



An
Bord
Pleanála

Inspector's Report PL06S.249209

Development	21 Houses, 2 apartments, demolition of stable block, conversion of Ballyroan House to 3 residential units and associated site works within Ballyroan House Protected Structure.
Location	Ballyroan House, Ballyroan Heights, Dublin 16.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD17A/0064
Applicant	Homeland Investments Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party vs. Grant and First party vs. conditions.
Appellant	<ol style="list-style-type: none">1. Homeland Investments Ltd2. Ingrid and Aidan Furlong.
Observer	<ol style="list-style-type: none">1. Diarmuid & Deirdre Cahalane2. AJ Lennox and Others.
Date of Site Inspection	12 th December 2017.

Inspector

Ciara Kellett.

1.0 Site Location and Description

- 1.1. The appeal site is located off Ballyroan Heights in south County Dublin. Ballyroan Heights is a cul-de-sac road serving a number of houses, including the Elkwood housing development and providing access to Elkwood Playing Fields. It is c.175m south of Ballyroan Road (R817) and c.400m east of Knocklyon Road. The site is in close proximity to Knocklyon, Ballyboden and Willbrook.
- 1.2. The area is a mature residential area. There are well established hedgerows and trees along the road and in the mature gardens of the existing houses.
- 1.3. Access to the appeal site is via a laneway which runs between dwellings facing Ballyroan Heights. The laneway has trees lining either side of it.
- 1.4. The site at present comprises the Protected Structure of Ballyroan House (RPS Ref. 275) which is described as a neo-classical country house of three storeys in height built c.1850. There are stable blocks which were in use as office accommodation, a garage and a modern single storey printworks is located to the rear of the site. There are later rear extensions added to the house, and there is an old ruin to the gable of the main house. There are mature trees within the development.
- 1.5. The site is irregular in shape, stated as being 1.0 hectare, and is surrounded by residential development on all sides. The appellants live directly to the west of the site in No.79 Templeroan Park.
- 1.6. The topography of the site is noted as falling approximately 10m from south to north.
- 1.7. The site is zoned 'RES- To Protect and/or Improve Residential Amenity' in the South Dublin County Development Plan 2016 - 2022.
- 1.8. Appendix A includes maps and photos of the site.

2.0 Proposed Development

- 2.1. The development as initially proposed included 23 dwellings ranging in size from 83.9sq.m to 348.4sq.m in the form of 21 houses and 2 apartments, ranging in height from 1 – 3 storeys.
- 2.2. Demolition works include the later extensions and an old ruin pertaining to the house, demolition of the stable block and the print shop, totalling 908.64sq.m.

- 2.3. Works to Ballyroan House itself involve the demolition of the later extensions and the vertical separation of the building to provide 3 residential units that have direct frontage at street level identified as 'A' type dwellings. The subdivision will result in a 4-bedroom, a 3-bedroom and a 1-bedroom unit, all with their own door access. Unit type A is accessed from the existing entrance and the other two units (A1 and A2) will have access from a new modern entrance proposed to the side of the house.
- 2.4. Ten dwellings in the form of a crescent are proposed along the south and western boundary identified as 'B' type dwellings. The design of the houses will contrast with the protected structure by using modern materials and design features. The houses will step up towards the rear of the site and comprise three different options. Permission is requested to implement a combination of options prior to a final development mix across the site. The applicant requests flexibility to react to market demand and build each unit on a plot-by-plot basis. The height of the units is 2.5 – 3 storeys.
- 2.5. Four units in an area referred to as the Stable Block are proposed to the south-east of the site. These are referred to as 'C' type dwellings. The 'C' type dwellings are four no. terraced 3 bedroom houses. Options are also proposed for these units. It is proposed to reuse stone from the stable block and to add a zinc roof. Three of the units are 2.5 storeys while the unit closest to the protected structure steps down in scale and changes material to a white render.
- 2.6. House type 'D' are designed around a large existing tree which appears to date from the early 20th century and provide for 2 no. 4 bedroom dwellings.
- 2.7. Dwelling type 'E' units are 1 no. 1 bedroom apartment and 1 no. 2 bedroom apartment in a 2 storey block, located closest to the entrance on the east of the site. These units are proposed as part of the Part V agreement.
- 2.8. Type 'F' units are single storey houses located to the front of the protected structure in a natural hollow and are L shaped to provide passive surveillance to the open space between the two dwellings.
- 2.9. There are three public open spaces proposed and boundary treatment is a mix of retaining existing walls and new blockwork walls and wooden fences.
- 2.10. As well as the standard drawings, a number of reports and drawings accompanied the application including an Architect's Design Statement, Planning Report,

Landscape Drawings, Engineering Drawings and report, Conservation Report, Bat Survey Report, Visuals and an Arboriculture Report and Drawings.

- 2.11. Following the request for Further Information relating to 9 items, revised public notices were published. The scheme was revised to provide 21 dwellings comprising 19 houses and 2 apartments. The layout was revised slightly and clarity was provided with respect to the type of unit proposed on each plot. One of the F type single storey dwellings to the front of the protected structure was replaced with 2 no. single storey dwellings.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 23 conditions.

- 3.1.1. Condition no.2 is being appealed by the First Party. Condition no.2 requires amendments to the number of dwellings: Unit F, E1 and E2 in front of the protected structure are to be omitted.
- 3.1.2. Other conditions of note include no.3 which requires detailed landscape plans to be submitted, and no.5 states that each unit is to be occupied as a single dwelling unit and shall not be sub-divided or used for commercial purposes, including short-term letting.

3.2. Planning Authority Reports

- 3.2.1. The application was subject to a request for Further Information which resulted in revised public notices. Therefore, there are a number of planning and technical reports on file. They can be summarised as follows with emphasis on the content of the final reports.

First Planning Report:

- Notes zoning of the site and considers principle acceptable.
- Refers to a procedural issue – considers that in the interest of clarity for the Planning Authority and Third Parties and in order to fully assess the proposal,

the applicant should clarify the dwelling type proposed on each plot. Any changes should be assessed as part of another planning application.

- Notes Design Statement submitted by Applicant and density of development at 23 dwellings per ha.
- Assesses proposal against the 12 urban design criteria as set out in the Sustainable Residential Development in Urban Areas Guidelines.
- Notes Architectural Conservation Officer requests additional information in relation to the proposal to demolish the outbuildings and proposals for other buildings.
- Expresses concerns with the layout of the apartment block type E and location of type D dwellings. Notes there are 4 dwellings to be located in stable block area which is to be demolished, but having regard to the Conservation Officer's request for further information about the demolition, considers that a final decision cannot be made until a response to the Further Information request is provided. Considers unit C3 (closest to the Protected Structure) should be omitted having regard to the Conservation Officer's concerns with layout.
- In relation to type B units, notes that these are located on the high point of the site with a maximum level difference of 6m over the area where the dwellings are proposed. Notes the south and western part of the site are bounded by existing two storey dwellings which back onto the rear of the site. States serious concerns with height of dwellings and separation distances. Considers applicant should be asked to address this.
- Notes Parks Department have serious concerns with the two F dwellings which link to the public open space at Elkwood, and impact on existing trees including the direct removal of 9 trees in this area. Open space is too narrow and will cause a dis-amenity to the residents of these two dwellings.
- Consider a 2m high boundary wall should be provided for occupants of the A type houses within Ballyroan House itself.
- Notes all units meet or exceed minimum standards.

- Notes Park Department concerns with open space. Notes that the Council will not be taking in charge the development and requests a maintenance plan is provided.

Further Information was requested on 20th April 2017 for 9 items.

Further Information response was received on 20th July 2017 and was re-advertised.

Second Planner's Report:

- References additional submissions following re-advertisement.
- Considers clarification and precision on house types acceptable. Notes attic space not properly clarified which affects development contributions, and storage is calculated differently depending on 3 or 4 bedrooomed unit. Will assess on the basis that the attics are habitable spaces.
- Notes applicant submitted a visual inspection report and a conservation report. Conservation Officer found that removal of the extensively altered outbuilding is justified.
- Revised proposal omits one of the 4 units at C block and reduces height which is acceptable. Block D moved further south and Block E (2 apartments) is replaced with open space.
- Revisions to house type B acceptable and will not result in overlooking.
- Notes house F2 has been omitted and replaced with a pair of dwellings which are proposed as Part V units. Considers neither unit has universal access due to access via steps, floor to ceiling heights are approaching minimum, and provision of a sunken area of garden of unclear ownership, below the balcony of unit E1, is unsatisfactory to address the interface between private and public open space. Private open space for apartment standards have been applied even though the units are single storey houses and not apartments. Lower open space standards are unacceptable. Considers both these units should be omitted by way of condition. Revised proposals in this area do not address concerns.
- The Planner recommends a grant of permission subject to conditions.

The decision was in accordance with the Planner's recommendations.

3.2.2. Other Technical Reports

The application was referred to (summary):

- **Water Services Section** - No objection subject to conditions.
- **EHO** – No objection subject to conditions.
- **Waste Management** - No objection subject to conditions.
- **Roads Section** - No objection subject to conditions.
- **Public Lighting** – No Report.
- **Housing Strategy Unit** - No objection subject to conditions.
- **Parks and Landscaping** – Request FI, following response, requests clarification of response.
- **Architectural Conservation Officer** – Request FI. Following the response, considers that the overall site layout and amendments to reduce the visual impact on the protected structure and its setting has been achieved and recommends conditions.
- **Heritage Officer** – No Report

3.3. Prescribed Bodies

The application was referred to:

- **Irish Water** – No objection subject to conditions.
- **An Taisce** - No objection subject to conditions
- **Dept. of Arts, Heritage, Regional, Rural and Gaeltacht Affairs** - No objection subject to conditions.
- **Fáilte Ireland** - No objection subject to conditions.

3.4. Third Party Observations

3.4.1. The application was subject to two rounds of public notices.

- 3.4.2. A number of submissions were made in relation to the original proposal requesting flexibility with respect to the type of dwellings on each plot, garden lengths and unclear boundaries, impact on particular dwellings, impact on wildlife, felling of mature trees, traffic and parking, construction impact, water pressure, gravity drainage of F type units, vehicular entrance, materials and finishes, mono-pitch of roofs, overlooking, adequate open space, over development of the site and concerns with F type dwellings.
- 3.4.3. Following the response to the request for Further Information, the application was re-advertised and additional submissions were received. Concerns raised included continued inaccuracies in drawings submitted in relation to no.52 Elkwood, traffic, removal of trees, request removal of units to the front of Ballyroan House, lack of visitors parking, proximity and overlooking, surface water, and concern with Engineering Report carried out with regards to demolishing the stable block. These are repeated in the appeal and are detailed in Section 6 below.

4.0 Planning History

There are no recent planning applications on file for the site. There have been a number of planning applications in the vicinity of the site including those for domestic extensions in individual houses.

5.0 Policy Context

5.1. South Dublin County Council Development Plan 2016 - 2022

The site is subject to the policies and objectives of the South Dublin County Development Plan. It is zoned Existing Residential '*RES – To protect and/or improve residential amenity*' on the Land Use Zoning Map.

Chapter 2 of the Plan refers to Housing, Chapter 9 refers to Heritage, Conservation & Landscapes and Chapter 11 refers to Implementation. Schedule 2 is the Record of Protected Structures. Ballyroan House is identified as Ref. 275.

Section 2.2.2 of Chapter 2 refers to Residential Densities. **Policy H8** states:

It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context.

H8 Objective 7 states:

To facilitate, in limited locations, four and five bed detached homes on lands that are appropriate to low density residential development.

Section 2.2.4 refers to Mix of Dwelling Types. **Policy H10** states:

It is the policy of the Council to ensure that a wide variety of adaptable housing types, sizes and tenures are provided in the County in accordance with the provisions of the Interim South Dublin County Council Housing Strategy 2016-2022.

Section 2.3.3 with respect to Private and Semi-Private Open Space, **policy H13 obj.3** states:

To ensure that private amenity spaces for houses are designed in accordance with the quantitative standards set out in Chapter 11.0 Implementation and the qualitative standards set out under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) including the accompanying Urban Design Manual – A Best Practice Guide (2009).

Section 2.3.6 refers to Steep or Varying Topography Sites. **Policy H16** states:

It is the policy of the Council to ensure that development on lands with a steep and/or varying topography is designed and sited to minimise impacts on the natural slope of the site.

Section 2.4.0 refers to Residential Consolidation – Infill, Backland, Subdivision & Corner Sites. It is stated that ‘*The sensitive intensification of housing development in established areas is supported by the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009), which recognises that the provision of additional dwellings in the suburban areas of towns and cities can revitalise such areas*’.

Section 9.1.2 of Chapter 9 states that there are 494 structures listed on the Record of Protected Structures (RPS). **Policy HCL 3** states:

It is the policy of the Council to conserve and protect buildings, structures and sites contained in the Record of Protected Structures and to carefully consider any proposals for development that would affect the special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly.

HCL3 Objective 2 states:

To ensure that all development proposals that affect a Protected Structure and its setting including proposals to extend, alter or refurbish any Protected Structure are sympathetic to its special character and integrity and are appropriate in terms of architectural treatment, character, scale and form. All such proposals shall be consistent with the Architectural Heritage Guidelines for Planning Authorities, DAHG (2011) including the principles of conservation.

Section 11.5.2 refers to Protected Structures. It states:

For all works to a Protected Structure, the Planning Authority will seek to ensure that: Alterations and interventions do not detract from the significance or value of the structure, Original features of architectural and historic interest are retained and that new features are not presented as original or older features, Extensions are appropriately scaled, complement and are subsidiary to the main structure, and The special interest of the structure is not compromised when adhering to the requirements of Building Regulations. Regard should be had to the Advice Series on historic buildings published by the DEHLG.

5.2. Other Guidelines

The DoEHLG Guidelines on 'Sustainable Residential Development in Urban Areas' (2009) outline sustainable approaches to the development of urban areas. These set out national policy of encouraging more sustainable urban development by the avoidance of excessive suburbanisation and the promotion of higher residential densities in appropriate locations.

5.3. Natural Heritage Designations

There are a number of Natura 2000 sites within 15 km of the site as follows:

- Wicklow Mountains SPA Site Code 004040 c.4.2km south
- Wicklow Mountains SAC Site Code 002122 c.4km south
- Glenasmole Valley SAC (Site Code 001209) c. 5.5km south-west
- South Dublin Bay SAC (Site Code 000210) c. 8.5km north-east
- South Dublin Bay and River Tolka SPA (Site Code 004024) c. 8.5km north-east

6.0 The Appeal

The application is subject to one no. third party appeal and a first party appeal against conditions.

The third party and first party appeals are detailed below.

6.1. Grounds of Third Party Appeal

The appeal is from a neighbour to the south-west whose house shares a boundary wall with the site (No.79 Templeroan Park). In summary it states:

- The appellant includes the original submission dated 4th April 2017 and the submission on the Response to Further Information dated 1st August 2017.
- Welcome the restoration of the house itself.
- Note that their house is 4-6 feet above ground level of Ballyroan House grounds.
- Consider that the height, style, close proximity, loss of amenities, removal of trees, deep excavation, hours of work, removal of outbuildings do not respect the adjoining houses and the quality of life.
- Planning needs to recognise and respect lives of residents who have lived there. Quality of life will be affected due to overlooking, loss of amenity, loss of views of Ballyroan House and loss of sunlight.

- Consider very minimal changes were made to the design between the original application and that approved for permission. Flat roofs on rear of buildings at 1st and 2nd floor could be used for recreational purposes.
- SDCC raised concerns with separation distances but this issue was ignored – the distances are nowhere near the 35m required by the Development Plan.
- Boundary wall is old and fragile and already leans. Concerns over impact of excavation, site works and removal of trees and difference in level. There is no mention of structural protection for this wall.
- Outbuildings should be retained- they are part of the sites heritage.
- Trees have been removed over the last 18 months and more are to be removed as part of the application. They are shelters for wildlife.
- Concerns with construction hours permitted which differ to adjacent school building works. 7am – 7pm working hours are unfair on existing residents.

6.2. Applicant Response to Third Party Appeal

The applicant responded to the third party appeal. In summary, it states:

- Consider the issues raised are largely subjective. Consider Planning Authority has fully addressed all matters relating to impact on third parties.
- Design of scheme was revised at Further Information stage to address issues raised by the appellant.
- State that the site is zoned and it is unreasonable to expect that views won't change.
- Consider height, separation distances and scale are appropriate to the site.
- Note that appellant's house is elevated in comparison to adjoining plots and it is the gable wall of no.79 Templeroan Park that faces the site – there is no case of directly overlooking.
- Heights of proposed dwellings are 2.5 storey not 3 storey. Refute claims that windows will be higher than roof line of no.79. Image included. Topography of site is referenced.

- There are no roof terraces proposed. There is no access to the roofs. Amenable to frosted windows at second floor serving rear windows of properties at Plots 5, 6 and 7.
- With respect to proximity, state that Plot 6 provides for a B4 type dwelling which has an angled bedroom window at first floor and a separation distance of 12m and a separation distance of 15.5m at attic level.
- Applicant is amenable to providing adequate support for the boundary wall during construction.
- Appellant has a north facing rear garden which will not be affected by development, particularly given the setback distances.
- Board is directed to the structural report with respect to the demolition of the outbuilding and conclusions restated therein.
- Tree felling over last 18 months is not a material consideration. Removal of 5 trees to rear of no.79 is referenced and applicant notes that they have no role in management of trees in private gardens following sale of units. Different role in public open spaces which can be managed by the applicant. Consider that the most appropriate approach is the removal of apple trees.
- Construction hours are considered a standard approach. Construction duration expected to be relatively short at 12 months.

6.3. **First Party Appeal against conditions**

The First Party has lodged an appeal against condition no. 2 which requires the omission of unit F, E1 and E2. Four no. drawings accompanied the appeal as well as a report. In summary the report states:

- Consider the rationale for omission of the units could have been addressed by condition. Submit a development option to outline how a condition could have addressed the concerns raised by the Planning Authority.
- Change in opinion due to change in planning personnel from pre-planning to application stage has hindered the delivery of an appropriate decision.

- Rationale for the design has been led by Conservation. Conservation input provided as part of appeal. Units have not been omitted on conservation grounds but for reasons relating to residential amenity and boundary treatment which could be addressed by design intervention.
- Following response to Further Information, number of units reduced to 21. Further reduction will have a detrimental impact on the delivery of a sustainable density.
- Addressing concerns raised by Planning Office, state: Both units accessed by external steps are suitable for ambulant disabled persons which comply with Part M of the Building Regulations; Floor to ceiling heights have been adjusted to 2.7m; Private amenity space of F2 has been increased; Revision to boundary treatment between private and public space of F2, to a 1.8m high bow top railing with mature hedge on public side; Location of revised boundary has been modified to increase area of private open space for F2 to reduce areas where members of the public might linger; Floor level of unit E2 and its private terrace has been increased to same level as E1 to have the effect of allowing passive surveillance of adjacent public open space and prevent overlooking of private terrace and living area; private terraces of E1 and E2 have been enlarged; floor areas and open space have all been increased.
- Note that if the Board consider the units more akin to houses, unit E1 is marginally short of the 48sq.m requirement for a 1-bedroomed unit private open space, but are of the opinion that the units should be considered on merit.
- Consider design approach to be an exceptional one given the balance that has to be struck in maintaining the setting of the Protected Structure while delivering a key infill site.
- Consider the above addresses the Planning Authority concerns but if not the Board is asked to give consideration to the initial proposal of 2 x F type units.

6.4. **Planning Authority Response to Appeal**

The Council responded to the appeals. They state that they confirm their decision and that the issues raised have been covered in the Planner's Report.

6.5. **Observations**

Two observations were made on the appeals. In summary, they state:

- Welcome decision to omit units to the front of Ballyroan House.
- Reference additional plans lodged with appeal about units F, E1 and E2 to front of Ballyroan House and consider that these do not adequately address visual impact or loss of amenity that would arise if permission was granted for these compromised units.
- Concern with tree felling already on site and further significant tree removal, particularly to the front of the site if units F, E1 and E2 are permitted.
- Concern with construction hours and early start.
- Development is substandard with respect to access, concerns with road width in existing estate and absence of visitor parking.

7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. I am satisfied that the principle of development is in compliance with the relevant statutory plans and guidelines. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Residential Amenities
- Landscaping and boundary treatment
- Construction activities and hours of working
- Omission of units F, E1 and E2

- Architectural Heritage
- Appropriate Assessment.

7.1. Residential Amenities

- 7.1.1. The third party appellant has referred to a number of issues relating to the impact of the proposal on his residential amenities. The appellant's dwelling is one of the closest dwellings to the appeal site, sharing its eastern boundary with the site. The appellant's gable wall runs parallel to the boundary wall. The appellant has detailed a number of concerns relating to residential amenities which I will address herein. Concerns relating to the stability of the boundary wall will be addressed below.
- 7.1.2. The appellant states that his dwelling is at an elevated position in relation to the proposed dwellings. Reviewing the drawings, the site level difference between unit B4 on Plot 6 and no.79 Templeroan Park, appears to be in the order of 1.5m. I note from my site visit that there is only one window at first floor on the gable wall of no.79 which appears to be a landing window. At the nearest point unit B4 is less than 6m from the boundary wall – however, this is at the ground floor level of B4 which is below the top of the boundary wall – there is no opportunity for overlooking into no.79 from the ground floor. At first floor, there is a distance of c.12m between the rear wall of B4 and the gable wall of no.79. The rear window is angled away from no.79 providing no opportunity to look towards the gable wall or into the rear garden. At attic level the distance increases to c.15m. The attic floor is set back and I consider any potential views will be into the rear garden of B3, with very limited views of the rear garden of no.79. Unit B3 on Plot 5 also shares a boundary with no.79 but with greater distances between it and the boundary wall. Unit B3 Plot 7 does not share a boundary with the rear garden of no.79. Having regard to the level differences and the proposed use of angled windows at first floor, as well as the fact that unit B4 is facing the gable wall of no.79, I do not consider that there will be a seriously negative impact on the privacy of the appellant or that there will be an overbearing or unacceptable degree of overlooking between the proposed development and no.79 Templeroan Park. I consider the use of opaque glazing on rear windows will further ameliorate any overlooking concerns which can be included

as a condition should the Board consider granting permission – albeit this should only be for the third floor attic windows and on the rear walls only.

- 7.1.3. The appellant submitted photos of the view into Ballyroan House from his landing window which illustrates the view that he has enjoyed since living there. However, the site is zoned for residential development and as such, this view is likely to change at some stage in the future.
- 7.1.4. The appellant is concerned that the flat roofs may be used for recreational purposes. Reviewing the detailed drawings for unit B4, it does appear that the angled window is full length and could give rise to concerns that this could be used to access the flat roof above the ground floor. This can be resolved by way of a condition stating that no full length windows are to be provided and the flat roofs are not to be used for recreational purposes.
- 7.1.5. With respect to the style of the houses, I agree that the houses proposed for ‘The Crescent’ are of a very modern design, and completely contrast with the existing dwellings of Templeroan and Ballyroan and the wider urban area. The design completely contrasts with Ballyroan House, the protected structure Ref.275, which is in accordance with the requirements of the Development Plan with respect to Protected Structures which states *‘that new features are not presented as original or older features’*. The ‘B’ type houses are set back from the protected structure, towards the walled garden boundary. The materials proposed include white render and grey zinc roofs which again contrasts with the protected structure which is in accordance with good practice. The other dwellings proposed will reuse materials from the demolition of the outbuildings and are somewhat more traditional in design. I am satisfied that the proposed design is acceptable and provides for a variety of house types and is in accordance with good design practice in relation to protected structures. Furthermore, the sensitive refurbishment of the protected structure is to be welcomed and the minimal interference with the house itself is also to be welcomed.
- 7.1.6. In conclusion, I am satisfied that the proposed development will not have a seriously injurious impact on the residential amenities of the existing or proposed residents.

7.2. Landscaping and Boundary Treatment

- 7.2.1. The removal of trees, boundary treatment and the landscaping were contentious issues at application stage. The third party states that a number of attendant trees have been removed in the last 18 months and from my site visit, I noted a number of trees have been uprooted and are lying in the grounds. It is unclear if these were down as a result of storm damage or otherwise.
- 7.2.2. A thick, dense belt of trees and hedgerows in particular defines the northern boundary, separating the site from the Elkwood playing fields. There a number of trees that run along the western boundary with the appellant's dwelling. The 'shallow' ground to the front of the house may have once been a ha-ha, although due to the overgrown nature of the area, it is not possible to conclusively confirm.
- 7.2.3. A drawing submitted at Further Information stage, ref. AIA-07-17, indicates what trees are proposed for removal. The Tree Report states that no evidence of a tree population contemporary with the original site was found. In terms of the trees along the western boundary, it states that some specimens threaten mechanical damage to the existing boundary wall. The Report notes that the trees to the north have attained some degree of visual significance 'in their cumulative effect'. It further states that the interests of the site might be best served by replacement and planting. It is noted that the development will require the loss of 36 no. trees and 3 no. hedges, which will be mitigated by the replacement with 50 no. new trees that through location will have a far greater contextual compatibility.
- 7.2.4. As noted in the Tree Report, the loss of trees on the site will affect visual amenity in the short term. In the longer term, the landscape plan submitted with the application provides for a varied and interesting visual amenity and visual relief for the future residents of the development. In the short term, the loss of trees particularly adjacent to the northern boundary is regrettable as they do provide screening cover. However, the Report states that the condition of these trees warrants their removal. With respect to the trees along the western boundary, I agree with the applicants that the future occupants of these dwellings will have control over the trees regardless, as they will be in their back garden.
- 7.2.5. A significant number of trees along the northern boundary will be removed. This is to make way for the houses proposed adjacent to this boundary and if the Board

consider granting permission for all the development (see section 7.4 below) their removal is inevitable. Their replacement with additional low level planting, new railings and the informal steps will over time provide for a pleasant amenity space but in the short term there will be an impact on the visual amenities. However, I consider this impact to be slight and temporary.

7.2.6. The Parks Department expressed serious concerns with the proposals for this part of the site also, and considered that the removal of trees in this area will compromise the screening between the development and the Elkwood estate. I agree that there will be a change to the screening and view from houses in the Elkwood estate, but having regard to the extensive open area provided by Elkwood Playing Fields I do not consider that this change in screening at this particular location will result in a seriously negative impact.

7.2.7. Details have been provided in respect of maintenance of the landscaping for 18 months after practical completion. I note that it is not the intent to have the area taken in charge, so the upkeep of the open spaces will remain with the residents. I consider that a suitable condition can be appended with respect to the management of the development should the Board consider granting permission.

7.2.8. The applicant states that the boundary wall will be adequately supported. In the response to the appeal, the applicant states that if the wall is assessed and deemed unsafe from the start the applicant shall agree measures to ensure that an appropriate boundary treatment is delivered. I consider this wording too vague and it is unclear what is meant by an appropriate boundary treatment. The boundary wall is a key feature of the development, part of the setting and curtilage of the protected structure and therefore I consider every effort should be made to ensure that the boundary wall is supported and retained. This can be subject to a condition so that the third party and the other adjoining residents have clarity in terms of what the boundary will look like, should the Board consider granting permission.

7.2.9. With respect to possible heritage aspects of the landscaping, there is no mention of the gardens in the specific description of the protected structure Ballyroan House, albeit the gardens are part of the curtilage and setting. As noted above a number of trees have been taken down and have been chopped up and are lying in the grounds to the rear. I note that there are no tree preservation orders associated with the site.

7.2.10. In conclusion, I accept that there will be a short term impact on the visual amenities of the area, but I consider the proposed landscape plan put forward by the applicant to be acceptable and will result in a positive impact on the visual amenities of the area including Ballyroan House itself.

7.3. Construction activities and hours of working

7.3.1. The appellant expresses concern with the hours of work permitted. I recommend that a standard condition relating to hours of work should apply. The applicant states that the duration of construction activities is expected to be c.12 months, therefore I consider that while there will be some noise and nuisance, it will be short term.

7.3.2. A condition requiring a Construction Management Plan and Traffic Management Plan to be prepared prior to commencement, will provide clarity to the residents in terms of what each stage of the works will entail and how any disruption will be contained and managed.

7.4. Omission of units F, E1 and E2

7.4.1. The appellant is appealing the omission of units F2, E1 and E2 as required by the Planning Authority's condition no.2. These are the units to the north of the protected structure and are an unusual design because they have been 'sunken' into the natural hollow in the ground to minimise impact on views of the house.

7.4.2. The original application included two 'F' type dwellings which were single storey with access via external steps from the road. The Planner expressed concerns with the design as originally proposed. Concerns related to the future amenities of the occupants of the dwellings. It was stated by the Parks Department that private amenity space for dwellings siding onto the public open space can become problematic. It was further stated that the Parks Department had serious concerns regarding the location and the impact on existing trees, and with the usefulness and usability of the open space in this area. Of note is the fact that the Conservation Officer did not express any concerns with the location of the two dwellings to the front of the protected structure. The first Planner's Report states that the Conservation Officer considered that *'the overall design and positioning of these 2*

subterranean houses will allow them to sit within their location in a sensitive and unobtrusive manner’.

- 7.4.3. Following the Further Information request the applicant amended the design to provide for two smaller dwellings in place of one of the F type dwellings, resulting in 3 no. dwellings to the front. Two E type dwellings replaced F1. The E type dwellings were considered to be apartments by the applicant in terms of private open space and size of dwellings. The Planner considered that the issue of interface between the private and public space had not been adequately addressed, amongst other concerns, and recommended the condition to remove the three units.
- 7.4.4. As part of the appeal against this condition the applicant has provided additional drawings addressing the concerns of the Planning Authority. The applicant considers that the concerns could be addressed by way of condition, having regard to the fact that the principle of the dwellings in this location is not a concern to the Conservation Officer. I am satisfied that the innovative design of the dwellings will ensure that the setting, and view to and from the protected structure, will not be compromised by the inclusion of these dwellings in this location.
- 7.4.5. I am satisfied that the amendments to the boundary treatment of house type F2 submitted with the appeal, will address any outstanding concerns with respect to privacy. The 1.8m high bow top railings and hedging proposed, as well as the extension of the garden to the north will provide for a sufficient and clear distinction between public and private space along the north façade. This house backs onto dwellings in Templeroan and Elkwood and is acceptable in terms of passive surveillance. Therefore, I do not consider it necessary to omit this dwelling.
- 7.4.6. With respect to the two E type dwellings, I have concerns about the quantity and quality of the private open space, but in particular I have concerns with the eastern boundary of the dwellings.
- 7.4.7. In terms of quantity of private open space, unit E1 has significantly less private open space than the standards required for houses in the Development Plan and in national guidelines. A 1-bedroom house requires a minimum private open space of 48sq.m. It is proposed to provide a private terrace of 27.1sq.m. I accept that the overall layout of the development could in other circumstances be a mitigation factor

but due to other concerns outlined below, I am not satisfied that this arrangement is acceptable.

- 7.4.8. Unit E2 does not comply with minimum private open space standards, notwithstanding that there is a significant amount of space, c.1.3m wide, running parallel to the living/kitchen area which is effectively not a useable space.
- 7.4.9. Internally there is a door from the living room into the bedroom. I would recommend that should the Board consider retaining E2, that this internal door is omitted. Unit E2 is marginally less than the minimum size standards for two bedroom houses at 77.3sq.m (Development Plan standards require 80sq.m for two bedroom houses).
- 7.4.10. As noted above my main concern relates to the boundary of these units and in particular the eastern boundary. The western boundary faces the open space and will provide a measure of passive surveillance over the public open space. With respect to the eastern boundary, the Tree Impact Plan (Drg. No. AIA-07-17) indicates that all the trees in this area will be removed. The Landscape Plan indicates that the eastern boundary will be a mixture of a 2m high block wall, and heavy duty timber trellis with climbing plants. These units are effectively surrounded by open space on three sides. I have concerns that this would lead to unacceptable impacts on the privacy of future occupants of these dwellings given their proximity to the entrance to Elkwood Playing Fields and the minimum distance between the units and the public open space.
- 7.4.11. Having regard to the above and the non-compliance with standards relating to minimum areas, I recommend that should the Board consider granting permission that these two units are omitted.
- 7.4.12. I have reviewed the original proposal which provided for two F type dwellings. I consider that the layout of F1 is far more preferable to the two E type units it was replaced with at Further Information stage. The layout of F1 is set back much further from the eastern boundary providing a much greater distance between the dwelling and the main thoroughfare leading to Elkwood Playing Fields. The original F design also provided much clearer boundary lines between public and private open space facing in towards the development. I note that the overall quantity of public open space for the development is somewhat reduced as a result of the F type dwelling. However having regard to the quality of the open space, the proximity to Elkwood

Playing Fields, the setting within the grounds of a protected structure, and the fact that the majority of houses have private open space in excess of the standards (in the B dwellings this is significantly in excess), I consider this slight reduction in public open space to be acceptable in this particular instance. I further note that the Development Plan considers that in all other zones with the exception of lands zoned RES-N and Institutional lands, 10% public open space is acceptable.

7.4.13. I note that the Parks Department expressed serious concern with any development in this part of the site, however having regard to the quality and variety of dwelling design, and the fact that Ballyroan House is not compromised by the location of dwellings in this part of the site, I consider that two F type dwellings with the amended boundary treatment (1.8m bow top fence and hedging submitted at appeal stage) would be acceptable.

7.4.14. In conclusion, I consider that units E1 and E2 are unacceptable in terms of minimum size standards and proximity to boundaries, which would likely lead to unacceptable impacts on the privacy of the future occupants. Should the Board wish to place a dwelling in this location, I recommend that the original F type unit should be reinstated, and both F units laid out as per the original Site Layout drawing. I recommend that the changes to the boundary treatment submitted at appeal stage should be applied by way of condition. I further recommend that the resulting open space should incorporate the informal steps as indicated on the Landscape Plan and revisions to the trees impacted should be agreed with the Planning Authority, in the event that the Board consider granting permission.

7.5. Architectural Heritage

7.5.1. The proposal is for the vertical division of the house itself as well as works to the curtilage and setting including the demolition of the stable block. The Protected Structure is listed in the National Inventory of Architectural Heritage Ref. 11216052. It is stated as being a '*Detached five-bay three-storey house, c.1850. Three-bay two-storey wing to east. Rendered, ruled and lined walls with parallel quoins. Timber sash windows throughout, with hoods to ground and first floors. Central projecting porch with entablature and parapet, housing glazed timber door. Hipped slate roof with rendered chimney stacks. Bracketed eaves to front wall. Ancillary farm buildings and extensions to rear*'. Its rating is considered 'Regional', and it is currently still in

use as a dwelling. The appraisal states '*A fine mid nineteenth-century house which, though in poor condition, remains substantially intact in its secluded, wooded location*'.

- 7.5.2. I am satisfied that the works to the house to sub-divide it into 3 dwellings are acceptable. There are minor insertions and demolitions to the house itself. I consider that the impact of these works is balanced by the rejuvenation and reuse of the building ensuring its long term survival.
- 7.5.3. The maps included within the Conservation Report prepared by the applicant include an 1843 map which clearly indicates the house and the outbuilding in situ, in a form that is recognisable today. The outbuilding/stable block is much larger in scale but is set back and behind the house, and therefore clearly subservient to the house.
- 7.5.4. The proposal includes the demolition of the stable block and for it to be replaced with 'C' type dwellings. The stable block is in the form of a C shape around a central courtyard that has been roofed over with a modern structure to form an additional covered workshop area.
- 7.5.5. In the original Conservation Report prepared by Robin Mandal, it is stated that '*The impact of the demolition of the outhouses is significant, negative and long term when considered in isolation*'. The Report continues stating that when the demolition is considered as to its impact on the setting of the main house and its utility, '*it may be considered as significant, neutral and long term*'.
- 7.5.6. The third parties had objections and the Planning Authority had reservations about the proposed removal of the stable block, and the applicant was requested to provide additional information clearly demonstrating why the removal of the building was necessary. The applicant, as part of the response, provided an engineering report and a supplementary Conservation Report.
- 7.5.7. A follow up Conservation Report was submitted as part of the Further Information response specifically to address the concerns of the Conservation Officer in relation to the demolition. The Report notes that the stable block is a two storey structure of partly rendered random rubble walls with a roof recently rebuilt. The walls are noted as being considerably altered with a large number of recent interventions in concrete blockwork, concrete and mass concrete. The author states that in his opinion the NIAH, while mentioning the ancillary farm buildings and extensions, does not

apportion a rating value to either the outbuildings or the later extensions, and in his opinion they qualify for a rating of 'Record Only'.

- 7.5.8. The author of the Conservation Report concludes, having assessed the suitability of the existing outbuildings for reuse, the impact on their removal on the setting of the house and having assessed the structural condition, on balance their removal is the solution which benefits the site the most.
- 7.5.9. An Engineering Report was also requested by the Planning Authority as part of the Further Information request. A Visual Inspection Report was prepared by Engineering Consultants. It concludes that having regard to the degree of issues from foundation level through to roof level, this structure would require a disproportionate degree of intrusive remediation to make good the original fabric and the only safe and viable option would be to remove the building in its entirety.
- 7.5.10. I note the guidance provided in Chapter 13 of the section 28 guidance document *Architectural Heritage Protection Guidelines for Planning Authorities* (2011), in particular section 13.4 regarding gardens, section 13.5 regarding works within the curtilage of a protected structure and section 13.7 regarding development within attendant grounds. Section 13.5.2 states that *'Where a formal relationship exists between a protected structure and its ancillary buildings or features, new construction which interrupts that relationship should rarely be permitted. There may be a designed vista between a building and a built or landscape feature within its gardens or a less formal relationship between a house and its outbuildings'*. I further note policy **HCL 3** of the Development Plan which states *'It is the policy of the Council to conserve and protect buildings, structures and sites contained in the Record of Protected Structures and to carefully consider any proposals for development that would affect the special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly'*. The demolition of the stable block would affect its historic curtilage directly and should be carefully considered in accordance with this policy.
- 7.5.11. Having inspected the site and with regard to the conservation reports on file, including historic mapping, I am satisfied that the stable block forms a large part of the curtilage and setting of Ballyroan House. I note that the NIAH does not refer to the stable block in particular, and it could be argued that this historic outbuilding is

considered to be of lesser importance but nonetheless, it remains within the curtilage of the site and is a key part of its attendant grounds. The Guidelines state that where a formal relationship exists between a protected structure and its ancillary buildings, new construction which interrupts that relationship should rarely be permitted. The demolition of the stable block clearly interrupts that relationship, and I am not satisfied that it should be permitted in this case. I accept that the Engineering Report states that it would require a disproportionate degree of intrusive remediation to make good, but I am not satisfied that its complete demolition is the solution. As stated within the Conservation Report, the impact of the demolition of the outhouse is significant, neutral and long term. Furthermore, I note references to reusing stone and other materials, but there is no detail provided as to how this will be done or how decisions will be made with respect to what is to be reused.

7.5.12. I consider the decision to recommend granting permission to be a finely balanced one due to the positive aspects of this proposal other than the demolition. I do not consider that the development can simply proceed with a condition to omit the works to the stable block having regard to the location of the B type houses in the south, the location of the D type dwellings to the north of the stable block, as well as the C block itself. The rear private area of two of the three A units in the house itself would also be affected should a condition be included. However, I am not satisfied that the wholesale demolition of the stable block is the correct approach having regard to the Development Plan policies and the Architectural Heritage Guidelines. Thus, I consider that recommending a refusal of permission is the most appropriate response in this case. I am recommending refusal only based on the proposed demolition of the stable block. As noted herein, I consider the proposal otherwise to be of a very high standard and the works to the house itself are to be welcomed. The Board may agree with the applicant that the demolition of the stable block is the most appropriate solution in this case. If so, I would recommend that a condition with respect to reuse of the stable block materials and details of how this will be done should be agreed with the Planning Authority prior to commencement of development, should the Board consider granting permission.

7.5.13. In conclusion, I recommend that planning permission is refused on the basis of the significant impact of the demolition of the stable block. I am not satisfied based on

the information on file, that alternatives to reuse the stable block have been adequately addressed.

7.6. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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

I recommend that planning permission should be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

The proposed development by reason of works involving the demolition of the stable block outbuilding, would result in the loss of an original structure. It is considered that the demolition works would have a serious and detrimental impact on the setting and character of this protected structure and are contrary to best conservation philosophy and practice. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Ciara Kellett
Inspectorate

14th December 2017