



An
Bord
Pleanála

Inspector's Report PL06D.247966

Development	Permission sought for the construction of 8 houses and modifications to an existing house with all associated site works.
Location	Hérons Ghyll, Cherrywood Road, Loughlinstown, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D16A/0822
Applicant(s)	Ann-Marie Nohl
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First-v-Refusal
Appellant(s).	Ann-Marie Nohl
Date of Site Inspection	09 th May 2017
Inspector	Colin McBride

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 0.6076 hectares, is located to the south west of Dublin just north of the M50 and to the south west of Cherrywood. The site is located on the eastern side of the Cherrywood Road and the northern side of Falls Road, which links to the R116 to the east of the site (R116 links to the N11 to the north of the site). The appeal site is occupied by a single-storey dwelling, which has access from the Cherrywood Road. The appeal site is bisected by the Loughlinstown River with the portion of the site to the north west of the river consisting of the existing dwelling and its garden area. The portion to south east of the river is a steep wooded embankment with levels increasing in a south easterly direction (there is wooden bridge linking the two parts of the site). The appeal site includes a private access road from the Falls Road to the south that currently serves a number of detached dwellings to the east and south east of the site and is proposed to serve as the access to the new dwellings proposed on site. The public road (Falls Road) is just over 4m in width with no footpaths or public lighting. The area itself is semi-rural in nature with the development pattern at this location consisting of larger detached dwellings on significant plots and a high degree of existing trees and hedgerow forming the boundaries of these sites. Boundary treatment on site consists of existing trees and hedgerow. Adjoining development consists of a detached dwelling ('Annadale') immediately to the south and a detached dwelling immediately to north ('Windemere'). To the east and south east at the higher level are four detached dwellings served by the private laneway indicated as being part of the site ('Glencarraig', 'Roselands', 'Woodlands' and 'Tanglewood').

2.0 Proposed Development

2.1. Permission is sought for the construction of 8 no. four bed dwellings with ground floor at the level of the existing entrance driveway of Roselands on Falls Road and three floors below said ground floor level and relying on existing vehicular entrance off Falls Road via Roselands, reduction of the footprint of the existing house at Herons Ghyll and addition of new first floor with balcony onto the same, decommissioning of existing septic tank serving Roselands and connect to the foul

sewer from Roselands into new system connecting to Local Authority main sewer on Cherrywood Road, carrying out woodland maintenance works and various other associated works.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on five reasons for refusal...

- 1. The proposed development would impact negatively upon the ecologically sensitive nature of the site. It is considered that the proposal as submitted is deficient in detail as it fails to consider the biodiversity and ecological importance of the site. The AA screening is also considered deficient. It is considered that the development as proposed which involves significant alteration to the existing embankment and the loss of trees could potentially impact negatively upon the natural heritage importance of this site, the county wide ecological network, the non-designated areas of biodiversity importance and the Loughlinstown River, would set an undesirable precedent and would be contrary to Policy LHB23: Non-Designated Areas of Biodiversity Importance, LHB24 : County Wide Ecological Network and LHB25: Rivers and Waterways of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would therefore be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development would result in a significant intensification of traffic exiting the proposed development onto the Falls Road, which is a local (urban) road, narrow in width and without footpaths. This would endanger public safety by reason of traffic hazard or obstruction of road users. Furthermore, the proposed development is considered to be premature as there is an existing deficiency on the Falls Road in terms of the lack of adequate, safe pedestrian facilities, which renders it unsuitable to carry the increased pedestrian traffic likely to result from the proposed development. The proposed development, if permitted, by itself or by the precedent that the*

grant of permission for it would set for other relevant developments, would adversely affect the use of the Falls Road by traffic. The proposal is, therefore, contrary to the proper planning and sustainable development of the area.

3. *It is considered that the design of the proposed development has not demonstrated an adequate response to the site constraints that exist in terms of the trees on site. This is contrary to Policy OSR7: Trees and Woodland and Section 8.2.8.6 :Trees and Hedgerows of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. The proposed development, therefore, would be contrary to the proper planning and sustainable development of the area.*
4. *The proposed development would be premature pending the provision of coordinated and wider planning strategy/framework for the areas and pending upgrading of the existing local network to facilitate increased traffic and pedestrian levels as well as facilitating better linkages to the public transport infrastructure in the areas. A coordinated approach is needed to avoid piecemeal and haphazard development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*
5. *The design and scale of the proposed dwellings and the associated land shaping are an inappropriate response to the site context and therefore contrary to Policy UD1: Urban Design Principles of the Dun Laoghaire-Rathdown County Development Plan, 2016-2022, and therefore not in accordance with the proper planning and sustainable development of the area.*

3.2. Local Authority and External reports

- 3.2.1. Drainage Planning (23/11/16): Further information required including details regarding attenuation, rainwater harvesting, the green roof and details of the connection to the foul water sewer.

- 3.2.2. Parks and Landscape Services (25/11/16): The proposal is lacking in regards to landscape design and management proposals, the tree report is deficient and the ecological impact of the proposal is not sufficiently assessed.
- 3.2.3. Irish Water (28/11/16): Further information required regarding connection to the foul sewer.
- 3.2.4. Transportation Planning (04/01/17): Refusal recommended due to traffic hazard due to additional traffic onto falls Road, prematurity in terms of pedestrian facilities and the precedent it would set.
- 3.2.5. Planning Report (11/01/17): Concerns were raised regarding the ecological impact of the proposal and the insufficient information assessing such, the proposal would be contrary Development Plan policy regarding tree protection and the Appropriate Assessment Screening report is deficient. The report notes issues regarding drainage and the recommendation for refusal by the Transportation section. Refusal was recommended based on the reasons outlined above.

4.0 Planning History

- 4.1 D01A/729: Permission granted for the construction of a pitched roof on former flat roofed outbuilding and a conservatory and their conversion to a two bedroom and ensuite.

On adjoining sites...

- 4.2 PL06D.246223: Permission refused for construction of 15 no. dwelling and all associated site works at 'Legende', Falls Road. Refused for one reason...

- 1. The proposed development would result in a significant intensification of traffic exiting the proposed development onto the Falls Road, which is a local (urban) road, narrow in width and without footpaths. This would endanger public safety by reason of traffic hazard or obstruction of road users. Furthermore, the proposed development is considered to be premature as there is an existing*

deficiency on the Falls Road in terms of the lack of adequate, safe pedestrian facilities, which renders it unsuitable to carry the increased pedestrian traffic likely to result from the proposed development. The proposed development, if permitted, by itself or by the precedent that the grant of permission for it would set for other relevant developments, would adversely affect the use of the Falls Road by traffic. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.3 D15A/0235: Permission refused for the construction of 50 apartments, comprising of 10 of 1 bed apartments, 30 of 2 bed apartments and 10 of 3 bed apartments, in 5 blocks of 4 storeys each, the demolition of the existing 2 storey house (approximately 222.5 sqm), a shared vehicular access with the adjoining site to the east and associated site works on the adjoining site ('Wyndhurst') to the north west of the appeal site. Refused based on two reasons...

1. The proposed development would result in a significant intensification of traffic exiting the proposed development onto the Falls Road, which is a local (urban) road, narrow in width and without footpaths. This would endanger public safety by reason of traffic hazard or obstruction of road users. Furthermore, the proposed development is considered to be premature as there is an existing deficiency on the Falls Road in terms of the lack of adequate, safe pedestrian facilities, which renders it unsuitable to carry the increased pedestrian traffic likely to result from the proposed development. The proposed development, if permitted, by itself or by the precedent that the grant of permission for it would set for other relevant developments, would adversely affect the use of the Falls Road by traffic. The proposal is, therefore, contrary to the proper planning and sustainable development of the area.

2. It is considered that the design of the proposed development has not demonstrated an adequate response to the site constraints that exist in terms of the trees on site. This is contrary to Section 16.7.4 of the Dún Laoghaire-Rathdown County Development Plan, 2010-2016. The proposed development, therefore, would be contrary to the proper planning and sustainable development of the area.

- 4.4 PL06D.245768: Permission granted for a house and new entrance gate from the Falls Road. Wastewater treatment system, surface water soakaway and 2.1m high fence to internal boundary on a site to the south east of the appeal site (St. Catherines Falls).
- 4.5 PL06D.245271: Permission granted for construction of two storey detached house, car port, new access laneway and gate from the Falls Road, wastewater treatment system, surface water soakaways and 2.1m high fence on a site to the south east of the appeal site (St. Catherine's Falls).

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant development plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A with a stated objective 'to protect and/or improve residential amenity'.

5.1.2 Policy RES3: Residential Density (Section 2.1.3.3)

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- Sustainable Residential Development in Urban Areas (DoEHLG 2009)
- Urban Design Manual - A Best Practice Guide (DoEHLG 2009)
- Quality Housing for Sustainable Communities (DoEHLG 2007)
- Irish Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013)

- National Climate Change Adaption Framework-Building Resilience to Climate Change (DoECLG 2013).

5.1.3 Under Section 2.1.3.3 on Residential Density the following is also noted...

Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged. As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives 'GB', 'G' and 'B') shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to 'greenfield' sites or larger 'A' zoned areas.

6.0 The Appeal

6.1 Grounds of appeal

6.1.1 A first party appeal has been lodged by Edmondson Architects on behalf of Ann-Marie Nohl, Herons Ghyll, Cherrywood Road, Loughlinstown, Co. Dublin. The grounds of appeal are as follows...

- The appellant notes the existing condition of the eastern bank of the river as a factor noting that such is currently unstable and in need of some measures to prevent further deterioration. The appellant notes that alternative measures to stabilise the slope would not be in the best interests of preserving the natural character of the site and that their proposal provides for retention of 24m riparian corridor along the river and that this proposal is being carried out with best ecological practice in mind.
- The appellant notes that the site and the wooded area to the east of the river is not necessarily of high ecological status. It is noted that the applicant/appellant's proposal has regard to the character of the site. The appellant outlines the nature of works being carried out along the river.

- The appellant notes the low density of the proposal, the residential zoning of the site and proposals for housing granted in the vicinity. In this regard the appellant notes that the refusal on traffic grounds is unreasonable and it is noted the proposal will be adequately served by existing and future pedestrian facilities and is accessible to the Luas line, a QBC and the N11 cycleway.
- The appellant notes more detailed proposals regarding tree protection are included with the appeal submission.
- An Appropriate Assessment Screening report was submitted with the appeal submission. The conclusions of such are there will be no significant effects on any European site and an Appropriate Assessment is not required.
- In regards to drainage the appellant has submitted details of attenuation, which is revised to have regard to the Local Authorities preferred approach. It is noted that all other aspects of drainage raised by the Local Authority can be dealt with.
- Alterations have been made to private open space provision and location to avoid its location in the 24m wide strip along the river.
- The appellant does not consider that the concerns raised by the Transportation Section should preclude granting of the proposal noting that the proposal is compliant with development plan policy, is of an acceptable density and there are adequate cycling facilities in the area.

6.2 Responses

6.2.1 No responses.

6.3 Observations:

6.3.1 An observation has been received from Dr. Brian L. Bond, Corder, Cherrywood Road, Loughlinstown, Dublin 18.

- The observation wishes account be taken of the observer's earlier submission. The submission includes concerns regarding the destruction of the woodland area, the generation of significant construction traffic to remove excavated material off site, failure to provide a detailed design proposal of how to facilitate the development on such a steeply sloping site, potential pollution of Loughlinstown River due to excavation works, fire tender access, an inappropriate form of development at this location and inadequate drainage proposals.

6.3.2 An observation has been received from Marguertie & David Lawlor, Linford, Falls Road, Shankhill, Dublin 18.

- Falls road is inadequate in width and pedestrian facilities to cater for the traffic generated and future development should be in keeping with the existing density and pattern of development.
- Existing schools in the area at capacity.
- The proposal is contrary the zoning objective of the site due to an inappropriate density out of keeping with existing development in the area.
- The proposal would be injurious to the character of the area due to loss of trees and urbanisation of rural/semi-rural area.
- The proposal would set a precedent for further development of this type.

6.3.3 An observation has been received from Olga Daly/Baxter & Warren Baxter, Woodberry, Falls Road, Shankhill, Co. Dublin.

- The observers agree with the reasons for refusal noting the proposal would endanger public safety due to increased traffic, would have an adverse impact on an ecologically sensitive area and would represent piecemeal and haphazard development. The observers also note the Boards decision in regards to PL06D.246223.

6.3.4 An observation has been received from Mr & Mrs Johnson, Oakwood, Falls Road, Shankhill, Co. Dublin.

- Validation issues are raised with it noted the access lane is included in the red line site boundary despite not being in applicant's ownership and such should have been coloured yellow as it is a right of way.
- The site is unsuitable for development due to its steep sloping nature, its position within the flood plain of the Loughlinstown River, the impact on existing trees on site and the fact the Loughlinstown River drains into an SAC.
- The proposal would be injurious to the amenities and biodiversity of the area and would have an adverse impact on existing trees which would be contrary to Development Plan policy. The observers disagree with the view that the trees on site can be removed regardless of development of the site.
- The observer highlights the failure to protect a location that is suitable for bat roosts. It is noted that the proposal would have an adverse ecological impact.
- The Appropriate Assessment screening is deficient in scope and detail. The observers do not agree with the conclusion that significant effects are not likely and that a Stage 2 Appropriate Assessment is not required.
- The proposal is contrary objectives of the County Development Plan seeking protection of trees and woodlands.
- The proposal would constitute a traffic hazard due to intensification of traffic with concerns noted regarding the turning manoeuvres generated, potential lack of parking for visitors, the layout of the existing entrance to the Falls Road and layout of the road network in the vicinity.

6.3.5 An observation has been received from David Stokes, 15 Upper Baggot Street, Dublin 4.

- The observer notes that there is an issue concerning landslides and falling trees on site and that the proposal is an appropriate solution to dealing with such concerns, while preserving the character of area along the river.
- The observer is critical of the nature and substance of the observations submitted against the proposal.

6.3.6 An observation has been received from Felicity Gill, Sweet Auburn, Cherrywood Road, Loughlinstown, Co. Dublin.

- It is noted that there are existing deficiencies in regards to drainage infrastructure in the area.
- The proposal would detract from the visual amenities and the rural character of the area.
- The proposal does not take adequate account of the surface water impact downstream and the residents of Cherrywood Road, due to an under capacity culvert.

6.3.7 An observation has been received from S & B Moore, Barnaby Dun, Cherrywood Road, Loughlinstown, Dublin 18.

- The observers raise concerns regarding the future development of area and impact on biodiversity and ecology.
- The observer notes that maintenance of the property is the applicant's responsibility and does not accept the need for the development to assist this.
- The observer raises concerns regarding impact on water quality and needs to preserve such.
- The proposal would set a precedent for further development of this type.

- The observers raise concern regarding the overall impact of the proposal on the character of the area and the existing character of the site including the existing wooded area and river bank.

6.3.8 An observation has been received from the Rathmichael Residents Association.

- The proposal would have a negative impact on the ecology of the site.
- The proposal is piecemeal development with no development strategy for the area.
- The proposal is not in keeping with the architectural character of the area.
- The proposal would be injurious to the character of the area due to loss of trees and urbanisation of rural/semi-rural area.
- The proposal would constitute a traffic hazard with the road network in the area substandard.

6.3.9 An observation has been received from Inland Fisheries Ireland.

- The proposed development is in the catchment of the Loughlinstown River with the river system supporting significant fish species and populations. The destruction of riparian areas along the river bank would have ecological and amenity implications.

6.3.10 An observation has been received from the Development Applications Unit.

- The observation highlights the species that are connected with the Loughlinstown River, (salmonid watercourse, otters, bats, badgers, Annex 1 bird species including Kingfisher). It is noted that the otters and bats are

protected under the Habitats Directive. It is noted that the river connects to the Loughlinstown Woods proposed Natural Heritage Area and the Dalkey Coastal Zone and Killiney Hill proposed Natural Heritage Area. There is a possibility that the proposal would result in sediment into the river. It is noted no ecological assessment of the proposed development was submitted.

- It is noted that the proposal does not comply with policy LHB23 LHB 24 and LHB 25 of the County Development Plan.
- The observation notes the information submitted with the first party appeal including the information regarding bat surveys and the lack of a survey regarding otters. It is noted that in regards to felling of trees to facilitate the proposed development, a licence would have to be obtained from the NPWS to derogate from the Habitats Directive. The same would be required if otters were found to be present on site with the observation critical of the level of survey data in this regard.
- It is noted that best practice methods should be used to remove invasive species from the site.

7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Density/development strategy

Development control standards

Design/scale/pattern of development/visual/residential amenity

Traffic impact

Trees/ecological impact

Appropriate Assessment

Other Issues

7.2 **Principle of the proposed development:**

7.2.1 The relevant plan is the Dun Laoghaire Rathdown County Council Development Plan 2016-2022. The site is zoned 'Objective A' with a stated objective 'to protect and or improve residential amenity'. The proposal is for residential use and is compliant with land use policy. The site is currently in residential use with a detached dwelling on site and the adjoining development being similar low density residential development. The proposal entails an increased density and a more urban form of development. I would consider the principle of the proposed development to be acceptable subject to the proposal being satisfactory in the context of its impact upon the amenities of adjoining properties, visual amenity, traffic safety and convenience, and satisfactory in the context of being an appropriate form of development at this location relative to existing infrastructure and the feasibility of future infrastructure provision.

7.3 Density/development strategy:

7.3.1 The proposal entails the alterations of the existing dwelling and the construction of 8 no. dwellings on a site of 0.6076 hectares. This gives a density of 15 units per hectares. This is significantly below the recommended minimum density for new residential development in the County Development Plan of 35 units per hectare and also the recommended minimum density for new residential developments in proximity to a Luas line, of 50 units per hectares. Policy RES3 (Section 2.1.3.3) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 notes that “it is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development”. It is noted that “as a general rule the minimum default density for new residential development in the County (excluding lands on zoning Objective ‘GB’, ‘G’ and ‘B’) shall be 35 units per hectares. This density might not be appropriate in all instances, but will serve as a general guidance, particularly in relation to ‘greenfield’ sites or larger ‘A’ zoned areas”.

7.3.2 The density of the proposed development is 15 units per hectares and is not in accordance with the standard advocated under Development Plan policy for residentially zoned lands. In relation to density there are a number of issues that arise. The site context is at a location that although zoned is characterised by a very low density pattern of residential development, which would not even be a suburban pattern of development, but is semi-rural in nature. The appeal site and adjoining sites are characterised by larger plots with detached dwellings and the proposal entails a significant increase in density over the existing. Based purely on Development Plan policy as written, the proposal does not meet the requirements in regard to residential density. Notwithstanding such I do consider that the site context is relevant with the site at a location that at present is not an urban location. The pattern of development is very low density in the vicinity of the site and there are deficiencies in local infrastructure, namely the capacity and standard of the local road network. Development Plan policy in regards to density (Section 2.1.3.3) does indicate the need “to ensure a balance between the reasonable protection of existing

residential amenities and the established character of the area". It also noted under the same section that "there may be some specific areas of the County where densities, which would normally be encouraged by virtue of proximity of the site to high public transport corridors, cannot realistically be achieved as a consequence of other infrastructural shortcomings-such as capacity of the local road network". I would consider that such considerations apply to the site in this case and I would not consider it appropriate to recommend refusal of the proposal purely on the failure to provide a density of 35 units or more per hectare. I consider that there is wider issue here regarding the planning approach to the area.

7.3.3 I would consider that development of this type or even higher density is premature pending some sort of planning framework/strategy regarding the area including providing for the upgrading of the local road networks and facilitating good linkages to the public transport infrastructure in the area. I would consider that a coordinated approach is needed among the landowners as the current approach would lead to piecemeal and haphazard development as well as potentially leading to development that does not make sufficient use of zoned land in close proximity to existing and future public transport infrastructure (Luas line). I would note that there are no current proposals for a Local Area Plan that would cover the area the site is located in. I would recommend that permission be refused on the basis the proposal is premature pending the provision of coordinated and wider planning strategy/framework for the area and pending upgrading of the existing local network to facilitate increased traffic and pedestrian levels.

7.4 Development control standards:

7.4.1 In relation to residential development the issues concerning development control relate to the provision of public/private open space and car parking. In regards to general development control objectives the proposal entails the provision of 8 no. dwellings with each being a four bed unit and alteration of the existing dwelling (4 bed unit). Under Section 8.2.8.4 of the County Development Plan the minimum requirement for dwellings with 4 bedrooms or more is 75sqm. The existing dwelling is being retained with in excess of 75sqm of private open space. The new dwellings are arranged on four levels with a ground floor level at the top having dual aspect

and three levels below facing north west due to the steep sloping nature of the site. At each level, ground, minus 1 and minus 2 are 15sqm balconies that project from the north western facade and at level minus 3 there is a terraced area. This gives a total of 75sqm of private open space per unit and is compliant with Development Plan policy.

7.4.2 In regards to public open space, under section 8.2.8.2 of the County Development Plan it is noted that “for all developments with a residential component – 5+ units - the requirement of 15 sq.m- 20 sq.m. of Open Space per person shall apply based on the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms”. It is also noted that irrespective of the circumstances outlined under Section 8.2.8.2 including relaxed standards due proximity to existing park facilities and financial contributions in lieu of public open space “the default minimum 10% open space requirement must be provided on site”. The proposal entails keeping the existing dwelling as separate dwelling with a significant curtilage with its own vehicular access as per the existing arrangement. It is proposed to provide an area of public open space on the north western side of the river and south of the existing dwelling with new bridge linking the new dwellings to the area of public open space. The public open space area is approximately 750sqm in size and includes allotments for the 8 new dwellings. This space does not include the wooded area to the north west of the new dwellings and south east of the river. The proposal would appear to comply with the minimum requirements of the County Development Plan in regards to public open space.

7.4.3 In regards to car parking, the proposal provides for two off-street car parking spaces per dwelling. Under Table 8.2.3 of the County Development Plan the requirement is two spaces per 3 bed unit +. In this regard the proposed development is compliant with development control standards. I am satisfied the proposal is compliant with the minimum development control standards set down under the County Development Plan.

7.5 Design/scale/pattern of development/visual/residential amenity:

- 7.5.1 The observations raise concerns that the proposal would impact adversely on the rural character of the area. As noted above the proposal is on lands zoned for residential development and is at a density lower than recommended on such lands. The site is in an area that is characterised by low density housing and does have semi-rural nature to it. Notwithstanding such it must be acknowledged that the site is zoned and serviced lands and there must be an expectation that such lands would facilitate a more urban form of development. Notwithstanding such the proposal will be assessed on its merits in regards its specific visual impact and relationship with adjoining properties and their amenity.
- 7.5.2 The proposal entails alterations of the existing dwelling on site, which is currently single-storey. The proposal entails reducing the footprint of existing dwelling and providing first floor accommodation. The altered dwelling will have a flat roof profile with a more contemporary and up to date appearance. I would consider that the alterations to the existing house are acceptable in context of the visual and residential amenities of the area. Although the proposal entails conversion from single-storey to two-storey, the dwelling is relatively low profile in scale due to its flat roof profile and would not be highly visible in the area due its level relative to the public road and existing and proposed boundary treatment.
- 7.5.3 The bulk of new development on site is in the form of the 8 no. dwellings proposed on the steeply sloped wooded area to the rear of the site. The proposal provides for split level development with the ground floor having a similar level to the land and access road to the south east of the site and then three levels below cut into the slope and orientated to the north west. The structure when viewed from the south east is single-storey in nature, however when viewed from the north west, the proposal is a four storey block. The applicant has attempted to integrate the development by retention of existing trees on the lower part of the slope in addition to new planting and landscaping, as well as proposing a 'green wall' on the north western façade. Notwithstanding the proposed landscaping, I would consider that the overall bulk and scale of the development, its location cut into a steeply sloping embankment would result in a development that would have be visually obtrusive,

overbearing and detrimental to the visual amenities of the area when viewed from the area to the north west (Cherrywood Road).

7.5.4 In relation to adjoining amenities, there is an existing dwelling on site with ground level on par with Cherrywood Road and a dwelling to the north ('Windemere') and to the south ('Annadale'). The orientation of the four level block is north west with the lowest floor level (minus three) elevated above the ground level of the existing dwellings off Cherrywood Road. The north western elevation features a high level of glazing and projecting balcony areas as well as providing the main living space at the highest level. I would consider that the height, scale and orientation of the proposed development would have an overbearing impact in relation to existing dwelling on site ('Herons Ghyll') and the adjoining dwelling to the north ('Windemere'). I would consider that the development would have an overbearing impact and result in reduced privacy at these dwellings. It is acknowledged that the existing dwelling 'Herons Ghyll' is part of the development proposal and is the applicant's residence, however such does not excuse to the provision of substandard development.

7.5.5 The proposal relative to the dwellings to the south east and east is single-storey in scale and would have no significant or adverse impact on the residential amenities of the existing dwellings. I would note that having regard to bulk, scale, design, height, finished floor level and orientation of the proposed 8 no. dwelling and its location on a steeply sloping site, the proposal would be visually obtrusive and have an overbearing impact on existing dwelling to the west and north west of the site including the existing dwelling on site. The proposal would be detrimental to visual and residential amenities of the area.

7.6 Traffic Impact:

7.6.1 The proposal entails use of the existing access from Cherrywood Road to the serve the existing dwelling on site as per current arrangements. The 8 no. new dwellings are to be served by an existing access laneway that runs from Falls Road to the south east of the site. This laneway provides access to a parking area on the south eastern elevation of the block. The access laneway currently provides access to four

dwellings. It is noted that the access laneway is not under the applicant's ownership and will be right of way granted by the owner.

7.6.2 The applicant submitted a Traffic & Transportation Assessment. This assessment notes the context of the site including proximity to public transport infrastructure (Brides Glen Luas Stop 1.5km from the site and a QBC along the N11, 900m from the site). The assessment notes that visibility at the existing entrance onto the falls road is in compliance with the requirements of the Design Manual for Urban Streets and Roads. It is also noted the parking provision is in compliance with Development Plan policy. Modelling of traffic indicates the proposal would give rise to 4 to 5 two way trips during the morning and evening peak and as such would have negligible traffic impact on the local road network.

7.6.3 Falls Road is just over 4m wide and has the character of country road with no footpaths or lighting. The Falls Road links up with the R116 to the west, which joins the N11 to north of the site. The Falls Road also links into Stonebridge Road to the south west of the site. I would be satisfied that sufficient sightlines are available at the entrance onto the public road, however at present the width, alignment and provision of pedestrian facilities along Falls Road are deficient in standards to cater for a significant increase in density or intensification of traffic. It is notable that a previous development proposal on a site further to the south west ('Wyndhurst') was refused under ref no. D15A/0235 for 50 no. apartments due to concerns regarding the deficiency of the local road network to cater for intensification of traffic proposed. Also notable is a recent Board decision under PL06D.246223 that cited the deficiency in the road network as a factor for refusal. Although the proposal is located further north west along the Falls Road, the same issue applies with the local road network substandard to cater for the increase in traffic associated with the proposed development and future adjoining development. It is acknowledged that the site is in close proximity to public transport, however there is a lack of good linkages, in particular for pedestrians and cyclists due to the existing rural nature of the area.

7.6.4 Although the proposal is for 8 no. dwellings, I would consider that the same factors apply as that under PL06D.246223 and in this regard I would consider that the

existing local road network is deficient in width and lacking in footpath facilities to cater for significant intensification of traffic proposed. In this regard the proposed development would result in a significant intensification of traffic exiting the proposed development onto the Falls Road, which is a local (urban) road, narrow in width and without footpaths. This would endanger public safety by reason of traffic hazard or obstruction of road users. Furthermore, the proposed development is considered to be premature as there is an existing deficiency on the Falls Road in terms of the lack of adequate, safe pedestrian facilities, which renders it unsuitable to carry the increased pedestrian traffic likely to result from the proposed development. The proposed development, if permitted, by itself or by the precedent that the grant of permission for it would set for other relevant developments, would adversely affect the use of the Falls Road by traffic. The proposal is, therefore, contrary to the proper planning and sustainable development of the area.

7.6.5 As noted earlier the proposal provides car parking for each unit is in compliance with the requirements of Development Plan policy as well as cycle parking being provided for each unit. I am satisfied that the access laneway serving the site is of a satisfactory standard and the car parking layout is acceptable.

7.7 Trees/ecological impact:

7.7.1 The new block of housing is located at the south eastern boundary of the site and on sloped wooded area. The wooded area includes mature trees and a tree survey of the area was submitted. The tree survey identified 134 trees in varying degrees of condition. It is proposed to remove 58 trees. 24 of the trees are to be removed due to being at locations subject to landslide and therefore unstable, 18 are to be removed due to their poor condition and 16 are to be removed to facilitate the development. The applicant/appellant intends to plant 70 additional trees on site (appeal submission) and to established a riparian corridor 10m on either side of the Loughlinstown River.

- 7.7.2 Permission was refused on the basis that the proposal would be contrary Policy OSR7: Trees and Woodland and Section 8.2.8.6: Trees and Hedgerows of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. The observers are critical that proposal would erode the character of the area due to the loss of trees. The applicant /first party appellant notes that the wooded area is beset with stability problems and that some measures are required to address such with the proposal being a good solution to such and at the same time preserving the character of the area.
- 7.7.3 I would note that the trees on site are not subject to a tree preservation order or a specific objective that highlights the area as being a habitat of significant importance. Notwithstanding such the wooded area does contribute to the character of the area. I would acknowledge that the applicant's claims regarding the poor condition of trees and issue of stability regarding some of trees is not unreasonable. I do not however except that there is necessity for a physical residential development to address issues such as the stability of the existing slope. I would acknowledge that the applicant has attempted to mitigate loss of trees with extensive new planting. I would not consider that the issue of tree loss is a reason for refusal, subject to a development of appropriate design and scale and adequate tree protection measures for trees to be retained as well as being subject to an appropriate landscaping scheme for additional planting. As noted earlier, I would consider there are issues regarding the visual impact of the proposal, due to its scale and elevated nature. I would also have some concerns that the steeply sloping nature of the site would render it difficult to protect existing trees earmarked for protection during the construction phase of the proposal.
- 7.7.4 Permission was refused on the basis of failure to comply with Policy LHB23 Policy LHB23: Non-Designated Areas of Biodiversity Importance, LHB24 : County Wide Ecological Network and LHB25: Rivers and Waterways of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The first party appellant did submit more detail regarding ecological impact, particular regarding bat species as well as noting that the proposal would provide for a 10m wide riparian strip on each side of the river that would mitigate against any adverse ecological impact.

7.7.5 The submission from the Development Applications Unit (NPWS) is significant in this regard. This submission notes that the information submitted on bats identifies 16 trees that would be suitable for bats (12 to be removed) and that removal of such requires a licence for derogation from the habitats directive. The submission is also critical of the level of survey work in regards to otters. It is clear from the information on file and submissions made that the site has a degree of ecological sensitivity that should be taken into account. I would also note that the steep sloping nature of the site and level of excavation would also mean the possibility of suspended solids discharging to the watercourse, reducing water quality. The site would appear to be an awkward and difficult site to develop due to its steeply sloping gradient and the nature of the construction work poses the risk of such discharges occurring. Construction management may be able to deal with this issue, however there is real risk of such due to the nature of the site, the significant footprint of the development and level of excavation required. I would consider based on the information on file that the applicant has failed to demonstrate that the proposal would not have an adverse ecological impact and in this regard I would consider the proposal would be contrary to Policy LHB23 Policy LHB23: Non-Designated Areas of Biodiversity Importance, LHB24 : County Wide Ecological Network and LHB25: Rivers and Waterways of the Dun Laoghaire Rathdown County Development Plan 2016-2022.

7.8 **Appropriate Assessment:**

7.8.1 The EU Habitats Directive (92/43/EEC) Article 6 (3) requires that “any plan or project not directly connected with or necessary to the management of the (European) Site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in light of its conservation objectives. In light of the conclusion of the assessment of the implications for the site, and subject to the provisions of paragraph 4, the competent national authorities shall agree to a plan or project only after they have ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

7.8.2 An Appropriate Assessment Screening Report was submitted with the application. It is noted that the first reason for refusal noted that the screening report submitted was deficient. The appellant has submitted additional information to supplement the Appropriate Assessment Screening report. The report identified all Natura 2000 sites within 15km of the appeal site...

South Dublin Bay SAC (000210), 5km from site.

North Dublin Bay SAC (000206), 10.5km from the site.

Rockabil to Dalkey Island SAC (003000), 4km from the site.

Howth Head SAC (000202), 13km from the site.

Ballyman Glen SAC (000713), 4.5km from the site.

Knocksink Wood SAC (000725), 5km from the site.

Bray Head SAC (000714), 7km from the site.

Glenasmole Valley SAC (001209), 13 km from the site.

Wicklow Mountains SAC (002122), 7km from the site.

Glen of the Downs SAC (000719), 12km from the site.

South Dublin and River Tolka Estuary SPA (004024), 5km from the site.

North Bull Island SPA (004006), 10.5km from the site.

Howth Head Coast SPA (004113), 14km from the site.

Dalkey Island SPA (04127), 5km from the site.

Wicklow Mountains SPA (004040), 7km from the site.

The report outlines the conservation objectives of each site. It was concluded that there will be no likelihood of significant effects on any Natura 2000 sites, whether alone or in combination with other plans or projects and an Appropriate Assessment is not required.

7.8.3 The Board as a competent authority is obliged, as noted earlier in this section "shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned". In this regard it is appropriate to carry out a stage 1 screening assessment and then if necessary a stage 2 appropriate assessment. As noted above all Natura 2000 sites within 15km of the proposed development are listed above. The appeal site and proposed development is remote from all of the designated sites identified within 15km of the site and therefore does not entail any direct habitat loss. The appeal site and proposed development has no direct or indirect connection to the designated sites listed with no source/pathway receptors between the proposed development and the designated sites. In this regard it is reasonable to conclude that on the basis of the information on file, which I consider to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated Natura 2000 site, and a Stage 2 Appropriate Assessment is not required.

7.9 Other Issues:

7.9.1 The issue of flood risk was raised in the observations. A flood risk assessment was submitted. This assessment notes no record of flooding based on the OPW flood maps. It is noted that the 8 new houses are outside flood zone A and B as shown under the Development Plan flood maps. It also is also noted that the finished floor level of the proposed dwellings is well above the 1:100 year flood level. The existing dwelling on site is within Flood Zone A, and the proposal entails alteration of such but no increase in new dwelling units on the portion of the site within Flood Zone A. I am satisfied based on the information on file that the proposal would not be at risk of flooding or exacerbate existing flood risk.

7.9.2 The Drainage Division of the Council requested further information regarding issues such as attenuation regarding attenuation, rainwater harvesting, the green roof and

details of the connection to the foul water sewer (Irish Water also raises issues regarding the foul sewer). It is notable that the first party appellant has provided some revisions included revised attenuation to deal the issues raised by the further information requests. I consider that the issue of drainage can be dealt with on site and refusal reasons did not include drainage issues. Such elements of the proposal could be dealt with by way of condition or the Board may wish to request further information. In this regard I would consider that drainage issues are not an impediment to the proposed development on this site.

8.0 Recommendation

8.1 I recommend refusal based on the following reasons.

1. The proposed development would result in a significant intensification of traffic exiting the proposed development onto the Falls Road, which is a local (urban) road, narrow in width and without footpaths. This would endanger public safety by reason of traffic hazard or obstruction of road users. Furthermore, the proposed development is considered to be premature as there is an existing deficiency on the Falls Road in terms of the lack of adequate, safe pedestrian facilities, which renders it unsuitable to carry the increased pedestrian traffic likely to result from the proposed development. The proposed development, if permitted, by itself or by the precedent that the grant of permission for it would set for other relevant developments, would adversely affect the use of the Falls Road by traffic. The proposal is, therefore, contrary to the proper planning and sustainable development of the area.

2. The proposal is premature pending the provision of coordinated and wider planning strategy/framework for the area and pending upgrading of the existing local network to facilitate increased traffic and pedestrian levels as well as facilitating better linkages to the public transport infrastructure in the area. A coordinated approach is needed among the landowners as the current approach would lead to piecemeal and haphazard development as well as potentially leading to development that does not make sufficient use of zoned land in close proximity to existing and

future public transport infrastructure (Luas line B1). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development would impact negatively upon the ecologically sensitive nature of the site. It is considered that the proposal as submitted is deficient in detail as it fails to consider the biodiversity and ecological importance of the site. It is considered that the development as proposed which involves significant alteration to the existing embankment and the loss of trees could potentially impact negatively upon the natural heritage importance of this site, the county wide ecological network, the non-designated areas of biodiversity importance and the Loughlinstown River, would set an undesirable precedent and would be contrary to Policy LHB23: Non-Designated Areas of Biodiversity Importance, LHB24 : County Wide Ecological Network and LHB25: Rivers and Waterways of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would therefore be contrary to the proper planning and sustainable development of the area.

4. The proposed development by virtue of its elevated location on a steeply sloped embankment, its design, scale, bulk, and the orientation of windows and balconies would be a visually obtrusive element when viewed from Cherrywood Road. The proposal would also have an overbearing impact upon the existing dwelling on site and the dwelling to the north of the site ('Windemere') and result in a loss of privacy at these existing dwellings. The proposed development would, therefore, be injurious to the visual amenities of the area and diminish the residential amenities enjoyed by existing dwellings in the vicinity. The proposal would, therefore, be contrary to the zoning objective of the site 'to protect and/or improve residential amenity' and contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

15th May 2017

