



An  
Bord  
Pleanála

## Inspector's Report PL06D.249014

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<b>Development</b>	Demolish house and construct 8 no. townhouses.
<b>Location</b>	Clonbur, Torquay Road and Westminster Road, Foxrock, Dublin 18.
<b>Planning Authority</b>	Dún Laoghaire-Rathdown Co. Council.
<b>Planning Authority Reg. Ref.</b>	D17A/0441
<b>Applicant</b>	Greencroft Construction Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Greencroft Construction Limited
<b>Observers</b>	(1) William Higgins (2) Susan & David Jenkins (3) Foxrock Area Community & Enterprise Ltd.
<b>Date of Site Inspection</b>	12/10/17
<b>Inspector</b>	Siobhan Carroll

## 1.0 Site Location and Description

- 1.1. The appeal site is located at Foxrock Village, Dublin 18. It is situated on a corner site at the junction of Torquay Road and Westminster Road. The Village contains a mix of retail, commercial and residential development. Foxrock Village is designated an Architectural Conservation Area. There is a mix of architectural styles within the village. The Gables a restaurant and wine bar (originally Findlaters Grocery Store) is a landmark building of 'Arts and Crafts' architectural style located to the north-western corner of the village crossroads. There is an entrance to Leopardstown Golf club and the racecourse from Westminster Court.
- 1.2. There is an attractive landscaped green area adjacent to the junction of Brighton Road and Westminster Road. It contains seating along with a number of mature trees and with flower and shrub planting. To the southern side of Brighton Road and adjoining the green area there are 2 no. two-storey blocks containing retail and commercial units at ground level and commercial/office premises at first floor.
- 1.3. The subject site comprises the plot of Clonbur it has a stated area of 0.2486 hectares. Clonbur is a large detached two-storey dwelling with an area of 305sq m. It is set within a plot which extends back 37m from the front boundary. The property is served by a gated vehicular entrance off Torquay Road.
- 1.4. The northern site boundary adjoins a two-storey detached dwelling. There is a large detached two-storey dwelling to the east of the site which is accessed off Westminster Road. The roadside boundary along Torquay Road and Westminster Road is defined by a low rendered capped wall and high conifer trees.

## 2.0 Proposed Development

- 2.1. Demolition of two-storey detached dwelling and construction of 8 no. houses, garages and 16 no. car parking spaces. Features of the scheme include;
  - Area of existing dwelling on site to be demolished – 305sq m,
  - Area of proposed works 2,472sq m,

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was refused for two reasons;

(1) The proposed development of eight four-storey terraced houses, set in close proximity to the footpath edge on Torquay Road represents an overbearing and extremely poor design response at this sensitive and prominent location, fails to give cognisance to its receiving environment and does little to preserve or enhance the special character of this Architectural Conservation Area. The proposed development would therefore adversely affect the Foxrock Architectural Conservation Area and materially contravenes Policy AR12 of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and policies contained in Chapter 9 of the Foxrock Architectural Conservation Area - Character Appraisal. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

(2) The proposed development, at a density of thirty two (32) units per hectare, is not considered to be of a sufficiently high density as envisaged by the 2016-2022 Dún Laoghaire-Rathdown County Development Plan at this location. The proposed development therefore contravenes Policy 2.1.3.3 of the 2016-2022 Dún Laoghaire-Rathdown County Development Plan and would therefore be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The report of the Planning Officer reflects the decision of the planning authority.

#### 3.2.2. Other Technical Reports

Conservation Officer — Refusal recommended

Surface Water Drainage — Further information requested regarding surface water details of and on site attenuation.

Parks Department – Further information requested regarding the submission of a Tree Survey and Landscape Design Proposals.

Transportation Planning – Further information requested regarding the submission of a Transport Impact Statement and design details of vehicular entrance and parking layout.

### **3.3. Prescribed Bodies**

- 3.3.1. Department of Arts Heritage, Regional, Rural and Gaeltacht Affairs – recommended that conditions be attached referring to archaeological pre-development testing and nature conservation.

### **3.4. Third Party Observations**

- 3.4.1. The Planning Authority received over 70 no. submissions/observations in relation to the application. The main issues raised are similar to those set out in the observations to the appeal.

## **4.0 Planning History**

Reg. Ref. D08A/0166 – Permission was granted by the Planning Authority for the demolition of existing 2-storey dwelling house ('Clonbur' 260sq m) and construction of a mixed use development consisting of 11 no. apartments with associated private balconies/terraces, ancillary office unit (192 sq.m) and retail unit 446sq m), served by 33 no. car parking spaces and 30 no. bicycle spaces at basement level on a site of 0.2556 ha. An appeal was lodged under PL06D.231310 and the application was withdrawn under Section 140(1)(a) of the Planning and Development Act 2000, as amended.

Reg. Ref. D04A/1463 & PL06D.210959 – Permission was refused for the demolition of the existing dwelling 'Clonbur' and the construction of 4 no. houses and 8 no. apartments.

- (1) Having regard to the location of the site at a corner adjacent to Foxrock village and within a Conservation Area, it is considered that the design and layout of the proposed development would be an inappropriate form of development at

this location and would be detrimental to the character of the area. The proposed development would, therefore, contravene objective CA1 of the current Dún Laoghaire-Rathdown Development Plan which states that ‘within a Conservation Area the planning authority will have particular regard to the impact of a proposed development on the character of the area in which it is placed’. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy Context

### 5.1. Development Plan

The site is governed by the provisions of the Dún Laoghaire – Rathdown County Development Plan 2016-2022.

- The site is zoned Objective ‘A’ with a stated objective ‘to protect and/or improve residential amenity’.
- Chapter 6 – Built Heritage Strategy
- Chapter 8 – Principle of Development
- Section 8.2.3 – refers to Residential Development

### 5.2. National Policy

- “Sustainable Residential Development Guidelines for Planning Authorities” (2009).
- Urban Design Manual – A Best Practice Guide, (2009)
- Design Manual for Urban Roads and Streets – ‘DMURS’, (2013)
- Architectural Heritage Protection, Guidelines for Planning Authorities, DoEHLG, (2011) Section 3.10 refers to Criteria for assessing proposals within an Architectural Conservation Area.

### 5.3. Natural Heritage Designations

5.3.1. Dublin Bay SAC is 3.9km to the east of the appeal site.

- 5.3.2. South Dublin Bay and River Tolka SPA is 3.9km to the east of the appeal site.
- 5.3.3. Rockabill to Dalkey Island SAC is 6km to the east of the appeal site.
- 5.3.4. Dalkey Island SPA is 6km to the east of the appeal site.
- 5.3.5. Wicklow Mountains SAC is 7km to the south.
- 5.3.6. Wicklow Mountains SPA is 7.6km to the south.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

A first party appeal was submitted by Brock McClure Planning and Development Consultants on behalf of Greencroft Construction Limited. The main issues raised concern the following;

- The previous application on the site is cited, Reg. Ref. D08A/0166 where permission was sought for a mixed use development with 11 no. apartments. The proposal was a four storey building with a setback of 3.6-4.1m from the pavement. This design approach was at the time accepted by the Planning Authority. The application was the subject of an appeal and the application was subsequently withdrawn.
- The appellant also cites a recent application at Rockall, The Birches, Torquay Road where under Reg. Ref. D15A/0839 and PL06D.246304 permission was granted by the Board following the submission of further information for 28 no. apartments with a three-storey building and at a density of 45 units per hectare. It is noted that the site is not located within Foxrock ACA.
- The currently proposed scheme has a density of 34 units per hectare. It is predominantly three-storeys with a setback fourth storey element. The development would be well set back from site boundaries and therefore would not unduly impact on adjoining properties. It is submitted that the townhouse nature of the scheme is an appropriate approach with own door access from street level.
- The applicant lodged a pre-planning submission with the Planning Authority in November 2016. The proposal submitted was for the demolition of the

dwelling 'Clonbur' and the development of a four-storey residential scheme containing 8 no. townhouses with rear garages and vehicular access via Torquay Road.

- A response to the pre-planning submission was issued by email from a Dun-Laoghaire-Rathdown Planner on the 18<sup>th</sup> of January 2017. The advice provided stated that the Planning Authority accepted the proposal in principle for the site and that the demolition of the dwelling 'Clonbur' was acceptable in principle. The Planning Authority raised the matter of the four-storey height at the site and noted that three-storeys was acceptable.
- The appellant notes that the Planning Authority previously permitted four-storeys on the site. Therefore, it is submitted to the Board that the setback fourth storey is appropriate to the location. The height of the building 'the Gables' is noted and it is also noted that the Building Height Strategy supports 3-4 storey development at prominent corner sites.
- The Planning Authority advised of their concerns regarding density. The proposed scheme would release two key areas of the site to the public realm and therefore a density of 34 units per hectare should be considered appropriate to the ACA. The design would provide a strong urban edge which would also retain a privacy strip.
- The Planning Authority requested that the scheme be paired back to ensure that the scheme does not appear 'pastiche'. The form of the building ensures that it does not imitate surrounding development but rather it provides a contemporary infill development.
- The Planning Authority advised that adequate separation distances be provided between the scheme and surrounding development and that a comprehensive landscaping plan be provided. The applicant has endeavoured to address all the issues highlighted by the Planning Authority in the pre-application consultation.
- The appeal includes responses to matters raised in the Planner's report concerning transport, drainage and parks/landscaping issues.

- The appellant considers that matters of landscaping can be addressed by condition should the Board decide to grant permission.
- Policy RES3 of the Development Plan refers to density and states that;
 

“It is Council policy to promote high 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.”
- As set out in Section 2.13.3 of the Development Plan the minimum default density for new residential development shall be 35 units per hectare.
- The site is not greenfield in nature and is not a larger ‘A’ zoned site but rather an infill site in the heart of Foxrock ACA. Therefore, it is considered that a slight reduction in the minimum requirement of 35 units per hectare would be acceptable.
- In the Building Height Strategy ‘Tall Buildings’ are defined as buildings that are significantly higher than their surroundings and/or have a considerable impact on the skyline.
- Section 2.3.1 of the Building Height Strategy refers to tall buildings and Conservation Areas. As set out in the Planner’s report they considered that the proposal constitutes a ‘Tall Building’ at four-storeys with an additional lift shaft.
- The definition of a ‘Tall Building’ in the strategy states that it must be a building which is significantly higher than their surroundings. The appellant considers that the proposal does not constitute a tall building given that its height at 11.95m is lower than ‘the Gables’ buildings at 13.78m.
- Policy AR12 of the Development Plan refers to Conservation Areas. The appellant notes a key provision of the policy is that while the purpose of the ACA designation is to protect and enhance the special character of an area, it should not be viewed as a means of preventing new development but rather to help guide and manage change to ensure developments are sympathetic to the special character of the ACA.



- The appellant considers that Development Plan policy has been incorrectly applied in the assessment of the scheme.
- In relation to the first refusal reason the key concerns refer to inappropriate and overbearing height, proximity to the footpath is overbearing the proposed design is considered poor at this sensitive and prominent location and it fails to protect and enhance the special character of the ACA.
- Regarding the proposed height of the building it should be considered in the context of the Gables the neighbouring building at 13.78m. Furthermore, the appellant considers that Section 2.3.1 of the Building Height Strategy does not apply to the site.
- It is noted that the scheme previously granted by the Planning Authority on site (Reg. Ref. D08A/0166) provided a four-storey building with a ridge height of 17m. Therefore, the appellant considers that there has been inconsistency in terms of building heights on the site.
- Regarding the proximity of the development to the public footpath the appellant considers that the 3.8m setback along a 2m footpath is a generous approach to development at a village centre site. The proposal will provide a well defined streetscape and public realm.
- Regarding the proposed design response, it is noted that the existing condition of the site provides poor definition of the public realm.
- The proposed external finishes will use high quality materials which will pick up the material palette of the Gables and the other buildings within the ACA.
- The report of the Conservation Officer noted that in principle a terrace of townhouses may be considered acceptable at the location.
- Regarding the development and how it serves to preserve or enhance the special character of the ACA, the appellant considers that Foxrock ACA contains a mix of different architectural styles which contribute to the ACA and that many buildings provide little contribution aside from the Gables. The Gables is recognised as a strong focal point in the village, however it is not a protected structure.

- The proposed building shape and massing has been designed to respond to the ACA context. It is considered that the architectural style sits comfortably in the sylvan setting.
- The second refusal reason refers to the proposed density of the development and states that the density at 32 units per hectare is not considered sufficiently high in accordance with the Development Plan and specifically policy 2.1.3.3.
- In response to the requirement for a higher density on the site, the appellant contends that the site is at a very sensitive and prominent location at a corner within a Foxrock ACA and in the centre of the village. The special characteristics of the ACA should be protected with the provision of a lower density of development to match the surrounding area.
- The appellant notes the suggestion of the Planning Authority that the provision of apartments/duplexes on the site could achieve a higher density. In developing the current proposal, the appellant states that they examined the feasibility of different unit types and they found that the proposed layout with own door units provided a high quality proposal while an apartment scheme would provide a more closed off scheme from the public realm.
- It is noted that the provision of an additional two units within the scheme would increase the density to 42 units per hectare. However due to the constraints of the site and requirement to provide sufficient house widths that it would not be possible to provide dwellings at that density.
- It is also noted that the Conservation Officer showed a preference for terrace units on the site rather than an apartment scheme.
- Therefore, in relation to the matter of density the appellant submits that they have maximised the unit numbers while maintaining a high quality of design. It is requested that the Board accept the proposed residential density of 34 units per hectare.
- The appellants request that the Board overturn the decision of the Planning Authority to refuse permission having regard to the details set out in the appeal.

## 6.2. Planning Authority Response

- The applicant was advised at pre-planning stage that the advice and opinion offered were given in good faith and cannot prejudice the determination of a subsequent planning application in accordance with Section 247 of the Planning and Development Act, 2000 as amended.
- Furthermore, the applicant was made aware that at pre-application stage that the 4 storey height of the development was an issue.
- In determining the application, the Planning Authority had regard to all the information submitted including the Visual Impact Assessment and Architectural Design Statement.
- As detailed in the Planner's report the 8 no. four-storey terrace dwellings set within close proximity of the footpath on Torquay Road would appear overbearing and incongruous within the urban form of the village and would adversely affect the setting and character of Foxrock ACA.
- It is also stated in the Planner's report that the density does not achieve the requirement of the Development Plan.
- Furthermore, that the applicant failed to provide sufficient information on a number of elements including transportation, drainage, trees and landscaping.
- The Board is advised to refer to the contents of the Planner's report and request to uphold the decision of the Planning Authority.

## 6.3. Observations

Three observations to the appeal was received from (1) William Higgins (2) Susan & David Jenkins (3) Foxrock Area Community & Enterprise Ltd.

### (1) William Higgins

- The observer lives at "Arden" Torquay Road, Foxrock, Dublin 18.
- The observer refers to the details contained in the observation to the application which was submitted to the Planning Authority.

- The proposed development would represent overdevelopment of the site. The scale, mass and height of the 3-4 storey development is not consistent with neighbouring development.
- The proposed development would negatively impact upon Foxrock Architectural Conservation Area.
- The site is liable to flooding. Development of this scale would significantly impact the local area which has previously experience flooding.
- The density of the proposed development is unsuitable for the area. The Architectural Conservation Area is characterised by low rise development.
- The proposed density would generate additional traffic to an area which already experiences traffic congestion.

(2) Susan & David Jenkins

- The first party appeal refers to the most recent application on the site Reg. Ref. D08A/0166 as precedent. The application was withdrawn while on appeal.
- It is stated in the appeal that the Planning Authority decision is unreasonable having regard to the pre-application consultation.
- The site is located within Foxrock Architectural Conservation Area. It is considered that the documentation submitted by the applicant's Conservation Architects, David Slattery Conservation Architects and the architectural statement provided by Karol O'Mahony Architects does not adequately express an understanding of Foxrock ACA.
- It is noted that the Roads Department recommended that the site boundary be set back by 2m and that the crossroads be widened to facilitate vehicular traffic and pedestrian permeability. This would be detrimental to the character of the ACA.
- In relation to new developments it is Development Plan policy that new development must not adversely affect the character of the streetscape that new development must respect the existing pattern of development in

the area and that the scale, massing and height of the proposed development must be generally consistent with neighbouring dwellings.

- Policy AR12 of the Development Plan refers to Conservation Areas and states that it is Council policy to protect the character and special interests of an area designated ACA and that all development proposals within an ACA be appropriate to the character of the area.
- As advised in the Architectural Heritage Protection Guidelines for Planning Authorities (2011) that the scale of new structures should be appropriate to the general scale of the area and not its biggest building.
- In relation to infill development the Development Plan notes that the height and massing of infill residential development are highly contextual.
- The proposed development would have a detrimental impact on the observers' residential amenity. The scale and massing of the proposed four storey development would be visually obtrusive and overbearing. It would block midday winter sun to the observers' south elevation and rear conservatory.
- The development works would generate noise pollution and traffic congestion which would be detrimental to the amenities of the area.
- The proposed development would break the established building line of Torquay Road and Westminster Road and would destroy the sylvan character of the area.

### (3) Foxrock Area Community & Enterprise Ltd.

- It is an objective of Foxrock Area Community & Enterprise to "Enhance Foxrock as an Environment for our Community".
- The observers support the decision of the Planning Authority to refuse permission.
- The site is located within Foxrock Architectural Conservation Area.
- Policy AR12 of the Development Plan refers to Architectural Conservation Areas and states;

*i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA).*

*ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.*

*iii. Seek a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.*

*iv. Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.*

*v. Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.*

- The proposed development does not comply with point i, ii and iii of Policy AR12.
- Foxrock ACA is a low density residential area which dates from 1860's. The area is characterised by large single-family dwellings on large sites in a sylvan setting. This suburban development is described as "Arcadia". The density is 2-3 dwellings per acre.
- The core of the ACA is at the crossroads of Brighton Road, Torquay Road and Westminster Road. This location was designated as the centre of the village to include its own railway station, small hotel, grocery store and post office. The railway station, hotel and grocery store did not remain however the village centre remains a vibrant place with shops and services.
- The proposed development is an inappropriate development which would undermine the distinct scale and character of the village.
- The planning history on the site is noted including the most recent application, Reg. Ref. D08A/0166 for a mix use development over 3-4 storeys which was granted by the Planning Authority. A third party appeal was made and the applicants subsequently withdrew the application.

- The appellants cited a residential scheme at 'Rockfield', Torquay Road, Foxrock, Reg. Ref. D15A/0839 & PL06D.246304. As noted in the appeal the site is not located in Foxrock ACA. Therefore, the observers consider that it is not relevant to the current application.
- The proposed scale, massing and uninterrupted bulk of the four-storey terrace would adversely impact on the low rise character of the buildings in Foxrock Village. Most buildings are single storey or two-storey. The 'Gables' is the exception and this is the centrepiece building in the village.
- Policy UD6 of the Development Plan refers to the Building Height Strategy for the Council. The site is located in a "Residual Suburban Area". As set out in Section 4.8 of the Building Height Strategy, for suburban areas including Foxrock it is generally recommended that a height of two-storeys will apply.
- Section 8.2.3.2 of the Development Plan refers to infill development and states that 'new infill development shall respect the height and massing of existing residential units'.
- The appellant cites 'the Gables' as providing a precedent for their four-storey proposal. The gables is mainly a two-storey building with a developed roof space.
- The Urban Design Framework for Foxrock Village a preliminary report was produced in 2008. The preliminary report included proposals for the future development of the Clonbur site. However, the despite public submissions the report was not completed.
- Part of the vision in the preliminary report was that it would provide a hard edge to the public realm with the development of a 3 storey pitched roof building with residential and commercial uses.
- It is noted that the preliminary report is no longer referenced in the Development Plan and that the Planning Authority did not refer to it in assessing the application.

- The second reason for refusal refers to density and states that 32 units per hectare is not considered to be of a sufficiently high density as set out in the Development Plan.
- The Observers do not concur with this refusal reason. The proposed density of 32 units per hectare is greatly in excess of the overall density in the surrounding area and would represent inappropriate infill development on a small site within an ACA.
- The observers request that the Board disregard the second reason for refusal issued by the Planning Authority.

## 7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Development Plan policy
- Design and impact upon Foxrock ACA
- Other issues
- Appropriate Assessment

### 7.1. Development Plan policy

- 7.1.1. This appeal relates to the development of a residential scheme comprising 8 no. townhouses on an infill site with of area 0.2486 hectares at Foxrock Village, Dublin 18. The site is zoned Objective A 'to protect and/or improve residential amenity'. Accordingly, residential development is permitted in principle. Chapter 8 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 refers to Principles of Development and the Building Height Strategy is set out in Appendix 9. The Strategy provides guidance in the assessment of building heights proposed in individual planning applications.



7.1.2. Section 2.1.3.3 of the Development Plan refers to Residential Density and policy RES3 sets out the Council's policy in relation to residential densities. Policy RES3 states;

“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

- ‘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 Adaptation Framework - Building Resilience to Climate Change’ (DoECLG, 2013).”

7.1.3. The Development Plan does set out specific density standards it is required that as a general rule the minimum density for new residential developments (excluding lands on zoning objectives GB, G and B) shall be 35 units per hectare. Higher densities of 50 units per hectare are encouraged by the Planning Authority where a site is located within circa 1 kilometre pedestrian catchment of a rail station and/or Luas line, and/or 500 metres of a Quality Bus Route, and/ or 1 kilometre of a town or district centre. The Ministerial Guidelines - Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities published in 2009 provides specific guidance in relation to housing schemes. The guidelines seek to encourage increased densities in appropriate location through more economic use of existing infrastructure and serviced land. Policy RES3 of the Dún Laoghaire-Rathdown County Development Plan has been framed having regard to the provisions of these guidelines.

7.1.4. The subject site lies at the centre of Foxrock village. It is situated roughly 1.8km from closest Luas Stop at Carrickmines. The closest stop on the no. 145 bus route

on the N11 QBC lies 1km from the site and Foxrock village is served by the no. 63 bus route which runs from Dún-Laoghaire to Kilternan.

- 7.1.5. In relation to the matter of the density the Planning Authority were of the opinion that the proposed density at 32 units per hectare falls below the density required in the development plan and that small house types or apartments or duplex units would achieve a higher density.
- 7.1.6. It is argued in the appeal that due to the sensitive nature of the site at a prominent corner location with Foxrock ACA that a lower density of development should be provided to protect the character of the ACA. The appellant stated that they explored various design options for the site including apartments/duplexes, however they considered that the proposed own door townhouse units would provide a high quality design while an apartment scheme would be a more closed off scheme from the public realm.
- 7.1.7. The report of the Conservation Officer was cited in the appeal and it was noted they considered in principle that a terrace of townhouses may be considered acceptable at the location. Having reviewed the Conservation Officer's report, I note that they do not rule out the possibility of other unit types on the site including apartments/duplexes.
- 7.1.8. Having regard to the village centre location of the site and relative proximity of the site to public transport nodes and the provisions of Policy RES3 of the Development Plan, I would concur with the assessment of the Planning Authority that a higher residential density should be provided on the site. In order to provide the equivalent of a minimum of 50 dwelling units per hectare circa 12 units would be required. Therefore, alternative unit types on site would be required in order to achieve the efficient use of serviced and zoned land.
- 7.1.9. Appendix 9 of the Development Plan provides guidance in relation to the matter of the proposed building height. Section 3.4 of the Building Height Strategy refers to 'Policy for Residual Suburban Areas not included within Cumulative Areas of Control' and Foxrock is included as an area covered by this policy. In relation to residual suburban areas it is stated that a general recommended height of two storeys will apply. However, the policy provides for situations where a minor modification up or down in height could be considered. Section 4.8 of the Strategy advised that

apartment or townhouse type development or commercial development in the established commercial of the suburban areas to a maximum of 3-4 storeys may be permitted in appropriate locations including prominent corner sites, large redevelopment sites or adjacent to key public transport nodes. The factors that may allow for this are known as 'Upward or Downward Modifiers'.

7.1.10. Section 4.8.1 of the Strategy refers to 'Upward Modifiers' and sets out the circumstances where the upward modifiers can be applied. These include where the development would create urban design benefits, the built environment or topography would permit higher development without damaging the appearance or character of the area, a development would contribute to the promotion of higher densities in areas with exceptional public transport accessibility and where the size of a site, e.g. 0.5ha or more, could set its own context for development and may have potential for greater building height away from boundaries with existing residential development.

7.1.11. The subject site within the village centre and a prominent corner site in close proximity to public transport provides an opportunity for increased building heights of three/four storeys however the location of the site within Foxrock ACA should also form a consideration factor in determining appropriate building heights for new development.

## 7.2. Design and impact upon Foxrock ACA

7.2.1. Foxrock was developed in the mid Victorian era following the arrival of the Harcourt Street railway line. The village has developed at the crossroads the junction of Brighton Road, Westminster Road, Torquay Road and Westminster Court. The Foxrock Architectural Conservation Area (ACA) extends along all those roads.

7.2.2. The appeal site is located in the centre in the village and is at a prominent corner location within the ACA. Policy AR12 of the development plan refers to ACA's and states that it is Council policy to have regard to the impact of development on the character of the area. It is also states that the designation does not preclude all forms of development and that proposals for new development should preserve or enhance the character and quality of the Architectural Conservation Area. Architectural Heritage Protection Guidelines for Planning Authorities, DoEHLG, 2011 provides guidance in relation to development affecting an Architectural Conservation

Area. Section 3.10 refers to criteria for assessing proposals within an Architectural Conservation Area. It states that the design of new development is of paramount importance. If there is uniformity in the existing setting this should be provided in the design of new buildings. It is also recommended that the scale of the development should be appropriate to the general scale of the area and not of its biggest building. In relation to finishes to buildings, it is advised that the palette of materials should reinforce the area's character.

- 7.2.3. Having regard to those matters I note that the proposed development has four-storeys with a maximum ridge height of 11.95m. In relation to building heights in the centre of the village, I note that there are predominately two-storey buildings. The exception is the 'Gables' which has a ridge height of 13.78m and contains three-storeys. The second floor is accommodated within the roof space. The appellant cites 'the Gables' as providing a precedent for the proposed four-storey scheme.
- 7.2.4. The building, constructed circa 1900 is located on the opposite side of Torquay and to the north-west corner of the crossroads is a landmark building of 'Arts and Crafts' architectural style. Design features include the steep pitched roof, half timbering, a high chimney and recessed windows within the roof.
- 7.2.5. James Horan Architectural Illustration prepared a Visual Impact Assessment. Photomontages were provided from 4 no. viewpoints. The Visual Impact Assessment provided a description of the impact of the development from the four viewpoints. When viewed from Westminster Road to the east of the site, it is stated in the assessment that due to the planting and stepped down design of the building that it would integrate well into the site. However, from that viewpoint I note that building would appear higher than the 'Gables' which is the landmark building within the village. When viewed from the north on Torquay Road, I consider that it would appear visually dominant in the streetscape.
- 7.2.6. When viewed from the west at the entrance to Leopardstown Racecourse, it is stated in the assessment that the proposed development serves to provide a vibrant streetscape. When viewed from Brighton Road to the south, it is stated in the assessment that the development would create a strong visual edge to the village core.

- 7.2.7. The development would be set well forward of the existing building line along the eastern side of Torquay Road. However, due to the configuration and site width the provision of infill development would require the building line to be set forward. The design of the scheme has attempted to provide an active edge and a sense of enclosure. The matter of the overall design of the scheme was raised as a strong concern in the report of the Planning Officer. It was noted that the proposed building line along Torquay Road would be set back only 3.8m from the public footpath and having regard to the height, scale and massing of the building that it would form an overbearing and incongruous intervention into Foxrock Village.
- 7.2.8. I consider the development with its four-storeys would introduce a more urbanised appearance to the ACA and it would be visually dominant feature within the streetscape. I would also concur with the assessment of the Planning Authority that due to the close proximity of the proposed development to the footpath on Torquay Road combined with the height of the building and its unbroken length of circa 50m along this frontage that it would have an overbearing impact.
- 7.2.9. It is noted that the report of the Conservation Officer advised that in principle a terrace of townhouses may be acceptable at the location, however that the architectural style and design does not achieve the high quality required for the important corner site.
- 7.2.10. The site represents a strategic corner site within Foxrock ACA and therefore it is important that any development is visually sensitive to the site context and that a high quality of design is provided in order to preserve and enhance the character and appearance of the ACA. Having regard to the somewhat uniform appearance of the frontage of the townhouses combined with the proposed limited set back along Torquay Road, I do not consider that the proposed scheme provides a suitable design response for this location.
- 7.2.11. As advised in the Architectural Heritage Protection Guidelines, the scale of new structures in an ACA should be appropriate to the general scale of the area and not its largest buildings. The proposed development does not take reference from the general building height in the ACA, it proposes a height which would be comparable to the 'Gables'. Furthermore, it would also introduce a four-storey development into the ACA. It is my considered opinion that the introduction of a four-storey

development would be contrary to the recommendations of the Guidelines to minimise the visual impact of a proposed structure within an ACA. Furthermore, it would form a discordant feature contrary to the prevailing height and pattern of development within the village and would have a detrimental impact upon the overall character of the ACA.

### 7.3. Other issues

- 7.3.1. In the refusal issued by the Planning Authority an advisory noted was attached which stated that the applicant had failed to provide sufficient information on a number of elements of the development including transportation, trees, landscaping and surface water drainage. The appellant submitted further proposals and details to address those matters.

#### Traffic

- 7.3.2. Regarding traffic and roads issues a response was prepared by NRB Consulting Engineers. It is stated that the proposed scheme of 8 no. dwellings would generate a very low level of traffic movements. TRICS data was provided which indicated a total of 4 no. trips would be generated in the AM peak hour and 4 no. trips would be generated in the PM peak hour. Using the methodology from the TII document "Traffic and Transport Guidelines" it was determined that the level of traffic which would be generated would be below the threshold which would result in a significant traffic impact. Regarding the required set back of the boundary wall it is stated that the boundary wall can be set back by 2m as required in order to provide for pedestrian permeability. In relation to the requirement to setback the vehicular entrance 6m from the footpath, it is noted that the entrance gates will be setback by 6m from footpath along Torquay Road.
- 7.3.3. Regarding the matters raised by the Transportation Planning Section concerning the design of the junction and the inclusion of appropriate design measure for traffic and pedestrian signals and mobility impaired and disabled users, it is submitted that there is no issue with the location or design or the proposed vehicular entrance. Furthermore, it is suggested in the appeal that should the Board decide to grant permission that a condition could be attached in relation to road markings at the junction and the location of street furniture.

- 7.3.4. The other points raised by the Transportation Planning Section referred to the provision of car parking spaces and vehicular circulation areas to be provided in accordance with Development Plan standards and that electric charge points for electric vehicles be provided. It is confirmed in the response that all the above requirements can be met.

#### Drainage

- 7.3.5. In relation to surface water drainage the applicant proposes to install a BMS Stormbreaker System which provides on-site attenuation, infiltration and storage of stormwater.

#### Landscaping

- 7.3.6. In response to the issues raised by the Parks Department concerning the landscape design proposals and the provision of a tree survey of the site and the applicant states that should the Board decide to grant permission that landscaping is a matter which can satisfactorily be addressed by condition. I note that the proposed development would entail the removal of the majority of trees and hedging on site. A Tree Survey was carried out by Independent Tree Surveys and submitted with the appeal on drawing number 17024\_TS. As indicated on the survey there are no trees on site which are categorised as high value. One tree is indicated as unsuitable for retention with the other 14 no. trees on site being categorised as of low value.

#### 7.4. Appropriate Assessment

- 7.4.1. The appeal site is situated circa 3.9km to the west of the two closest European sites South Dublin Bay and Tolka River Estuary SPA and South Dublin Bay SAC. Having regard to the nature and scale of the proposal, the nature of the receiving environment, namely a suburban and fully serviced location and the separation distance to the nearest European sites, 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 Recommendation

- 8.1. I recommend that permission be refused for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. The proposed development is located in an area zoned Objective A 'to protect and/or improve residential amenity' in the Dún Laoghaire-Rathdown County Development Plan 2016-2022. Having regard to the provisions of the Development Plan, particularly Policy RES3 which refers to residential densities and states that it is Council policy to promote higher residential densities to maximise the use of zoned and serviced residential land specifically on sites in close proximity to public transport, it is considered that the proposed density of the scheme at approximately thirty-two (32) units per hectare, is not considered to be of a sufficiently high density. Accordingly, it is considered that the proposed development is not sufficiently innovative to secure an appropriate density for this serviced and valuable land resource and that the proposed scheme would be contrary to policy RES3 and to the provisions of "Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas" issued by the Department of the Environment, Heritage and Local Government" (2009). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the siting, height, design and scale of the proposed development particularly the four-storey nature of the proposed townhouses and their proximity to the public footpath along Torquay Road it is considered that the proposed development located on this prominent corner site lying within Foxrock Architectural Conservation Area would be a visually dominant feature which would have an overbearing impact and would result in a poor design response that would adversely affect the character and setting of the Architectural Conservation Area and would be contrary to the planning authority policy to protect the special character of places, areas, groups of



structures or townscapes, which have been designated as Architectural Conservation Areas as outlined in Policy AR12 of the development plan. The proposed development would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.

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Siobhan Carroll  
Planning Inspector

9<sup>th</sup> of November 2017