link to the established development in the vicinity.

#### **9.4 ACCESS, TRAFFIC AND PARKING**

9.4.1 Proposed vehicular access is by means of a new priority controlled access junction onto R114 Firhouse Road. Sightlines at the proposed entrance location are adequate. The Roads Department noted that on the basis of high traffic speeds on the Firhouse Road and proximity to the Morton's pub entrance and Ballycullen Avenue signals a right turning lane would need to be provided in order to protect right turning traffic and concern was expressed regarding the impact of this on the bus lane infrastructure. The First Party in response to the appeal illustrated a right turn layout within the existing road carriageway with minimal impact on the existing bus lane. I consider that the level of information provided in respect of traffic flow and capacity is insufficient and further detail would be required in terms of a traffic impact assessment. I note long term proposal as provided within the draft development plan for a road connecting to the N81 at Mount Carmel. Whilst the application has indicated possible future connection no detailed analysis is provided.

9.4.2 On the issue of parking levels the proposal involves the provision of 106 car parking spaces which is in accordance with the requirements of the Development Plan. The roads department report noted on the basis of the lack of on street parking in the vicinity of the site that additional on-site parking should be provided. On this basis it was recommended that provision be made for 2 spaces per 2&3 bed unit and one for the one bed apartments resulting in a total of 138. As regards compliance with the standards of the Design Manual for Urban Roads and streets Guidelines (Department of Environment, Community and Local Government, 2013 this is a matter of detailing.

## **9.5 DRAINAGE AND SERVICES**

9.5.1 Foul water is to be connected to the existing foul network in the area which comprises a 224mm diameter sewer located in the north west and a large trunk sewer located to the north. Surface water drainage

network proposal consists of a piped gravity system with provision for SUDS systems. As regards Flooding it is noted that Flood Zone B encroaches on the site by less than 0.25% (approximately 50m<sup>2</sup>) into the proposed site area and this is designated for open space.

9.5.2 In terms of water supply and wastewater treatment, I note that whilst third party submissions question the capacity of the exiting supply network and refer to existing sewage pollution problems during extreme flood events in the vicinity of Firhouse weir. I note that technical reports from the Council on file do not address these concerns. I note that the submission to the Council from Irish Water is also vague particularly in regard to foul water. I consider in terms of site servicing, additional information and analysis is required to address the issues and concerns raised. I have noted the Council's concerns in respect of SUDS proposals.

## **9.6 ECOLOGICAL IMPACT AND APROPRIATE ASSESSMENT**

9.6.1 As regards the significance of biodiversity of the site, the application documentation included an Ecological Impact Statement by Openfield Ecological Services. As regards direct habitat loss the extent of tree and hedgerow removal is noted. The removal of the central hedgerow will necessitate the attainment of a license from National Parks and Wildlife Service to disturb an existing badger sett. Mitigation proposed includes the installation of a replacement badger sett within Dodder Park.

9.6.2 A bat assessment report by Brian Keeley, Zoologist assesses the potential for bat roosting within the mature trees and buildings adjacent to the site and examines bat feeding and commuting within the lands. The survey found that none of the Carmelite monastery buildings are used as roost sites. Bats were noted along the eastern perimeter of the site, and a number of trees noted as being of roost potential. Impacts

arising from loss of potential roost sites, reduced feeding and disturbance from lighting and human presence are noted. Mitigation measures proposed include provision of bat boxes, lighting designed not to interfere with feeding or commuting and planting of vegetation. The assessment concludes that there will be no substantial effects on bat fauna in the long term. It is asserted that the removal of mature vegetation including mature trees is the most likely measure to reduce the value of the site for bats but this measure will be lessened in time by the establishment of planting.

9.6.3 Mitigation measures to prevent sediment release and pollution to the River Dodder pNHA during the construction phase are proposed to be addressed within the context of a construction management plan in accordance with Best Practice.

9.6.4 A screening for appropriate assessment report compiled by Openfield Ecological Services identifies three Natura 2000 with pathways to the proposed development, as follows:

- South Dublin Bay and River Tolka Estuary SPA (Site code 004024)
- South Dublin Bay SAC (0210).
- The Poulaphouca Reservoir origin of drinking water supply SPA (site code 004063).

9.6.5 In terms of assessment of significance of effects. It is outlined that the site is approximately 9km (as the crow flies) from the Natura 2000 sites within Dublin Bay however the distance is greater as the hydrological pathway follows the course of the drainage network to the Ringsend plant (wastewater) or the Dodder (surface water). There is no direct pathway to the Tolka estuary. It is concluded that based on the distance separating the site and the SPA/SAC there is no pathway for loss or disturbance of important habitats or important species associated with the features of interest of the SPA. There is a pathway from the site via surface and wastewater flows to Dublin Bay via the

river Dodder and Ringsend Plant respectively. However there is no evidence that poor water quality is currently negatively affecting the conservation objectives of Natura 2000 areas in Dublin Bay.

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- 9.6.6 It is asserted that significant effect can be ruled out based on the lack of evidence that pollution through nutrient input is affecting the conservation objectives of the South Dublin Bay and River Tolka Estuary SPA and having regard to upgrading works at Ringsend wastewater treatment plant and implementation of the Greater Dublin Strategic Drainage Study which will address future capacity demand. Discharges of wastewater and surface water from this project cannot result in significant effects to the integrity of SACs or SPAs in Dublin Bay.
- 9.6.7 As regards construction phase potential impacts to water through sediment release to the River Dodder are considered. On the basis of the distance to Natura 2000 sites, temporary nature of the construction works and nature of the estuarine habitats significant effects to the SAC and SPA in Dublin Bay are not considered to be likely. As regards abstraction it is noted that there is no evidence of impact on conservation objectives of Poulaphouca reservoir.
- 9.6.8 As regards disturbance to species or habitats of conservation significance in Dublin Bay on the basis of the location of the site within an urban area and having regard to significant noise and lighting it is not considered that disturbance will arise.
- 9.6.9 On the matter of in combination impacts, consideration is given to implementation of the Water Framework Directive, implementation of drainage infrastructure and completion of upgrade works at Ringsend. The screening report concludes that significant effects are not likely to arise either alone or in combination with other plans or projects that would result in significant effects on the integrity of the Natura 2000 network. The stage 1 screening concludes that the proposal will not

have a significant negative impact on the Natura 2000 network therefore a stage 2 appropriate assessment under Article 6(3) of the Habitats Directive is not required.

9.6.10 I note the reasoned conclusions of the appropriate assessment screening report which determines 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. However having regard to the information gap in terms of servicing as regards wastewater infrastructure I consider that further detail is required to address such water quality issues.

## **10.0 CONCLUSION AND RECOMMENDATION**

10.1 Having regard to the foregoing, I conclude that the detailed layout of the development does not achieve an appropriate architectural standard and is detrimental to the amenities of the area. I have noted deficiencies in terms of the detail provided on the appeal file in relation to traffic impact and site servicing and in relation to the ecological impact arising. I have noted the location of proposed lands to be ceded to the Council for incorporation into the Dodder Valley open space outside the site boundaries of the appeal site and therefore outside of the remit of the current appeal. I further note to the Board the implications for the zoning of the site arising from the adoption of the South Dublin County Development Plan 2016-2022 which will become operational on Sunday June 12<sup>th</sup> 2016<sup>4</sup>. Having considered the proposed development and having visited the site and in light of the above assessment, I recommend that permission be refused for the proposed development for the following reasons and considerations:

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<sup>4</sup> The South Dublin County Development Plan 2014-2022 was adopted by the elected members at a special meeting of the Council on May 16<sup>th</sup> 2016. The plan will become operational on Sunday June 12<sup>th</sup> 2016. In accordance with the draft plan the site is within an area zoned High Amenity Dodder Valley.

## REASONS AND CONSIDERATIONS

1. Having regard to the detailed layout and design of the proposed development including the proposed removal of significant trees and hedgerows, to the relationship of the proposed development to its context, which is within the curtilage of a protected structure RPS Reference 284 Carmelite Monastery of the Assumption, to the character of established development in the vicinity and the adjoining high amenity lands of the Dodder Valley, it is considered that the proposal represents a substandard development of the site. It is considered that the proposed development would be seriously injurious to the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Brid Maxwell**  
**Inspectorate**  
**19<sup>th</sup> May 2016**