



Under Section 137 of the Planning & Development Acts 2000, as amended the Board required that the applicants submit further information regarding the following matters;

1. The Board may consider that the proposed development, by reason of its density and height, would represent overdevelopment of the subject site and would seriously injure the residential amenities of adjoining properties, and would therefore be contrary to the proper planning and sustainable development area. The Board may consider that these issues could be resolved by the deletion of the second floor of Apartment Block B, that is, the deletion of apartment units number 23, 24, 25, 26, 27, 28 and 29, such that both apartment blocks would not be more than three storeys, with the top floor of Block B having the setback as currently proposed in the third floor plan, but now relocated to second floor level.
2. The Board may consider that it has not been demonstrated to its satisfaction that the proposed development, and in particular the construction of the proposed basement level over a significant portion of the subject site, might not lead to the displacement of existing groundwater and surface water from the subject site onto adjoining residential properties, particularly at times of heavy rainfall, and raising the risk of flooding of such properties, which properties would be classified as Class A in terms of floor risk. The Board may also consider that, on the basis of the information submitted with the application and

appeal, the surface water management proposals submitted may not be adequate, having regard to the impermeable site conditions and the high natural water table on the subject site and adjoining residential properties. In this context, the Board may have regard to the submissions made by the third party appellants in relation to the ground conditions and surface/ground water regime in the area, and the need to ensure that a robust flood risk assessment is provided which deals not only with the flood risk to the specific site and the proposed development but also with the flood risk to adjoining residential properties. In particular, the Board may not be satisfied that the applicants have adequately dealt with the issues raised in the submissions dated March 18<sup>th</sup> and May 24<sup>th</sup> by Kavanagh Mansfield and partners, submitted with the appeal by the Residents of the Birches.

**A response to the request for further information was submitted by Stephen Little & Associates on behalf of the applicants on the 5<sup>th</sup> of September 2016.**

1. The applicants propose to modify the scheme in accordance with the Board's requirements as set out item no. 1 of the further information. The proposed amended scheme involves the omission of the second floor of Apartment Block B with the omission of apartment no's 23, 24, 25, 26, 27, 28 and 29. The basement car parking spaces have been reduced from 53 spaces to 48 spaces. Revised drawings indicating these modifications have been submitted.
2. The second matter raised in the further information concerns flooding. In response the applicants conducted ground investigations. DBFL Consulting on behalf of the applicants provided a response to drainage and flooding concerns.

**The Further information was circulated to the Planning Authority and the appellants and observers.**

### **Planning Authority**

The Planning Authority submitted a further response to the Board on the 22<sup>nd</sup> of August 2016. The content of the submission can be summarised as follows;

- In relation to the appeal from C&A O'Sullivan it is stated that the Municipal Services has no documented/recorded evidence of flooding in the Birches which includes the significant rainfall event of October 2011.
- Groundwater if encountered should be managed by the applicants in a manner to maintain the hydrological and hydrogeological characteristics of the site.
- The runoff from Foxrock Golf Course should be managed by Foxrock Golf Course in a manner which does not adversely affect the properties upstream or downstream. There is no requirement for the applicant to provide attenuation storage arising from runoff from adjoining sites.
- Swales are shallow, flat bottomed, vegetated open channels designed to convey, treat and attenuate surface water runoff. The swale as proposed fulfils its design purpose.
- Flooding issues on Torquay Road are not impacted by the proposed development.
- In relation to the appeal from C&A O'Sullivan it is stated that there is no documented evidence or proof of high water table in the Rockall site.
- No evidence has been presented to support the claim that *“the risk of such flooding (overflow from the Golf Course BE) will be significantly increased by this proposed development”*.
- The belief of the existence of underground streams within the site has not been substantiated.

- The apparent discrepancy between the proposed depth of water and the invert and TWL levels of the swale shown on the submitted drawings needs to be clarified and amended as necessary.
- The finished floor levels are approximately 1.0m above the ground levels at the South-east corner of the site. The finished floor levels are 0.4m above the lowest adjacent road levels.
- Should the Board decide to grant permission they could consider conditioning the applicant to redesign the back of the kerb detail along the entrance road and access to the basement to prevent any potential overtopping of waters from the ditch.
- In relation to the appeal of Academy Geographic Limited it is stated that the management and maintenance of the water course/ditch is the responsibility of the riparian owner(s). The runoff from the site is being drained to the public surface water system and not to the ditch/watercourse adjoining the Golf course.
- In relation to the appeal of Ivano Cafolla and the appeal of Theresa Murray & John Lynch it is responded that Groundwater if encountered should be managed by the applicants in a manner to maintain the hydrological and hydrogeological characteristics of the site.
- With reference to “multiple pools of water in the site” this may have arisen due to the overgrown nature of the site and the poor or lack of maintenance of the ditches within the site.
- Regarding the issue of overdevelopment, it is considered that the site has the capacity to absorb the scale of development proposed without unduly impacting on residential amenity. The area is surrounded by low density residential development and in that context it is considered that the proposed density and mix of units will enhance the area.

### **The Residents of the Birches**

A further submission was received from the appellants The Residents of the Birches on the 5<sup>th</sup> of September 2016. The content of the submission can be summarised as follows;

- The reduction of the scheme by 7 units would still constitute overdevelopment of the site.
- In the event that the Board consider a reduced scheme is justifiable it is suggested that the extent of the basement be reduced accordingly.
- Having regard to the interrelationship of the Foxrock Golf Club lands to the site of the proposed development and the Birches lands than any Flood Risk Assessment and Surface Water Management proposals for the development should include consideration of the Foxrock Golf Club lands.
- The Board's attention is brought to the recent evidence of an old drain located in the garden of No. 11, The Birches which is thought to drain into the Rockall site.
- It is requested that the Board refuse permission on the basis of overdevelopment, flood risk to adjoining property and inadequate drainage.

### **The Residents of the Birches**

A further submission was received from the appellants The Residents of the Birches on the 19<sup>th</sup> of October 2016. The content of the submission can be summarised as follows;

- The proposed basement car park is excessive in scale and there is an over provision of car parking within the scheme. It is suggested that car parking spaces no's 8-17 in the basement should be omitted from the scheme to reduce the overall impact of the basement on the adjoining residential properties.
- The construction of the basement will negatively impact the existing boundary planting between "Rockall" and the Birches.

- In relation to the matter of flooding, it is stated that the capacity of the stream on the eastern side of the site is overestimated by DBFL Consulting. The outfall pipe capacity is less than the intake from Barnagh Lane and Foxrock Golf Club. It is considered that the Flood Risk Assessment is based on inaccurate calculations and is inadequate.
- The extent of the basement will significantly reduce the natural attenuation of the site.
- It is considered that the inadequate information was provided to determine the extent of the construction footprint of the site including the basement car park. It is estimated that the proximity of the development to the neighbouring dwellings to the west would be between 2m-5m. This is considered insufficient to protect the existing boundary trees and shrubs.
- The proposed development at 28 no. apartments is considered overdevelopment of the site. A three storey apartment block is considered inappropriate for the suburban location.
- The development is considered unsustainable due limit public transport provision at this location.
- The appellant's Consultant Engineers Kavanagh Mansfield & Partnership are of the opinion that information submitted by the applicant has not adequately addressed the issues raised by the Bord in the letter dated 8<sup>th</sup> of August 2016.

### **Theresa Murray & John Lynch**

A further submission was received from the appellants Theresa Murray & John Lynch on the 19<sup>th</sup> of October 2016. The content of the submission can be summarised as follows;

- The proposed revised development represents over-development of the site. The building height also remains a critical issue.

- The first party have not sufficiently addressed the concerns raised about inadequate drainage and the significant risk of flooding of adjoining property.
- The appellants state that they recently discovered a surface water drain at the boundary of their property with the Rockall site. Based on Mr. Mansfield's assessment, this drains towards and into the Rockall site.
- The appellants request that the Board refuse permission for the proposed scheme.
- They state that should the Board decide to grant permission for a modified development that conditions regarding the following issues be included; removal of the basement, removal of Block A to provide surface car parking, reduction in height of Block B to two storey, removal of balconies, removal of pedestrian entrance, requirement to build a 2m granite clad wall between Rockall and their property, the use of €10 bond to cover damage.

### **Theresa Murray & John Lynch**

A further submission was received from the appellants Theresa Murray & John Lynch on the 19<sup>th</sup> of October 2016. The content of the submission can be summarised as follows;

- The plans clearly show 53 no. car parking spaces which represents a ratio of 1.9 spaces per unit which is excessive. Given that the scale of the development has been reduced the basement car park should be reduced accordingly.
- There are four plant rooms proposed in the basement in the revised plans whereas two plant rooms were formally proposed. The use of mechanical ventilation of the basement would negatively impact upon the existing residential amenities of the area.

- The use of interlocking sandbags to define part of the trenches for the basement would extend the footprint of the basement and reduce the area of open space available.
- The construction of the underground car park will stop groundwater and surface water from taking its natural course from the western side of the site to the eastern side of the site and will greatly reduce natural attenuation.
- The submission from DBFL Consulting states that the capacity of the ditch between the site and Foxrock Golf Club is 8.6CuM/sec and they also state that it is fed by a 300mm pipe to the north with a carrying capacity of 0.12 CuM/sec and added to the run off from the Golf Club is 0.2 CuM/sec. The outfall of the ditch to the southern end of the site is a 300mm pipe which does not have capacity to accommodate run off from the Golf Club and the inflow. This is a main cause of flooding in the area.
- The issues of flood risk and displacement of existing groundwater and surface water from the site onto adjoining properties has not been satisfactorily addressed.
- The revised scheme is considered excessive in scale and the proposed density represents overdevelopment of the site.
- The appellants are concerned at a number of deficiencies and inaccuracies in drawings and plans submitted by the applicant.

### **Ivano Cafolla**

A further submission was received from the appellant Ivano Cafolla on the 1<sup>st</sup> of September 2016. The content of the submission can be summarised as follows;

- The Board's consideration of the matter of overdevelopment is welcomed. The potential removal of a floor from Block B is a positive move but is insufficient.



- The proposed basement is the issue which is giving rise to considerable concerns regarding flooding. Which could have a potentially detrimental impact on adjoining residential properties.
- The proposed large air extraction grills from the basement are indicated to be located at a pinch point at block A and between the boundary with the appellant's property. It is presumed that the use of mechanical fans will be required to ventilate the basement and that this will generate ongoing noise and potential unpleasant smells.

### **Ivano Cafolla**

A further submission was received from the appellant Ivano Cafolla on the 19<sup>th</sup> of October 2016. The content of the submission can be summarised as follows;

- The proposed development would negatively impact upon the roots of trees within the appellant's property.
- The landscaping proposals submitted previously are no longer implementable and no revised proposal have been provided.
- The appellant remains concerned at the location and design of the proposed basement car park, particular in relation to flooding.
- In relation to the revised design of Apartment Block B the appellant raises concern at the location of the second floor kitchen window opposite his property. It is requested that this window be omitted should permission be granted.
- The ventilation proposed to serve the basement car park is insufficient to provide for natural ventilation. Any mechanical ventilation in the basement would generate noise which impact upon the residential amenities of surrounding properties.
- The appellant considers that the revised proposals still represent over development of the site and that scheme would seriously injure the residential amenities of adjoining properties.

- The appellant queries the extend of the site investigations carried out and particularly in the area of the proposed basement car park.

### **C&A O'Sullivan**

A further submission was received from the appellants C&A O'Sullivan on the 6th of October 2016. The content of the submission can be summarised as follows;

- The appellants agree that the proposed development would represent over development of the site by reason of density and height. The reduction in the scheme by 20% does not address this matter.
- No regard has been given to the architectural form, mass and texture of the building.
- The proposed basement is considered enormous having an area of 2,322sq m. It will greatly reduce the natural attenuation.
- The site investigation carried out is considered cursory. Six trial holes were dug in selected areas on the site where the high rock profile was confirmed.
- The appellants refer to the existence of an underground water course flowing under Barnagh Lane, through their site and to an indeterminate destination in the Golf Course. The underground watercourse is located 3-5m below and parallel to the surface water stream. The appellants are concerned where the underground water course goes and what effect the underground basement would have upon it.
- It is considered that the issue of flooding and water displacement can be dealt with by an isolated site centred analysis.

### **C&A O'Sullivan**

A further submission was received from the appellants C&A O'Sullivan on the 19<sup>th</sup> of October 2016. The content of the submission can be summarised as follows;

- The appellants consider that the revised proposals by reason of the height and design represent overdevelopment of the site.
- The reduction in the proposed basement car park by 89sq m is considered a very limited amount having regard to the reduction of the scheme by 7 no. units.
- The contents of the report of DBFL indicate that water flows down and across Rockall towards the SE corner of Rockall. They have not satisfactorily addressed the water which would remain to the north-western of the site behind the basement dam.
- The runoff from Foxrock Golf Club exceeds the total outfall capacity of the existing stream which serves the site. This is without the inclusion of loading from Rockall or the Birches.
- The additional site investigations were not carried out in a satisfactorily manner. The results and assumptions arising from the investigations are unreliable.
- The issue of the underground stream on site is highlighted. Where the underground stream flows will be affected by the basement construction.
- In relation to the information submitted under Section 137 the appellants have concerns at the proposals to use a pyramid of sand filled to support the side of the topsoil to be retained and that it would result in the destruction of the soil base for the majority of the boundary trees.
- The cross section B-B does not indicate the ventilation shafts.
- The construction of the basement would require the diversion of the underground stream into the Golf Club lands.
- The new soil support proposals do not coordinate with the raised driveway and the earlier submitted proposals.

- Rockall and part of the Golf Club forma natural sump which has a common very high water table level which floods on both sides of the stream.
- The appellants query the response from Stephen Little & Associates regarding flooding on site. The response stated, *“water cannot pond on the Rockall site as it fall...from west to east by circa 0.4m”*.
- The appellants request that the Board refuse permission for the proposed development.

### **Academy Geographic Limited**

A further submission was received from the appellants Academy Geographic Limited on the 19th of October 2016. The content of the submission can be summarised as follows;

- The concerns raised by the appellants in the appeal are reiterated specifically in relation to drainage and flood risk.
- The proposed construction of a large basement structure would interfere with natural drainage and would impact upon surrounding properties.
- Notwithstanding the reduction the number of proposed apartments by 7 no. units the proposed development is considered out of character with the low density form and character of the area.

### **Barry & Grace-Ann Connolly**

A further submission was received from the observers Barry & Grace-Ann Connolly on the 18<sup>th</sup> of October 2016. The content of the submission can be summarised as follows;

- The observers live in Birchfield, Westminster Road, Foxrock, Dublin 18 which is located to the south-east of “Rockall”. It is stated in the report of DBFL Consulting Engineers that the Birches is in the order of 1m above “Rockall”. However, it does not state that Birchfield is level if not lower than “Rockall”.

- In 2014/2015 the north-eastern corner of the observers site in Birchfield was flooded. Prior to 2014 there was no evidence of flooding. Investigations found that the ground level of Birchfield is approximately level with “Rockall”. The observers noted that water ran from the retaining wall with “Weston” and that lands at “Rockall” were flooded to a level of approximately 600mm.
  - It is stated that water still runs from the wall into Birchfield. It is known that there are a series of underground streams in the vicinity of “Rockall”.
  - The development should be refused on the basis that it presents a flood risk to the surrounding properties.
  - The documentation provided does not address the issues with surface water entering Birchfield.
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On the basis of the further information submitted by the applicants on the 5<sup>th</sup> of September 2016 and the further submissions received from the Planning Authority, the appellants and observers, I would make the following comments;

- The revised plans submitted indicate the applicants have amended the scheme with the omission of seven apartments no's 23, 24, 25, 26, 27 & 28 within Block B. The omission of the third floor reduces the ridge height of the block by circa 3m. The setback of the revised top floor of Block B has the same setback as originally proposed in the third floor plan. Therefore, I am satisfied that the design of Block B has been revised in accordance with the Boards requirements.
- An appellant in the response to the revised proposals has raised concern at the location of the second floor kitchen window opposite his property Casalattico, no. 12 The Birches. He has requested that this window be omitted should permission be granted. In relation to this matter, I note that there is a separation distance of over 20m between the rear of the appellant's

dwelling and the closest point of the south-western elevation of Block B. Therefore, I do not consider that it is necessary to omit this window.

- A number of the appellants have raised the matter of the reduction of the area of the basement. The applicants in their revised proposals are reducing the number of car parking spaces from 53 spaces to 48 spaces. Having reviewed the revised plan relative to the original plan of the basement, I note that contrary to the opinions expressed in a number of submissions from the appellants that it's area has been reduced and the same number of plant rooms are proposed as were originally proposed. I am therefore satisfied that the basement design has been appropriately revised in accordance with the reduction in car parking requirements.
- In relation to the matter of drainage and flooding I have assessed the drawings and documentation submitted in relation to item no. 2 of the Board's further information. Drawing no. 152055-3102 provides details in relation to the site investigation data and topographical survey. It indicates the location of the trial pits and silt trenches which were examined. Site levels and finished floor levels of surrounding properties have also been highlighted. It is clear from the site levels and finished floor levels provided that the surrounding dwellings are over 1m higher than the levels indicated on the Rockall site. The lands to the south-eastern side of the Golf Course lands are at a lower level than the Rockall site.
- In relation to issue of drainage and potential impact to the Foxrock Golf Club, it is noted that the appeal by Foxrock Golf Club has been withdrawn and that the Consultant Engineer's acting for Foxrock Golf Club having reviewed the drainage proposals for the scheme are satisfied that the proposals will not give rise to drainage issues.
- In relation to the proposed attenuation swale, this has been raised as a matter of concern by a number of the appellants. The applicant's Consultation Engineers have confirmed that the design of the swale has been calculated on the basis of a 100 year event and that it provides storage capacity in excess of the minimum volume required. The applicants have stated that if

the Board are not satisfied with the proposed swale that they are willing to replace the swale with a sealed geocellular underground attenuation tank.

- Regarding the presence of underground streams on site as suggested by a number of the appellants. The applicants have confirmed that following the on-site investigations that no evidence of an underground stream/s has been found. The Planning Authority in their response have also stated that they have no evidence to suggest the presence of an underground stream/s. Furthermore, I would note, having regard to the fact that the bedrock in the area is granite which is impermeable there is less likelihood of underground streams rather than in an area where the bedrock is permeable.
- In relation to the issue of Flood Risk Assessment, the applicants stated that a Site Specific Flood Risk Assessment was included which indicates that the site is located in Flood Risk Zone C. There is a low probability of flooding in Flood Risk Zone C. The site levels and finished floor levels provided on Drawing no. 152055-3102 indicate that the neighbouring dwellings in the Birches have floor levels in excess of 1.0m above the ground level of the site of Rockall. This indicates that water does not flow from the site to those properties.
- The DBFL Consulting Engineer's confirm that they are satisfied that the existing drainage ditch running along the boundary of the site and the Golf Club lands has sufficient capacity to accommodate the estimated catchment flows.
- The scheme has been designed to provide the Flood Exceedance Flow Paths for events in excess of a 100 year event to be routed along the eastern and southern boundaries and not towards the Birches.
- Regarding the construction of the proposed basement an outline Construction Method Statement has been provided. The site investigations from the 5 no. trial pits provide the depth that rock was encountered on the site. The depth varies between 0.7m and 1.3m below ground level. The basement level will be built below the rock level and therefore the excavation of the topsoil, overburden along with rock will be required. It is proposed that once the area is excavated that the perimeter would be sand-bagged to the top of the rock to

minimise the ingress of groundwater and provide stability to the surrounding ground. Having regard to the design of the scheme including and the three concrete floors and the basement floor slab, the Consultant Engineer's do not envisage that any floatation issues would arise. Should it be necessary at the construction stage measure can be taken to anchor the structure to the granite bedrock.

- In conclusion, having reviewed and assessed the further submissions, I would recommend that as per my previous recommendation that permission be granted for the proposed development.

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Siobhan Carroll  
Planning Inspector

16<sup>th</sup> of November 2016