



An
Bord
Pleanála

Inspector's Report PL06D.247655

Development

Demolition of 2 two-storey habitable dwellings and associated outbuildings/structures and the construction of a residential development comprising 2 four storey apartment buildings, along with 8 three storey semi-detached dwellings, to provide 29 residential units (21 apartments and 8 houses) and associated site development works.

Location

"Funchal" and "Garryknock", Stillorgan Road, Foxrock, Dublin 18.

Planning Authority

Dun Laoghaire-Rathdown County Council

Planning Authority Reg. Ref.

D16A/0670

Applicant(s)

Kingscroft Developments Ltd

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal	First Party -v- Decision
Appellant(s)	Kingscroft Developments Ltd
Observer(s)	An Taisce Nuala Hurley Niamh Hurley Mary Phelan Vincent Mulvey & Majella Hillery Emma Phelan
Date of Site Inspection	16 th February 2017
Inspector	Hugh D. Morrison

1.0 Site Location and Description

- 1.1. The site is located on the south western side of the Stillorgan Road (N11), between its signalled junctions with Kill Lane, to the south east, and Leopardstown Road/Newtownpark Avenue (R113), to the north west. The N11, as it passes the site, is a dual carriageway with bus lanes, cycle paths and footpaths on either side of its inside carriageways. In bound and out bound bus stops lie within the vicinity of the site and the former junction is accompanied by a pedestrian footbridge, while the latter incorporates pedestrian phases within its signalling.
- 1.2. The site lies within a residential area that comprises house plots that front onto the N11 and that are bound to the south west by Foxrock Golf Course. To the north west of this site lies the cul-de-sac, Avonmore, and a short distance to the south east lies the cul-de-sac, Knocksinna. The former cul-de-sac is accessed off the R113, while the latter is accessed off the N11. Closer to the junction between these two roads lie 2 four storey apartment blocks at Kelston View.
- 1.3. The site itself comprises two existing house plots, i.e. Funchal to the north west, wherein there is a two storey dwelling house, and Garrynock to the south east, wherein there is a dormer bungalow. These dwelling houses are vacant at present and their grounds to the rear are heavily overgrown. They are accessed, in the former case, by two gated vehicular entrances and a gated pedestrian entrance off the N11 and, in the latter case, by means of a single entrance off the N11, which is shared with the adjoining row of dwelling houses, known as Fairways, to the south east. The combined plots are roughly regular in shape and they extend over an area of c.0.48 hectares. Mild gradients across each plot fall in a north easterly direction.

2.0 Proposed Development

- 2.1. The proposal would entail the demolition of 2 two-storey habitable dwellings and associated outbuildings/structures (totalling 534 sqm gross floor area) and the construction of a residential development (total gross floor area of 3829.8 sqm) comprising 2 four storey apartment buildings (1574 and 683 sqm respectively), along with 8 three storey semi-detached dwellings (totalling 1505 sqm), to provide 29 residential units (21 apartments and 8 houses) and associated site development works.

2.2. The construction of the proposed 29 residential unit development would comprise the following:

- Apartment Block “Type A” arranged over four storeys consisting of 14 residential units (3 one-bed, 9 two-bed, and 2 three-bed) with a gross floor area of 1574 sqm, associated entrance lobbies, circulation areas, lifts, stairs, internal plant and private amenity spaces. This Block would be sited in the south western half of the Funchal house plot.
- Apartment Block “Type B” arranged over four storeys consisting of 7 residential units (3 one-bed, 3 two-bed, and 1 three-bed) with a gross floor area of 683 sqm, associated entrance lobbies, circulation areas, lifts, stairs, internal plant and private amenity spaces. This Block would be sited in the north eastern half of the Funchal house plot.
- 8 three storey semi-detached houses (7 House “Type C” with gross floor area of 186.5 sqm each and 1 House “Type D” with gross floor area of 199.5 sqm) arranged in 4 buildings with a total gross floor area of 1505 sqm. These houses would be sited in the Garrynock house plot.
- The permanent closure of 2 existing vehicular entrances and 1 pedestrian entrance to the Funchal house plot off the Stillorgan Road (N11).
- Termination of the current “Garrynock” vehicular and pedestrian access from neighbouring “Fairways” residential development.
- Primary vehicular and pedestrian access to the proposed development would be via a new single entrance from the N11.
- Bin store (24 sqm) and bicycle storage (43.8 sqm) with 22 bicycle spaces. The former would be sited centrally on the north western boundary of the site, while the latter would be sited adjacent to the southern corner of Apartment Block “Type A”.
- Boundary treatments, hard and soft landscaping, including communal areas of open space (referred to as public open space on the submitted plans) towards the westernmost and northernmost corners of the site, 46 surface car parking spaces, which would be effectively laid out between the aforementioned communal areas of open space, on-site vehicle and pedestrian circulation

roads, services (including 1 below ground attenuation tank and 1 below ground interception storage tank), and all other ancillary and associated site development works above and below ground level.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason:

The proposed development materially contravenes Policy ST26 of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022. The additional traffic turning movements generated by the proposed development onto the heavily trafficked Stillorgan Road (N11), which provides an important part of the link road between the southern parts of Dublin/Greater Dublin Area and the City Centre, would mitigate against the stated objective to provide, protect and maintain the safe and efficient movement of people and goods within and through Dun Laoghaire Rathdown. The proposed development would therefore endanger public safety by reason of traffic hazard and would have a seriously adverse impact on the carrying capacity of the national road.

An accompanying note stated the following:

There are a number of outstanding issues that have been highlighted throughout the planner's report...If the reason for refusal can be overcome and a new application is submitted at a future date the issues raised would need to be addressed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The case planner acknowledges that the current proposal is for an amalgamated site, a higher density of development, a greater mix of house types, and the allocation of POS to the lands zoned "F" and that in all these respects the applicant is seeking to overcome previously cited reasons for refusal. However, the following issues in addition to the reason for refusal are cited:

- The scale and massing of the apartment blocks would cause them to be overbearing and their design would lead to overlooking of the existing dwelling houses on Avonmore.

- The area and depth of several rear gardens would be sub-standard.
- The area of POS would be sub-standard.
- Traffic noise and the usability of proposed balconies have not been addressed.
- A tree survey is needed.
- The proposed car parking and on-site access arrangements need to be landscaped to soften their visual impact.
- The proposed cycle parking area should be sited clear of a landscaped area.
- An acceptable siting of the proposed surface water attenuation system would need to be in a low point of the site and thus it would have implications for the siting of either Apartment Block “Type B” or the first two of the proposed dwelling houses.

3.2.2. Other Technical Reports

- Surface Water Drainage: Further information requested.
- Housing: Part V condition requested.
- Transportation: Refusal recommended for the reason cited above and on the grounds of adverse precedent.
- Parks: Refusal recommended on quantitative and qualitative grounds.

3.3. Prescribed Bodies

- Irish Water: Further information/conditions requested.
- TII: Refusal recommended on the basis that the proposed access from the N11 would contravene Section 2.5 of the Spatial Planning and National Roads Guidelines.

3.4. Third Party Observations

See observations below.

4.0 Planning History

The recent planning history of the site is summarised below:

- **D06A/1275:** Demolition of existing dwelling house “Funchal” and construction of 4 dwelling houses + closure of southern vehicular access and widening of northern one: Permitted.
- **D07A/0170:** Construction of a 2.4m high granite random rubble wall along the SE and SW boundaries of “Funchal”: Permitted.
- **D14A/0400:** Demolition of existing dwelling house “Garrynock”, widening of vehicular entrance from Stillorgan Road to “Fairways” and “Garrynock”, construction of two pairs of three storey semi-detached dwelling houses and a three storey detached dwelling house: Refused on the grounds of insufficient density of development and the overbearing nature of the development and the consequent serious injury to amenity.
- **D14A/0689:** Demolition of existing dwelling house “Funchal” and construction of 7 three storey semi-detached dwelling houses and 2 three storey detached dwelling houses: Refused at appeal (PL06D.244399) on the grounds of the overbearing nature of the development and the consequent serious injury to amenity, an inappropriate mix of housing typologies for a suburban area and the consequent adverse precedent that this would establish, and non-conformity with zoning objective “F” of the CDP.
- **PAC/527/15** occurred on 26th January 2016.

5.0 Policy Context

5.1. Development Plan

Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 (CDP), the majority of the site is shown as lying within an area that is the subject of zoning objective “A”, “To protect and/or improve residential amenity.” The remaining westerly extremity of the site lies within an area that is the subject of zoning objective “F”, “To preserve and provide open space with ancillary active recreational amenities.”

Policy ST26 states the following:

It is Council policy to promote, facilitate and co-operate with relevant transport bodies, authorities and agencies to secure improvements to the County's Motorway and National Road network to provide, protect and maintain for the safe and efficient movement of people and goods both within and through Dun Laoghaire-Rathdown.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

- The proposal would not materially contravene the CDP, as it would comply with the zoning for the site and sought after net density levels. Furthermore, it would comply with national planning guidelines with respect to development on public transport corridors.

The planning authority is concerned that traffic movements to and from the N11, generated by a more intensive use of the site, would materially contravene Policy ST26 of the CDP. While the applicant does not accept this, because the draft reason for refusal cites materiality, the Board is only at liberty to overrule this refusal if one or more of the exceptional circumstances cited under Section 37(2)(b) of the Planning and Development Act, 2000 – 2015, is applicable.

The applicant considers that under items (i), (ii), and (iii) of the aforementioned Section, the Board could so overrule.

- In relation to item (i), the applicant traces the history of the N11, which since the opening of Junction 17 between the M50 and M11, serves as a link route between the southern suburbs and the city centre. The portion of this route that passes the site is subject to a 60 kmph speed limit and so, under Section 2.5 of the Spatial Planning and National Roads Guidelines, it is a transitional zone. Within this zone, “a limited level of direct access to facilitate orderly urban development” may occur, subject to a RSA and no proliferation of

vehicular accesses. In the present case, a RSA was undertaken and the number of vehicular accesses to the site would fall from 3 to 1.

- In relation to item (ii), the citation of Policy ST26 requires that, on the basis of probability, the N11 would, under the current proposal, result in collisions, which would limit its carrying capacity. No justification has been furnished for this prediction.

The planning authority's decision pays insufficient regard to the overall planning context, which encourages higher residential densities in public transport corridors. Furthermore, weight has not been given to the amalgamation of two sites and the rationalisation of existing vehicular accesses.

- In principle the proposal would accord with CDP Policies RES 3, 4 & 7, which refer to density, densification, and housing mix.
- While the Transportation consultee expressed concern that the proposal would establish an adverse precedent, the draft refusal did not cite this as a reason. As access can only be gained to the site from the N11, the risk of such precedence is unlikely. In any event each proposal needs to be assessed on its own merits.
- The applicant's engineer has undertaken an assessment of projected trip generation. This assessment predicts that the proposal would lead to c.140 additional trips daily, of which 2 arrivals and 9 departures and 7 arrivals and 7 departures would occur during the am and pm peaks, respectively. The said trips would contribute to an increase of traffic on the N11 that would be well below the 5% threshold of significance.

Furthermore, the traffic movements in question would all be left hand turning ones and so traffic flows on the N11 would not be disrupted.

- The proposal has been reviewed in the light of the case planner's report. The following comments arise:
 - The height of the two apartment blocks is intrinsically linked to the achievement of a higher density of development. The omission of a floor to

reduce their height would lessen the desirable density of development and disrupt the proposed housing mix.

The perceived mass of the said blocks could be reduced by the introduction of feature cladding to their northern and southern elevations. Such introduction could be conditioned.

- Section 8.2.9.7 of the CDP requires that green roofs be provided to residential buildings for 50 units or more with roof areas of 300 sqm or more. While the current proposal is for 29 units only, if the Board considers it to be necessary, then green roofs could be conditioned.
- As submitted the rear gardens to the proposed dwelling house would not each consistently have an area of at least 75 sqm. The applicant has submitted a revised site layout plan at the appeal stage, which shows how this minimum could be consistently achieved, by varying the boundaries to these gardens.
- Issue is taken with the advice of Parks that the proposed area of POS would be too small. In this respect, attention is drawn to the brownfield nature of the site, the quality of the proposed landscaping, and the constraints pertaining to this site.

Furthermore, the proposed POS to the south west of Apartment Block A would act as a buffer between the developed portion of the site and Foxrock Golf Course beyond. This Space would coincide with that portion of the site, which is the subject of zoning objective “F”. This portion was formerly part of the Golf Course. However, with the construction of a wall permitted under D07A/0170, it effectively became part of the appeal site.

While the applicant does not consider that the re-siting of the proposed bicycle storage area from the zone “F” portion of the site is necessary, if the Board disagrees, then a condition requiring the same could be attached to any permission.

- The proposal would be consistent with the residential amenities of the area and it would afford a satisfactory standard of amenity to future occupiers. In this respect the following comments are made:

- With respect to overlooking, the northern elevation of Apartment Block A would maintain a separation distance of at least 22m with the existing dwelling houses to the north. The equivalent elevation of Apartment Block B would be screened by the retention, where practicable, of existing trees along the northern boundary of the site. On both Blocks the northern ends of balconies could be enclosed, if the Board consider this necessary, and conditioned accordingly.
- With respect to noise, balconies on the eastern side of Block B would project towards the N11. However, given the site's urban location and the incidence of traffic noise that is attendant upon residing within such a location, such noise would not undermine the usability of these balconies.
- With respect to POS and landscaping, the applicant welcomes the planning authority's practical approach to the provision of the former and they question the need for a tree survey in conjunction with the latter, as replacement rather than retention of existing landscaping is envisaged.
- With respect to water supply and surface water drainage arrangements, the applicant has revised their proposals to address the concerns raised by Irish Water and the County Council's Surface Water Drainage consultee.

6.2. Planning Authority Response

The grounds of appeal do not raise any new matters that would prompt the planning authority to take a different approach to the proposal.

6.3. Observations

(i) An Taisce

- The layout of the proposal would fail to create a sense of place.
- Instead of being central the POS would be peripheral.
- The proposal would be a heavy intrusion into the local streetscape.
- No tree survey has been undertaken.

(ii) **Nuala Hurley** of 23 Avonmore

- The bedroom windows in the northern elevation of Apartment Block A and the ends of balconies on this elevation and on the equivalent elevation of Apartment Block B would overlook the rear of the observer's residential property, which at present enjoys a high level of privacy.

The size and proximity of Block A to the observer's residential property would cause it to be overbearing and it would lead to overshadowing of this property.

A car park and refuse storage area would be sited beside the northern boundary between the site and the observer's residential property. Noise and light spillage from the former and odours and vermin from the latter would/would be likely to ensue.

- Support is expressed for the draft reason for refusal.

The applicant's reliance upon Section 37(2)(b) is contested. Thus,

Under item (i), the size of the site and the number of units proposed would be less than that which would be required to constitute development of national or strategic importance.

Under item (ii), any tension between Policies RES3 and ST26 should, in the light of the site's access off the N11, be resolved in favour of the latter, rather than the former, Policy.

Under item (iii), no specific provisions are of relevance to the proposal.

Under item (iv), the proposal would be at variance with the established pattern of development within the area and precedence for the same has not arisen as a result of any decisions made under the current CDP.

Accordingly, the Board would not be in a position to exercise its discretion under the said Section.

Attention is drawn to previous refusals for the combined site of a total of 14 dwelling houses. These refusals did not cite Policy ST26, even though the CDP then current had an equivalent policy. Thus, the key issue under the current proposal is the number of units and the associated traffic generation.

- Part of the site is subject to zoning objective “F” under which residential is neither permitted in principle or open for consideration. In these circumstances, under Section 8.3.5 of the CDP, the residential use of this part is not permitted. The Board decision PL06D.244339 reflects this stipulation and thus establishes a precedent.

Under the current proposal, a tuning head to the on-site access road and a bicycle storage area would be sited within the aforementioned part of the site. Such development of an area zoned for POS would be inappropriate.

Likewise, the use of the remainder of the same for POS to contribute to meeting the residential development’s requirements in this respect would be inappropriate, too. Again, the inspector in the aforementioned appeal recognised this to be so in the parallel instance of private gardens being proposed for the “F” zoned part of the site.

- With respect to the proposed POS, contrary to the applicant’s description, this Space would be sited in the periphery of the site and so its usability is also questioned. Likewise, its stated aggregate area is questioned and, in the absence of any public park within 1km of the site, the need for compliance with relevant standards is emphasised.

The advice of Parks is supported and the planning authority’s setting aside of this advice on the grounds that the site is a brownfield one is contested.

- Policy RES3 refers to the need for balance between the reasonable protection of existing character and amenity and the achievement of higher densities. The current proposal fails to achieve such a balance.

Other examples of new residential development off the N11 cited by the applicant are not comparable as they occur near junctions or slip roads.

Apartment Block B would be sited within 2.4m of the eastern boundary of the site with the N11 and so, in streetscape terms, this Block would appear incongruous and unduly obtrusive.

The proposal would constitute over development, as it would exceed the existing density of the area, and both the standard 35 dwellings per hectare and 50 dwellings per hectare applicable to a site adjacent to a QBC.

(iii) **Niamh Hurley** of Avonmore Lodge

The points raised by this observer overlap largely with those cited above by observer (ii). As her dwelling house would correspond with Apartment Block B, she is concerned that this Block would be overbearing and that it would lead to overshadowing of her residential property. The proximity of one of the proposed areas of POS to this property and of the proposed refuse storage area are also of concern.

(iv) **Mary Phelan** of 25 Avonmore

The points raised by this observer overlap largely with those cited above by observer (ii).

Attention is drawn to a private pedestrian right of way that runs between the observer's residential property and the N11 through that part of the site that is zoned "F". A wall built along the south western boundary of the site effectively blocks this right of way.

The site lies to the east of the observer's residential property and so the proposed Apartment Block A would dominate her rear garden and lead to it being overshadowed during the morning time. Overlooking from balconies on the western side of this Block would also be of concern.

(v) **Vincent Mulvey and Majella Hillery** of 24 Avonmore

The points raised by this observer overlap largely with those cited above by observer (ii).

The submitted site plan is critiqued on the basis that it does not fully depict the footprint of the observers' dwelling house. Likewise, the submitted photomontage is critiqued on the basis that it shows tree cover along the northern boundary of the site which does not exist.

The site lies to the south east of the observers' residential property and so the proposed Apartment Block A would adversely affect their existing amenities and their future amenities if they were to extend their dwelling house to the rear.

Specifically, lighting and outlook from the rear of their property would be curtailed and overlooking would arise.

They agree with the planning authority's position that the scale and mass of the said Block should be reduced, e.g. if overlooking is to be significantly reduced, then the top two storeys should be omitted.

Exception is also taken to the proposed car park alongside the northern boundary to the site. Noise and general disturbance from this car park and light spillage from security lighting of the same would radically alter the environment to the rear of the observers' property, which at present is undeveloped.

6.4. Further Responses

None

7.0 Assessment

I have reviewed the proposal in the light of national planning guidelines, the CDP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use,
- (ii) Density,
- (iii) Traffic, access, and parking,
- (iv) Design and amenity,
- (v) Development standards,
- (vi) Drainage, and
- (vii) AA.

(i) Land use

7.1.1 Under the CDP, the majority of the site is zoned objective "A", within which residential is permitted in principle. The remainder of the site, essentially the south western extremity of the Funchal house plot, is zoned objective "F", within which residential is neither permitted in principle or open for consideration. Under the proposal, this portion of the site would be laid out to provide POS and a turning head to the on-site access road. Additionally, it would be encroached upon/overhung by the most southerly corner of the patio/balconies

on the south western elevation of Apartment Block A and it would overlap with the proposed bicycle store.

7.1.2 The zoning objective for “F” is “To preserve and provide for open space with ancillary active recreational amenities.” The planning authority welcomes the siting of POS within this portion of the site. However, it considers that the proposed bicycle store should be re-sited, so as to be wholly outside the same.

7.1.3 The applicant outlines how with the advent of a wall along the SE and SW boundaries between Funchal and the adjoining Foxrock Golf Course (permitted application D07A/0170), the said portion of the site has effectively been cut-off from this Golf Course and so its “F” zoning is no longer meaningful. They also question the need for the said re-siting, but would accede to the same if the Board considers it to be necessary.

7.1.4 I consider that the current proposal represents an advance on its predecessor (D014A/0689 and PL06D.244399), which showed the rear gardens to proposed dwelling houses within the portion of the site in question. Under this proposal, the majority of this area would be laid out as open space, which, although I do not anticipate its public use, would at least be used communally by future residents of the site. The encroachment of the aforementioned turning head, patio/balconies, and bicycle store would detract from the ambience and usability of this space. I consider that, under the zoning objective in question, it would be desirable for the first and third of these items to be removed from the portion of the site in question and it would be necessary for the second to be so removed.

7.1.5 I conclude that the proposal would accord with the two zoning objectives for the site, provided Apartment Block A was resited so as to avoid that portion of the site that is zoned “F” in its entirety.

(ii) Density

7.2.1 The proposal would entail the replacement of 2 existing dwelling units on a site of 0.48 hectares with 29 dwelling units. The before and after net densities are/would be c. 4 dwellings per hectare and c. 60 dwellings per hectare.

7.2.2 The site is located beside the N11, a dual carriageway, and in close proximity to bus stops on either side of this national primary road. Bus lanes accompany

this dual carriageway and so this road forms a public transport corridor that runs through the south eastern part of Great Dublin.

7.2.3 Under Policy RES3 of the CDP, the planning authority seeks to promote higher residential densities and, in this respect, it undertakes to have regard to the Sustainable Residential Density in Urban Areas Guidelines, which advocate minimum net densities of 50 dwellings per hectare along public transport corridors. The current proposal would exceed this minimum.

7.2.4 The planning history of Garryknock (site area 0.199 hectares) indicates that a previous proposal for 5 dwelling units (the equivalent of 25 dwellings per hectare) was deemed to be too few (refused application D14A/0400).

7.2.5 I conclude that, in terms of density alone, the proposal would accord with local and national planning policies.

(iii) Traffic, access, and parking

7.3.1 The site presently accommodates 2 dwelling units. Whereas these units are presently vacant, they would have formerly generated traffic movements. In this respect, Funchal is served by two vehicular entrances off the N11 and Garryknock is served by one that is shared by the adjacent row of 4 dwelling units known as Fairways. Clearly, under the proposal a step change in traffic movements would occur. These movements would use one single vehicular entrance off the N11, in place of the existing ones to Funchal and the existing one to Garryknock, which would continue to be used by Fairways only.

7.3.2 The planning authority was advised by its Transportation consultee and the TII on traffic matters. Both consultees recommended refusal, the former on the basis of Policy ST26 of the CDP and the latter on the basis of Section 2.5 of the Spatial Planning and National Roads Guidelines. The subsequent decision reflected these recommendations, albeit the secondary reason for refusal, that of adverse precedent, was not followed through upon.

7.3.3 Policy ST26 gives an undertaking to work with the TII to secure improvements to national primary roads and to provide, protect and maintain for the safe and efficient movement of people and goods on the same. An accompanying commentary states that the planning authority will facilitate the protection of

such roads from frontage access and the minimisation of the number of junctions thereon, in accordance with the aforementioned Guidelines.

7.3.4 Section 2.5 addresses stretches of national primary roads that are subject to a 60 kmph speed limit before a lower 50 kmph speed limit is encountered. These stretches are known as transitional zones and planning authorities are advised that a limited level of direct access to facilitate orderly urban development may be provided for therein. RSAs are required to accompany such proposals and a proliferation of entrances must be avoided.

7.3.5 The advice of both consultees refers to the N11, as if it were the subject of a speed limit in excess of 60 kmph. During my site visit, I observed signage that clearly stated that 60 kmph is the speed limit of this road as it passes the site. I also observed that this speed limit pertains to this road from before its junction with Westminster Lane to the south of the site and that it remains the operative speed limit for the remainder of this road to the north of this junction, i.e. until its junction with Mount Merrion Avenue (N31), and, thereafter, as the R138 into the city centre. The combined length of this road that is subject to a 60 kmph speed limit is such that it is atypical of a transition zone. Nevertheless, I consider that as an arterial route questions of operating efficiency and road safety, which are linked to the incidence of accesses onto this route and the intensity of their use, are relevant.

7.3.6 The applicant has submitted, at the appeal stage, a TRICS based estimate of trips that would be generated by the proposal. Thus, they estimate that c.140 trips would be generated daily and that these would include 2 arrivals and 9 departures during the am peak of 08.00 – 09.00 and 7 arrivals and 7 departures during the pm peak of 17.00 – 18.00. The highest trip generation in any single hour is predicted to be between 19.00 – 20.00, when an estimated 9 arrivals and 14 departures would occur.

7.3.7 The data, which the aforementioned estimates are based upon, is set out in an accompanying Appendix. Likewise, manually de-selected sites are listed and the reason for their de-selection is stated. Frequently cited reasons are “low number of buses” and “no trains near the proposed development”. I consider that, whereas the former reason is clearly justified, the latter is less so, as the

nearest Luas stops at Central Park and Sandyford are 1.9km and 2.2km away. Thus, there is a risk that trip generation would be greater than that estimated.

7.3.8 The applicant draws attention to the aforementioned consolidation in existing access points and the fact that all traffic movements would be left hand turning ones and so the potential for obstruction associated with right hand turning movements would not arise.

7.3.9 During my site visit, I observed that, the site lies between two signalled junctions and that traffic flows are controlled by the phasing of the same. Thus, in the absence of peak time tailbacks, entering and exiting the site is facilitated by this phasing. I also observed that the site is typical of other sites in the vicinity and so the Transportation consultee's concern with respect to precedent is relevant.

7.3.10 Operating efficiency and road safety are influenced by the number of accesses off the N11 and the intensity of their use. Under the current proposal, there would be a reduction in the former, i.e. the two existing vehicular accesses to Funchal would be stopped up and one new one to serve the entire site would be formed, and an increase in the latter, i.e. traffic would no longer be generated by 2 dwelling units but by 29. I thus consider that the *quid pro quo* would be insufficient to offset the impact upon the operating efficiency and road safety of the N11, especially as the surrounding context would afford opportunities for similar proposals to be brought forward.

7.3.11 I consider that the proposal would thus contravene Policy ST26, as elucidated by its accompanying commentary. The planning authority's draft reason for refusal refers to such contravention as being material and so the applicant and the observers engage with the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 – 2015. Their exchanges are summarised in Section 6 of my report. I do not consider that the contravention of this Policy would amount to a material contravention of the CDP, as it requires a judgment call based on the application of the undertaking contained therein to the specific circumstances of the appeal site. By contrast, a material contravention typically entails a clear cut departure from what a CDP states.

7.3.12 The wording of Policy ST26 appeared in the Dun Laoghaire-Rathdown County Development Plan 2010 – 2016, under Policy T19, and that a condensed version of the same appeared in the Dun Laoghaire-Rathdown County Development Plan 2004 – 2010, under Policy T25. Accordingly, previous applications, summarised under Section 4.0 of my report, would have been assessed under either the same or similar policies.

7.3.13 The design of the proposed site access and on-site access road would be satisfactory from an operational perspective. This access and this road have been the subject of a RSA, the recommendations of which have been agreed to by the applicant. They would thus be satisfactory from a road safety perspective, too. Under CDP standards, a maximum of 46 car parking spaces should accompany the proposed dwelling units and indeed this number is proposed for the site. Under CDP standards, each apartment should be served by a minimum of 1 cycle stand and each of the proposed houses should be served by a minimum of 2 cycle stands, i.e. $(21 \times 1) + (8 \times 2) = 37$. Additionally, 6 cycle stands should be provided for visitors. The applicant proposes to construct a bicycle store, which would accommodate 22 bicycles, and to provide 6 cycle stands in the open. If it is assumed that the proposed pairs of semi-detached houses would be capable of accommodating bicycles in their rear gardens, then the level of provision proposed would be in order.

7.3.14 I conclude that the traffic generated by the proposal would impact upon the operating efficiency of and thus road safety on the N11 and so Policy ST26 of the CDP would be contravened.

(iv) Design and amenity

7.4.1 The design of the proposal would entail a site layout within which the Funchal house plot would be redeveloped to provide 2 four storey apartment blocks, 2 areas of POS, and a site access road and communal car park and the Garryknock house plot would be redeveloped to provide a row of 4 pairs of three storey semi-detached dwelling houses. The fall across the two adjoining house plots in a north easterly direction would be reflected in ascending finished floor levels in a south westerly direction.

- 7.4.2 Under Policy UD1 of the CDP, urban design principles are enunciated in a bid to promote high quality design that assists in promoting a “sense of place”.
- 7.4.3 The applicant has summarised his rationale for the layout of the proposal in Section 2.3.4 of his grounds of appeal and in the accompanying Figure 2.1. The need to protect the amenities of existing adjoining residential properties is cited as being a foremost factor in the design approach adopted.
- 7.4.4 The planning authority draws attention to the scale and mass of the proposed apartment blocks in relation to the nearest residential properties to the north west. The concern is expressed, and it is echoed by the observers, that these blocks would appear overbearing and that they would lead to overshadowing and overlooking.
- 7.4.5 I note that the separation distances between Apartment Block A and the nearest dwelling houses to the north west would range between 22.261 and 24.866m and that the dimensions of the presenting elevation of this Block would be c.30m long by 9.82m high to the balcony parapet level (12.150 to the top storey eaves and 13.193m to the ridge). This elevation would contain bedroom windows and balcony ends and a full length balcony alongside the recessed fourth storey.
- 7.4.6 I note, too, that the separation distances between Apartment Block B and the nearest dwelling houses to the north west would range between 17.421 and 18.320m and that the dimensions of the presenting elevation of this Block would be 15.4m long by 9.82m high to the balcony parapet level (12.150 to the top storey eaves and 13.193m to the ridge). This elevation would contain balcony ends and a full length balcony alongside the recessed fourth storey.
- 7.4.7 The conventional suburban clearance distance between corresponding two storey elevations with and without habitable room windows is 22m and 12m, respectively. The current proposal, however, would entail the introduction of four storey apartment blocks into the vicinity of two storey dwelling houses and so greater clearance distances would be in order if the maladies of overbearing, overshadowing, and overlooking are to be avoided.
- In relation to the first of these maladies, while the applicant proposes to specify a variety of finishing materials to the presenting elevations and they

have undertaken to increase this variety still further at the appeal stage, the dimensions of Apartment Block A, especially, would permit only marginal mitigation in this respect.

- In relation to the second, the applicant has submitted shadow analysis studies that indicate that significant increased overshadowing of the nearest residential properties to the north west would arise during the morning time, especially in the spring and autumn seasons.
- In relation to the third, the upper floor bedroom windows and the balconies would overlook the nearest residential properties to the north west. While the applicant proposes to screen the ends of balconies, the ones alongside the top storey would remain. The scope for screening by means of tree planting would appear to be limited, given the tightness of the intervening site, which would be developed to provide car parking and storm water attenuation measures.

7.4.8 Observers also raise amenity concerns with respect to the proposed car park and refuse area. With respect to the former, noise and light spillage would be mitigated by the proposed retention of the high wall along the north western boundary of the site. With respect to the latter, the risk of odours and vermin would be mitigated by proper management of the apartment blocks.

7.4.9 Observer (iv) also raises the issue of a right of way across the south western portion of the site zoned “F”. As this right of way is a private one, this issue is one for the parties to address, if needs be as a civil law matter.

7.4.10 The planning authority and the observers draw attention to the absence of a tree survey. The applicant has responded by stating that such a survey would be superfluous as the proposal would entail the replacement rather than the retention of trees. During my site visit, I had difficulty reconciling the depiction of trees on the existing site plan with what I could observe “on the ground”, although the rear gardens to the two house plots are, admittedly, considerably overgrown at present. Nevertheless, I am thus not confident that this plan shows the full extent of tree cover. I consider that a tree survey should be an important input to any design exercise, as tree retention, where justified by an arboriculturalist, is preferable to new planting, which clearly takes time to

become established and so its full amenity benefit is deferred. The omission of such a survey from the design exercise undertaken is regrettable.

7.4.11 Returning to the layout of the proposal, the redevelopment of the two house plots would give rise to contrasting built forms and features. Thus, while there would be some commonalities in the use of finishing materials, overall the site would not read as integrated development but one of two halves. While the provision of POS adjoining Apartment Block A is influenced by the “F” zoning of that part of the site, it nevertheless means that this area of communal open space and the other equivalent area in the northernmost corner of the site would not contribute to any focal point to the development that might otherwise have been conceived of. The proximity of the proposed buildings to the road frontage to the north east and the regimented layout of the on-site access road would also militate against the achievement of a development that would appear comfortable within its context and offer a sense of place to future occupiers.

7.4.12 I conclude that the design of the proposal would fall short of CDP aspirations and its impact upon existing residential amenities would be excessive.

(v) Development standards

7.5.1 Policy RES7 of the CDP promotes a mix of housing. The proposal would exhibit such a mix insofar as of the 29 dwelling units proposed, 21 would be apartments and 8 would be houses and the spread of one-bed, two-bed, three-bed, and four units would be 6, 12, 3, and 8 or 21%, 41%, 10%, and 28%.

7.5.2 Quantifiable standards for apartments and houses are set out, variously, in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines and Quality Housing for Sustainable Communities: Best Practice Guidelines.

7.5.3 The proposed apartments would comply with the former Guidelines and the proposed houses would comply with the latter Guidelines. The planning authority does, however, draw attention to the minimum of 75 sqm of rear garden that should accompany the proposed houses, the middle four of which would fall short in this respect. At the appeal stage the applicant has submitted a revised site layout plan, which shows variations in the rear garden boundaries that would address this issue. However, the resulting shapes would impair the

usability and amenity value of these gardens and so they would not represent a satisfactory resolution of this issue.

7.5.4 The County Council's Parks advice stated that 982.5 sqm would be the appropriate amount of POS, in accordance with Section 8.2.8.2 of the CDP, i.e. projected on-site population of 65.5 x 15 sqm of POS per person. The submitted plans show the provision of 720.96 sqm or a shortfall of 261.54 sqm (c.26%). The said Section allows for a shortfall where the communal open space would be of exceptional quality. I do not consider that this allowance can be made in this instance.

7.5.5 The planning authority also draws attention to the projecting balconies that are proposed for the north eastern roadside elevation of Apartment Block B. Given the proximity of these balconies to the N11, the issue of their usability in the presence of high levels of traffic noise is raised. The applicant has responded by stating that, within an urban context, the envisaged juxtaposition and attendant amenity level, would not be unusual. In the absence of any noise survey, I am concerned that this issue has not been addressed sufficiently for it to be thus discounted.

7.5.6 I conclude that the proposal would comply with all relevant internal quantitative development standards. Externally, the size of certain rear gardens and the total area of communal open space would be insufficient under these standards and qualitatively the issue of traffic noise has yet to be fully addressed. The amenity that would be afforded to future occupiers would be impaired correspondingly.

(vi) Drainage

7.6.1 The site is connected to the public mains water supply and the public sewerage system. Under the proposal, connection to this infrastructure would continue. At the application stage, Irish Water critiqued aspects of the proposed on-site water supply network. At the appeal stage, the applicant has addressed the points raised in this critique and submitted revised plans, as appropriate.

7.6.2 The proposal would incorporate a surface/storm water drainage system, which would be designed in accordance with principles and methodologies set out in the GSDS and SuDS. At the application stage, the County Council's Surface

Water Drainage Engineer critiqued the “off-line” design of the proposed attenuation system and other aspects of the proposed on-site surface drainage water network. At the appeal stage, the applicant has provided an explanation for the said design of attenuation system and they have addressed the other points raised in this critique and submitted revised plans, as appropriate.

7.6.3 The aforementioned explanation refers to the availability of land, under the proposed layout, between Apartment Block B and the north western boundary of the site within which to install the proposed attenuation system. While I recognise the feasibility of utilising the said land in this fashion, I am concerned that the applicant has not demonstrated that such siting would be optimum from a drainage perspective.

7.6.4 I conclude that, while the site would be capable of being supplied by water from the public mains and of being served by the public sewerage system, the applicant has not demonstrated that the proposed surface/storm water drainage arrangements would be the optimal for the site.

(vii) AA

7.7.1 The site is not located either in or near to a Natura 2000 site. It is a fully serviced suburban site and so I do not consider that the proposal for the same would have any significant effect upon the conservation objectives of any Natura 2000 site.

7.7.2 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Conclusion

Under the current proposal the applicant has sought to address the critique of earlier planning decisions on the site. Thus, they propose the amalgamation of the two house plots and the rationalisation of accesses to the same. The proposal itself would exhibit a much higher density than previously proposed, although the corollary

of this would be an increase in traffic generation and attendant traffic movements, which would adversely affect the operating efficiency of and thus road safety on the N11. The applicant contends that greater weight should be attached to the former factor than the latter one. I am mindful of the current housing crisis and the importance of increasing the supply of housing. I am mindful, too, that the proposal would establish a precedent for the redevelopment of adjoining house plots, within the vicinity of the site, along the N11, which would increase traffic movements further. Accordingly, I do not consider that the proposal would constitute an appropriate template for densification, due to the traffic implications that would arise on the N11. Furthermore, the proposal itself would have adverse implications for the amenities of adjoining residential properties to the north west and it would afford an unacceptable standard of amenity for the future occupiers of the redeveloped site.

9.0 Recommendation

In the light of my conclusion, I recommend that the proposal be refused.

10.0 Reasons and Considerations

1. Having regard to Policy ST26 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, it is considered that the proposal would generate an excessive number of traffic movements from and to the N11, which would reduce the operating efficiency of this national primary road and, as a consequence, increase the hazard posed to users of this road. Additionally, the proposal would establish a precedent for the redevelopment of other sites in the vicinity to a high density, which would result in further increases in such traffic movements and their attendant implications for the N11. Thus, this proposal would, on its own and in the precedent which it would establish, contravene the said Policy and so be contrary to the proper planning and sustainable development of the area.
2. Having regard to the size, design, and siting of the proposed apartment blocks, it is considered that they would be overbearing in relation to the residential properties to the north west and they would lead to excessive overlooking and overshadowing of these properties. The proposal would

thus be seriously injurious to the amenities of property in the vicinity and, as such, it would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the quantitative standards set out in the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the proposal would comprise insufficient public open space and, in the case of the proposed houses, it would fail to consistently provide the requisite amount of private open space. Furthermore, the proximity of the projecting balconies on the north eastern elevation of Apartment Block B to the N11 and the resulting high noise levels on these balconies caused by passing traffic would militate against the usability of these balconies. Accordingly, the proposal would fail to establish a satisfactory standard of amenity to future occupiers and so it would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

23rd February 2017