



An
Bord
Pleanála

Inspector's Report ABP 300116-17

Development

Demolition of Four Winds House; construction of a three storey over basement Nursing Home; relocation of the vehicular entrance on Brighton Road; provision of a separate pedestrian access on Brighton Road and construction of a sub-station and store building adjacent to service access.

Location

Four Winds and Tall Trees, Brighton Road and Claremount Road, Foxrock, Dublin 18.

Planning Authority

Dun Laoghaire Rathdown Co. Co.

Planning Authority Reg. Ref.

D17A/0455

Applicant(s)

FWNH Ltd.

Type of Application

Permission

Planning Authority Decision

To Grant Permission subject to conditions

Type of Appeal

Third Party

Appellant(s)

Edward and Patricia Wallace

John and Monica Ryan

Brian and Paula Harrison

Observer(s)

Jim and Mary Ryan
John J. Culhane
Daniel and Valerie Hickey
Foxrock Area Community and
Enterprise Ltd.

Date of Site Inspection

30th January 2018

Inspector

Erika Casey

1. Contents

| | |
|---|----|
| 1.0 Site Location and Description | 4 |
| 2.0 Proposed Development | 4 |
| 3.0 Planning Authority Decision | 5 |
| 3.1. Decision | 5 |
| 3.2. Planning Authority Reports | 6 |
| 3.3. Prescribed Bodies | 8 |
| 3.4. Third Party Observations | 8 |
| 4.0 Planning History..... | 9 |
| 5.0 Policy Context..... | 11 |
| 5.1. Development Plan..... | 11 |
| 5.2. Natural Heritage Designations..... | 13 |
| 6.0 The Appeal | 13 |
| 6.1. Grounds of Appeal | 13 |
| 6.2. Applicant Response | 16 |
| 6.3. Planning Authority Response | 18 |
| 6.4. Observations | 19 |
| 7.0 Assessment | 20 |
| 8.0 Recommendation..... | 31 |
| 9.0 Reasons and Considerations..... | 31 |
| 10.0 Conditions..... | 32 |

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.667 ha and is located on the northern side of Brighton Road, Foxrock, County Dublin. The site currently accommodates a detached two storey dwelling known as 'Four Winds' and associated outbuildings and tennis court. The main vehicular access is from Brighton Road, approximately 50 m from the junction of Brighton Road/Claremont Road and Glenamuck Road North. There is also a vehicular entrance from Claremont Road, although this does not appear to be in use. The boundary along Brighton Road is defined by low stone wall (c. 0.6m in height) with planting behind. There is a stone wall and gate along the Claremont Road frontage. There are Dublin Bus stops on either side of Brighton Road.
- 1.2. To the north of the site, in the ownership of the applicant, is a further dwelling known as 'Tall Trees'. This is a detached two storey dwelling with a vehicular access from Claremont Road. There is a tree lined boundary between 'Tall Trees' and 'Four Winds', with a number of large mature trees at the common boundary on Claremont Road. The proposed development boundary of the nursing home encroaches on the curtilage of the 'Tall Trees' dwelling.
- 1.3. To the east of the site, is a two storey detached dwelling known as 'The Grange'. Development to the west comprises the Church of Ireland Tullow Church, two dwellings and a parochial hall.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - The demolition of Four Winds House and associated structures on the site.
 - The construction of a three storey over basement nursing home to accommodate 140 bedrooms (143 bed spaces) and ancillary resident and staff facilities. The facility will provide 119 non assisted bedrooms, 18 assisted bedrooms and 3 no. double bedrooms.
 - Relocation of the vehicular entrance on Brighton Road to provide the principal vehicular access.
 - Provision of separate pedestrian access on Brighton Road.

- Modification of the vehicular access on Claremont Road to provide service and pedestrian access.
- Construction of substation and stores building adjacent to service access.
- All associated site works, car and cycle parking, landscaping and boundary treatments to Brighton Road, Claremont Road and Tall Trees. The development accommodates 36 car parking spaces (28 basement and 8 surface) and 64 no. bicycle spaces.

2.2 The floor area of the dwelling to be demolished is c. 352 sq. metres. The gross floor area of the proposed nursing home is 7,806 sq. metres (including basement). Excluding the basement, the gross floor area is 5,986 sq. metres. The maximum height is 11 metres. The building has a H form and external finishes mainly comprise brick and render with some timber cladding panels. A total of 2,888 sq. metres of public open space is provided. The overall site coverage is c. 33.4%. The plot ratio is 1.17 including the basement and 0.90 excluding the basement area.

2.3 It is detailed in the application that 'Tall Trees' (the dwelling to the north of the site) is in the ownership of the applicants and part of the curtilage of this property is included in the development boundary of the subject site. The proposed site boundary encroaches 10-15 metres into the southern side garden of Tall Trees. The enlarged site has increased the overall site area from that previously approved under Application Reference D15A/0807/Appeal Reference PL06D.246624. It is proposed to retain the Tall Trees dwelling. A small domestic garage to the south of the dwelling is to be demolished.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 To Grant Permission subject to conditions. Conditions of note include:

Condition 7: Plans and details to be submitted for written agreement to the Planning Authority regarding the provision of a pedestrian entrance at the south east corner of the site to allow for pedestrian permeability between the existing bus stop near the

Brennanstown Road/Brighton Road/Claremont Road/Glenamuck Road junction and the proposed development.

Condition 8: Brighton Road boundary wall to be retained and repaired.

Condition 9: The proposed northern boundary, shared with Tall Trees shall be relocated southwards by 2 metres.

Condition 10: Mitigation measures outlined in Bat Report shall be submitted to the Planning Authority for written agreement.

Condition 12: Archaeological monitoring.

Condition 19: Tree protection.

3.2. Planning Authority Reports

3.2.1. Planning Reports (11.07.2017 and 10.10.17):

- The principle of the demolition of Four Winds was established under the previous application. It is not a protected structure.
- It is considered that the elevations are well proportioned, visually interesting and, given the three storey over basement scale, not overly dominant.
- The proposed development is for a nursing home. Such a use will clearly require a structure larger than a normal residential dwelling which is the dominant land use in the vicinity. The zoning objective for the area states that a nursing home is permitted in principle.
- As with many planning applications there may be what could be considered conflicting objectives within the County Development Plan. Objectives must be balanced in order to reach the appropriate decision. It is considered that a nursing home is a sustainable and appropriate use of the site.
- While the proposed nursing home is more substantial in footprint and floor area than that originally proposed, the site area has also been increased. It is not considered that overlooking or overshadowing is a concern given the separation distances achieved.
- It is not considered that the increases in height from that previously permitted will have any undue significant adverse impact on the streetscape. The

development is consistent with the Building Height Strategy of the County Development Plan.

- Having regard to the previous decision of the Planning Authority, the decision by An Bord Pleanála and the fact that the 'new area' is outside the ACA and the fact that the same three storey height, external design etc. is proposed, it is considered that the additional impact on the ACA from that considered under the previous planning application is not unduly significant.
- With regard to the concerns from third parties regarding the optimum scale of a nursing home, the Planning Authority does not regulate the size, scale, facilities or operation of a nursing home. These are matters for HIQA.
- The planning application is not considered invalid. Three site notices were in place at the time of the site inspection. The site area and nature and extent of development as described are adequate.

3.2.2. Other Technical Reports

Environmental Health Service (13.06.2017, 13.06.2017, 21.09.2017 and 27.09.2017): No objection.

Transportation Planning (30.06.2017 and 27.09.2017): No objection subject to conditions.

Conservation Officer (23.06.2017):

- It is considered that the scale, footprint and massing of the proposed three storey over basement nursing home development is substantially larger than the immediate neighbours (both of which are protected structures).
- The development will result in the significant loss of trees which fails to respect the landscape character of Foxrock ACA which is informed by the layout of sites, the setting of buildings within the sites and the surrounding landscaping. The development does not reflect the existing pattern of development of the Foxrock ACA and is contrary to guidance for 'Infill Development' and 'New Buildings' as set out in the Foxrock Character Appraisal. Notes opposition to the development and considers that it is contrary to Policy AR12.

Drainage Planning (30.06.2017 and 02.10.2017): No objection subject to conditions.

Public Lighting (22.09.2017): Requested further information relating to the lighting proposals.

Biodiversity Officer (05.10.2017): No objection subject to conditions.

Planner's Report notes that whilst no reports were received from Parks and Landscape Services Section, verbal discussions indicated that there was no objection in principle to the development.

3.3. **Prescribed Bodies**

Department of Culture, Heritage and Gaeltacht (21.06.2017 and 27.09.2017): Recommends archaeological monitoring and that conditions should be attached regarding mitigation measures to protect bat species on the site.

Irish Water (02.07.2017): No objection.

3.4. **Third Party Observations**

3.4.1 Significant number of third party observations received. Issues raised reflect those in the third party appeals and observations and can be briefly summarised as follows:

- Consider that development is contrary to the zoning and policies/objectives of the County Development Plan. State that the development is contrary to the objectives regarding the Foxrock ACA and will have a negative impact on the character of the area and on protected structures in the vicinity. State that greater consideration should have been given to the Conservation Officer's concerns.
- Concerns regarding potential impacts on the residential amenities of adjoining properties particularly in relation to visual impact, overlooking, overshadowing, light pollution and traffic safety. Consider that the development will have a negative impact on the property values in the vicinity.

- Scale, height and massing of development considered excessive, that the development would have an overbearing impact and constitutes overdevelopment of the site. The design is considered generic.
- No adequate justification for the demolition of the existing building is provided.
- The development will set an undesirable precedent for further commercial development in the vicinity. Consider it an inappropriate location for such a development, it is removed from Foxrock village and the area is not well served by community infrastructure. No demand for a nursing home of this size at this location.
- Object that the development will result in increased traffic volumes, will exacerbate traffic congestion and will result in overspill car parking to the surrounding road network. Consider existing pedestrian footpaths inadequate to serve the site and that area is poorly served by public transport.
- Concerns raised regarding the loss of trees on the site and that the development will adversely impact on the sylvan character of Brighton Road and the public realm. Consider the public open space serving the development to be inadequate.
- Object to potential noise impacts, waste management issues and ecological impacts.
- The development will have a negative impact on groundwater due to deeper excavation required for basement. Concerns regarding surface water drainage, water supply and flooding.
- Construction phase impacts and concerns regarding impact from excavation of basement car park.
- Concerns regarding validity of site notices.

4.0 Planning History

Planning Authority Reference D15A/0807/Appeal Reference PL06D.246624

- 4.1 This is the parent permission for the site. Permission granted by An Bord Pleanála in September 2016 for the demolition of 'Four Winds' house and the construction of a

three storey over basement nursing home to accommodate 113 bedrooms and ancillary resident and staff facilities. Relocation of the vehicular entrance on Brighton Road to provide the principal vehicular and pedestrian access.

Planning Authority Reference D17A/0742/Appeal Reference 300121-17

4.2 There is currently a separate planning application under consideration by the Board for a development comprising amendments to a previously approved development comprising a 113 bedroom nursing home at 'Four Winds' granted by the Board in September 2016 – Appeal Reference PL06D.246624. The proposed amendments to the permitted nursing home can be summarised as follows:

- Repositioning of the northern building wings by 1 metre to the north to create additional internal amenity and circulation space within the central core at ground, first and second floors.
- Minor amendments to north eastern wing to provide circulation corridors.
- Additional floorspace at basement level to accommodate water storage tank room and staff training facilities and reconfiguration of permitted basement floorspace and car park layout.
- Amendments to floor levels and parapet level throughout building to accommodate M&E services, with associated increase in the height of the building by 300mm.
- Amendments to the front entrance to provide a double height glazed entrance atrium, infill of recesses in façade at second floor and associated amendments to front elevation.
- New northern boundary treatment with Tall Trees.

4.3 The proposed development will result in an increase in the overall gross floor area of the building by 338 sq. metres, the majority of which is at basement level. There will be no increase in the number of bedrooms or bedspaces within the development.

4.4 Permission was granted by Dun Laoghaire Rathdown Co. Co. in October 2017 and was appealed to the Board in November 2017. Decision is pending.

Planning Authority Reference D16A/0873

4.5 Permission was sought in November 2016 for modifications and extensions to the permitted nursing home granted under planning register D15A/0807. This application was withdrawn.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the 2016-2022 Dun Laoghaire Rathdown County Development Plan. The site is zoned Objective A: *To protect and or improve residential amenity.* Residential institution and assisted living accommodation are permitted in principle under this zoning objective. A 'residential institution' is defined in Section 8.3.12 of the plan as *"a building or part thereof or land used as a residential institution and includes a monastery, convent, hostel, **home for older person/nursing home.**"*

5.1.2 The site of 'Four Winds' is located within the Foxrock Architectural Conservation Area. The 'Tall Trees' site is not located within the ACA. There are a number of protected structures in the vicinity of the site including Tullow Church (RPS No. 1693) and Tullow Church Rectory (RPS No. 1691) located to the west and the Grange House (RPS No. 1695) located to the east. Relevant policy includes:

Policy AR12: Architectural Conservation Areas

"It is Council policy to:

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.

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.”

Section 8.2.11.3 (i) addresses new development within an ACA.

Section 8.2.3.4 (xiii) Nursing Homes for the Elderly/Assisted Living Accommodation

This section sets out guidance for such development and notes that such facilities will be resisted in remote locations at remove from urban areas. They should be located in established neighbourhoods/residential areas well served by community infrastructure and amenities. Future residents should expect reasonable access to local services such as shops and community facilities.

Foxrock ACA Character Appraisal

This document identifies the special character of Foxrock. Section 1 addresses infill development and subdivision of existing sites and notes that new development proposals shall have regard to the scale, massing, height, design and setting of existing structures. It notes that new structures should be subservient to existing structures and that consideration should be given to the extent to which existing boundary treatments, hedgerows and trees are retained and existing access points used.

Section 5 sets out guidance regarding new buildings. It states that the development of new buildings within the ACA should be a stimulus to imaginative high quality design, should not directly imitate earlier styles and should be designed with respect to their context, as part of a larger whole, which has a well established character and appearance of its own. It notes in particular:

- New developments must not adversely affect the character of the streetscape.
- New development must respect the existing pattern of development in the area with regard to setting and should be appropriately set back from the public road.
- The scale, massing and height of proposed development must be generally consistent with neighbouring dwellings.

5.2. Natural Heritage Designations

- None applicable.

6.0 The Appeal

6.1. Grounds of Appeal

Patricia and Edward Wallace, The Grange, Brighton Road, Foxrock

- Raise concerns regarding the validity of the site notices.
- Consider that the scale and massing of the development is excessive, is contrary to the zoning objective and policies of the Development Plan and would have a disproportionate adverse impact on the landscape. Concern regarding the amalgamation of plots which it is considered are a defining feature of the ACA and that the development would introduce an intensive urban character. State that the development would have an adverse impact on the ACA and protected structures in the vicinity.
- Concern regarding the impact of the development on the public realm and that the development will erode the sylvan character of Brighton Road. Note that three options are proposed for the treatment of the front boundary all of which are considered to have a catastrophic impact.
- Consider that an NIS should be prepared in respect of the development. Object to potential loss of trees and impact on bats.
- Submit that the demolition of the existing dwelling is unjustified.
- Consider that footpaths in the vicinity of the site are inadequate and substandard. The development will endanger public safety by reason of a traffic hazard and pose a risk to pedestrian safety. The development will exacerbate traffic congestion and parking issues.
- State that the development will have an adverse impact on their residential amenity due to excessive overlooking from windows on the eastern elevation. Object to potential noise impact and raise concerns regarding location and impacts from proposed substation.

Mr and Mrs. Brian Harrison, Rosbeg, Claremont Road, Carrickmines, County Dublin

- Object to the principle of development. Whilst the land use may be acceptable in principle under the zoning objective, factors such as density, height, massing, traffic, design etc. have not been given adequate consideration. Consider that the development constitutes a commercial development and that insufficient evidence is submitted to justify a nursing home of this scale at this location. State that the development sets a poor precedent and will lead to pressure for further commercial developments thus destroying the unique character of the area.
- Consider that the development is contrary to National Guidance including the Sustainable Residential Development in Urban Area Guidelines and the Architectural Heritage Guidelines. The development also contravenes the zoning objective for the site and the policies and objectives of the Development Plan. State that the development fails to comply with the criteria set out in the Development Plan regarding nursing homes for the elderly/assisted living accommodation and open space standards. Submit that inadequate justification for the demolition of the existing dwelling have been provided and the development is thus contrary to policy RES4 of the County Plan. Consider that the development is contrary to the building height strategy of the Plan which specifies that a general height of 2 storeys will apply.
- Consider that the development also fails to comply with the standards set out by HIQA for nursing home development.
- Concerns regarding the number of infill sites being developed in the Foxrock area and the lack of a Framework Plan to guide such development. Survey submitted with appeal of resident's views, the majority of which indicate they do not feel the development is appropriate for the subject site.
- Consider that the applicant has undertaken project splitting for the purposes of obtaining planning permission. Their ownership of 'Tall Trees' was not acknowledged when the application was originally submitted. It is considered that the entire proposed nursing home should have been applied for in a single planning application.

- State that the development contravenes the objectives for the Foxrock Architectural Conservation Area, particularly regarding infill development and new buildings and contrary to policy AR8 of the Development Plan. Consider that the existing dwelling forms an important part of the character of the ACA as it was formerly part of the Grange, is adjacent to two protected structures and that trees on the site contribute to the sylvan setting of Brighton Road. Concerns regarding impacts to existing boundary treatment along Brighton Road and impacts on the character and setting of adjacent protected structures. State that due regard was not had to the Conservation Officers comments.
- Object to the inclusion of part of the curtilage of the 'Tall Trees' property into the development boundary of the subject site and the effective amalgamation of the two sites. Consider that the significant increase in area from that previously proposed will result in the over development of the site. Note that the development will be 23.7 times larger than the existing dwelling on the site and result in a plot ratio of 0.98. Consider the scale of development to be excessive, that the height proposed is out of context with adjacent development and that set back distances to adjoining boundaries are deficient.
- State that the closer proximity of the development to their property and the increase in height of will have consequent negative impacts on their residential amenities. Concern that the development will result in the depreciation in the value of property in the vicinity. Consider that the design, scale, height and massing of the development will result in an adverse visual and overbearing impacts to adjacent dwellings and that their property will be overlooked and overshadowed. Concerns also raised regarding potential light pollution. The residential amenity of 'Tall Trees' would also be eroded by the elimination of its open space and the impact of the height of the proposed blocks.
- It is stated that the current application has no regard to the original set back distances granted by Dun Laoghaire Rathdown County Council under application reference D15A/0807. Under this permission, planning permission was granted on the basis of increased set backs from the 'Tall Trees' property. The separation distance now proposed is under 11 metres which is

unacceptable. Consider that the separation distances should be increased to protect the amenities of 'Tall Trees' and 'Rosbeg'.

- Concerns raised regarding the architectural design of the development and that it is out of keeping with the character of the area. It is considered that the design maintains the appearance of a commercial development and that its scale and height are inappropriate and do not represent a site specific design response. Concerns also raised regarding adequacy and quality of open space. Consider that ESB substation would have a negative visual impact on Claremount Road.
- Object to potential loss of trees and independent arboricultural assessment submitted with appeal which concludes that the tree report submitted with the application does not properly assess the potential impact of the development to the existing trees nor objectives of the ACA.
- State that an updated traffic impact statement should be submitted in support of the current application. Consider that car parking provision is inadequate. Submit that development will exacerbate traffic congestion in the area. Concerns raised regarding potential traffic impacts arising from the re-opening of the Claremount Road entrance, lack of accessibility by public transport and inadequacy of public footpaths.
- Concerns raised regarding surface water drainage.

John and Monica Ryan and others, Whitegates, Kerry Mount Ave., Foxrock

- Consider scale and mass of development to be excessive and object to amalgamation of sites. Concerns regarding potential impacts on the ACA.
- Concerns regarding traffic impacts, overspill car parking and that the re-opening of the Claremount Road access will result in a traffic hazard.

6.2. Applicant Response

- The parent permission was subject to a judicial review. The review was subsequently withdrawn with an order of the Court that Condition no. 8 of planning permission PL06D.246624, dated the 21st September 2016 be quashed without further Order.

- When the parent permission was made, the applicants were not the owners of 'Tall Trees'. Under the parent application, at further information stage, the Planning Authority requested that the nursing home be set back 11 metres from the boundary with the 'Tall Trees' property. To achieve this, the central core amenity and circulation space was compressed by 1 metre at all levels.
- A further application for significant modifications to the previous development was withdrawn because as the application was under judicial review, it did not have permission. The subject application is made de novo to encapsulate all changes to the original permitted development and to enlarge the development due to the additional site area now available within the Tall Trees site.
- The changes proposed are for the most part confined to the rear of the site where an extension to the permitted footprint are indicated. The extension will accommodate additional bedrooms while maintaining an 11 metre separation from the revised curtilage of Tall Trees House.

Appeal by Patricia and Edward Wallace

- The grounds of appeal are based on the original planning submission and do not take account of the Further Information Response submitted.
- Issues pertaining to the validation of the application are matters for the Planning Authority and not An Bord Pleanála.
- Issues such as consistency with the character of the area and the scale and nature of the nursing home have already been determined under the existing planning permission. Impacts on residential amenity have previously been addressed and permission has been established for a significant footprint on the site.

Appeal by Ryan et al

- A full assessment regarding the appropriateness of the nature and scale of development has been provided by the Planning Authority. Matters relating to traffic and parking have been fully assessed by the Traffic and Transportation section.

Appeal by Brian and Paula Harrison

- A significant section of the grounds of appeal revisit the grant of planning permission made by An Bord Pleanála and confirmed in the High Court.
- The Roads Report submitted with the appeal was prepared in 2016 and does not relate to the current application. The Arboricultural Report does not refer to the landscaping and tree planting proposals contained in the application documentation. The Marketing Survey submitted does not include the questions asked during interviews and was carried out before the application was made.
- There is no substance or foundation in any of the grounds of appeal relating to the decision of the Planning Authority

6.3. Planning Authority Response

- The principle of the demolition of Four Winds was established under the previous application. It is not a protected structure. An Bord Pleanála's Order under PL06D.246624 refers to the *"unexceptional architectural quality of the existing house on site"*. There is no issue with the demolition of the existing dwellings and outbuildings.
- It has been established under the previous permission that the subject site location is appropriate for a nursing home development. It is specifically stated as a use permitted in principle on this residential zoned site. The development is consistent with the provisions of the Development Plan regarding Nursing Homes for the Elderly/Assisted Living Accommodation and the Building Height Strategy.
- This site is not in a remote area at a remove from urban areas. It is located within a residential neighbourhood adjacent to a Dublin Bus route and within c. 600m walk of the Luas.
- The site notices were in accordance with the legislative requirements.

- A Further Information Stage, the applicant was asked to identify the locations of all services and clarify noise attenuation measures. The proposals were considered acceptable by the Environmental Health Officer.

6.4. Observations

6.4.1 4 no. observations by Foxrock Area Community and Enterprise Ltd., Daniel and Valerie Hickey, JJ and Teresa Culhane and others and Tim and Mary Ryan. Issues raised overlap and can be summarised as follows:

- It is considered that the development will have a detrimental impact on the Foxrock Architectural Conservation Area, fails to protect the existing architectural character and is an inappropriate commercial development. State that the expansion of the previously permitted development by almost 25% is contrary to the objectives of the Development Plan and ACA designation. Notes that the Conservation Officer is opposed to the development.
- Consider that the development is remote from community infrastructure and amenities and thus contrary to the guidance set out in the Development Plan for Nursing Homes for the Elderly/Assisted Living. Footpaths in the vicinity are unsuitable for wheelchair access/mobility impaired elderly residents and there is no public open space in the immediate area. The site is distant from public transport links.
- State that the size, scale and design of proposal is inappropriate. The development will result in the overdevelopment of the site. Concerns raised regarding potential overshadowing and that the development will result in the devaluation of property in the vicinity. Consider that the quality of the principal outdoor amenity space is inadequate.
- Concern that the development will set a precedent and lead to further pressure for further commercial developments in the area.
- Consider that the development will exacerbate existing problems of traffic congestion and that the development is served by insufficient car parking.
- Object to potential loss of trees and that excavation of basement may damage adjacent properties and increase risk of flooding.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of the appeals and observation and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Procedural
- Principle of Development.
- Impact on Residential Amenity.
- Traffic Impact, Parking and Drainage.
- Impact on the Foxrock Architectural Conservation Area and Protected Structures
- Appropriate Assessment.

7.2 Procedural

7.2.1 Concerns have been raised by one of the appellants regarding the public notices, stating that the description of the development did not adequately describe the nature and extent of development and that an insufficient number of site notices were erected. It has been confirmed by the Planning Authority that 3 no. site notices were erected on the site which was considered adequate. It has also been confirmed that the Planning Authority considered the nature and extent of development as outlined on the public notices to be sufficient.

7.2.2 Section 3.4 of the Development Management Guidelines 2007 sets out guidance regarding public notices. It is stated:

“The purpose of the notices, that is, the newspaper notice (Article 18 of the Planning Regulations) and the site notice (Article 19), is to inform the public of the proposed development and alert them as to its nature and extent.....In recent years the amount of detail in the public notice has increased continuously to the extent that such notices frequently include every detail of the proposed development, rather than comprising a brief description the proposed development.....The public notice should therefore be drafted so as to give a brief indication as to the nature and extent of the proposed development and is not required to go into excessive detail.”

7.2.3 Having regard to this guidance, I am satisfied that the nature and content of the site and newspaper notice submitted with the application was sufficient and that third party rights were not prejudiced with the regard to the detail and content of the public notices.

7.3 Principle of Development

7.3.1 The proposed development comprises the construction of a nursing home with 140 bedrooms. It is noted that the Board under Appeal Reference PL06D.246624 previously granted permission for a nursing home with 113 bedrooms on the site. It is detailed in the application documentation that since the parent permission pertaining to the site was granted, the applicants have acquired the property to the north known as 'Tall Trees'. It is proposed to incorporate some of the curtilage of this property into the development site of the nursing home.

7.3.2 The acquisition of this property has enabled the current proposal for a larger nursing home facility. The site is now 0.6672 ha, an increase of 1,172 sq. metres from that previously approved (0.55ha). The principal changes to the design are the elongation of the northern wings of the building to accommodate additional bedrooms and the provision of a more generous separation of buildings internally whilst maintaining an adequate distance to the northern boundary. It is noted that the area in which the site has been extended falls outside the ACA.

7.3.3 I consider that the principle of this type of development at this location was accepted and established in the previous permission pertaining to the site, and whilst the development as now proposed is for a larger facility, the site area has also been increased. The proposed increase in room numbers is modest and the other amendments will improve the internal amenities and environment of the nursing home from that previously approved. This is considered appropriate from a planning perspective.

7.3.4 Concerns have also been raised that the development sets an undesirable precedent, will lead to pressure for further commercial development in the vicinity and represents an inappropriate commercial development in a residential area. The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A: *To Protect and or Improve Residential Amenity*. A residential institution is permitted in principle under this

zoning objective. This is defined as a building or part thereof or land used as a residential institution and includes a monastery, convent, hostel for older persons/nursing home. I consider that the development complies with this definition and is, therefore, acceptable at this location

- 7.3.5 It is also noted that the Development Plan incorporates a number of policies in support of such development including Policy RES9 which supports the provision of specific purpose built accommodation for the elderly. Furthermore, as detailed in the previous Inspector's Report relating to the parent permission, Dun Laoghaire Rathdown County Council have adopted an Age Friendly Strategy 2016-2020 which encourages the establishment of sustainable residential communities ensuring that a wide variety of age appropriate housing and apartment types, sizes and tenure are provided within the County. In this context, the proposed development is considered entirely appropriate. Any further application, commercial or otherwise on adjacent lands would be subject to a separate planning application and would be considered and adjudicated on its own merits.
- 7.3.6 It is submitted by the appellants and observers that no adequate justification for the demolition of the existing Four Winds Property has been provided. Whilst the subject dwelling is located within an Architectural Conservation Area (ACA), it is not a protected structure. The principle of the demolition of this dwelling has been established in the previous application pertaining to the site. The subject dwelling is of no architectural value. The Planning Officer notes no objection to its demolition noting its unexceptional architectural qualities and the Conservation Officer, whilst objecting to the development, raised no specific concerns regarding the demolition of the existing dwelling. Having regard to the foregoing, it is considered that the principle of the demolition of the existing dwelling is acceptable and its removal will facilitate the sustainable and appropriate development of the subject site.
- 7.3.7 Concerns have also been raised that the subject development does not comply with the Height Strategy set out in the County Plan. The Height Strategy is set out in Appendix 9 of the County Plan. This notes that as the site is located within an ACA, heights should generally be 2 storeys. However, section 4.8 of the strategy allows for certain upward modifiers and that developments of up to 3 storeys may be appropriate in certain instances including sites that are larger than 0.5 ha (f), sites within 500 metres of the Luas (e) and a development that provides a new facility (c).

These criteria are applicable to the subject site. A height of three stories was previously permitted on the subject site under appeal reference PL06D.246624. Whilst under the current proposal, the height increases marginally by between 300 and 400 mm from that previously approved, this is considered immaterial. It is considered that the development is compliant with the Height Strategy of the Plan and is acceptable in principle.

7.3.8 Specific guidance regarding Elderly /Assisted Living Accommodation Nursing Homes for the Elderly is also set out in the Development Plan. Objections have been raised by a number of the parties that the development is not compliant with these criteria. Concerns have been raised that the location is inappropriate and that it is removed from the urban area. The Planning Authority are of the view that the site is not remote that that the development is in line with the provisions of Section 8.2.3.4 (xii) of the Development Plan. The subject site is located within Foxrock, an established suburb served by a wide range of local facilities and amenities. Foxrock Village is a short walk from the site. I consider the site to be an appropriate location for such a facility. The site is served by a public transport and I consider the public footpaths to be more than adequate to serve pedestrian connections in the area.

7.3.9 It is noted that concerns have been raised by one party that the proposed development represents project splitting. It is outlined that there is concurrent application on the site for modifications to the parent permission – Planning Authority Reference D17A/0742/Appeal Reference 300121-17. There seems to be some confusion on behalf of the appellant regarding the two applications. It is apparent that there are two separate planning applications pertaining to the site. The subject application refers to a proposal to develop a larger nursing home on the site comprising 140 bedrooms. The other application relates to minor amendments to the parent permission that was granted under D15A/0807/Appeal Reference PL06D.246624. It is evident that as the applicant has now acquired the property to the north – ‘Tall Trees’, that this provides the opportunity to enlarge the site and thus propose alternative development options for the site. I consider this approach entirely reasonable and there is nothing to preclude the applicant from lodging more than one planning application on the site. However, only one permission can be implemented. I do not consider in this regard, that project splitting has occurred or that any adverse cumulative impacts will arise.

7.3.10 Reference is also made by one of the appellants that the development is contrary to standards set out by HIQA for nursing home development. HIQA is an independent authority with specific regulatory powers and obligations regarding health and social care services. It is considered that compliance with such standards is outside the scope and not relevant to this planning assessment.

7.3.11 In conclusion, a number of the issues and objections raised by the appellants and observers relate to the principle of the development and its compliance with the policies and objectives of the Development Plan. As detailed above, as the principle of this form of development has already been established on the site and issues regarding the need and demand for such a facility at this location are somewhat erroneous. Whilst the current application proposes a larger nursing home facility, this has been compensated by the fact that a property to the north has been acquired which has allowed for a larger site in which to accommodate the scheme. The extent of the increase in accommodation is considered relatively modest. It is considered that the development is fully in accordance with the zoning objective for the site. It will make a contribution to housing for the elderly in the area.

7.4 Impact on Residential Amenity

7.4.1 It is contended that the proposed development will result in the overdevelopment of the site. It is considered that it will have an overbearing impact and will result in overshadowing and overlooking. As detailed above, the proposed development retains a relatively low density with a site coverage of 33.4%. The plot ratio is 1.17 including the basement and 0.90 excluding the basement area. The building blocks are set well back from adjoining boundaries and the site will be well screened by mature planting. In this context, I am satisfied that the development does not constitute over development of the site and will not have an overbearing impact when viewed from adjoining properties.

7.4.2 Concerns have also been raised regarding the increase in height of the development. There is a marginal increase in height proposed. The ridge height of the eastern and western wings will increase from the permitted +100.900m to +101.200 and the central core will increase in height from +100.450m to +100.850m. These increases of 300-400mm will be imperceptible and I am satisfied that there

will be no adverse visual impact or negative impacts to the amenities of adjacent properties in terms of overlooking and overshadowing.

7.4.3 It is noted that the development retains generous separation distances from adjacent properties. With the exception of the northern boundary, the development generally retains similar separation distances to the eastern, western and southern boundaries as that previously proposed. It will be set back c. 37 metres from 'Rosbeg' to the north and c. 30 metres from the 'Grange' to the east. The Tullow Church Rectory is located c. 20 metres to the west. There is also extensive screen planting along the northern boundary of the site as well as mature planting proposed along the northern boundary of 'Tall Trees' which will further obscure any views and potential impacts. It is considered having regard to this extensive separation distances, that the development will have no impact on the residential amenities of adjacent dwellings.

7.4.4 Concerns have been raised by one of the appellants that the current application has no regard to the original set back distances granted by Dun Laoghaire Rathdown County Council under application reference D15A/0807. Under this application planning permission was granted on the basis of an increased set back from the 'Tall Trees' property. It is noted that the development as originally proposed under this application was set back c. 6 metres from the northern boundary. This set back was increased to 11 metres at Further Information stage. Under the current proposal, the northern elevation of the nursing home is set back c. 12 metres from the southern elevation of 'Tall Trees'. Given that the gable of 'Tall Trees' presents to this boundary and has no fenestration on its southern elevation and that this property is now in the ownership of the applicant, this separation distance is considered adequate. It is not considered that the development will have an overbearing impact on 'Tall Trees'.

7.4.5 In terms of the amenity of 'Tall Trees' itself, it is contended that the residential amenity of 'Tall Trees' will be eroded by the loss of its open space. It is noted however, notwithstanding the fact that the proposed development incorporates some of the curtilage of this property into the development boundary of the nursing home, the dwelling retains a large front garden and an extensive rear garden with outdoor swimming pool. This is considered sufficient amenity. It is noted that the Planning Authority imposed a condition which set back the proposed northern boundary of the nursing home by 2 metres to provide for a better visual setting for 'Tall Trees'. This condition is considered reasonable and it would be desirable for the northern

boundary to be offset from the boundary with 'Tall Trees' to fully protect the setting and amenities of this dwelling.

7.4.6 Concerns have been raised regarding the design and visual impact of the development. As noted above, the design of the development remains largely consistent with that previously proposed with the exception of the extended northern wings to accommodate the additional bedrooms. There have been some minor alterations to the elevation design. The design is contemporary and incorporates high quality finishes and materials. I do not however, consider these to be material. In this regard, I do not consider the development will have an adverse visual impact.

7.4.7 Concerns have been raised regarding the visual impact of the proposed substation when viewed from Claremount Road. It is noted that this is a very modest structure with a height of 2.6 metres. A similar scale of ESB substation was permitted at this location under the parent permission. The substation is set back from the eastern boundary with Claremount Road by c. 2.5 metres and screened by mature planting. I do not consider that it will have any material adverse visual impact.

7.4.8 With regard to potential impacts from light pollution, it is noted a detailed External Lighting Report and associated Site Services Plan was submitted to the Planning Authority at Further Information Stage (14.09.2017). Condition 11 of the planning authority decision required that an updated lighting design for the development be submitted to the Planning Authority prior to the commencement of development. I am satisfied that such a condition is sufficient to address any potential concerns regarding light pollution and recommend a similar condition be imposed. With regard to noise impacts, again it is noted that no concerns were raised by the EHO to the development. I do not consider that the end use would be associated with any particular activities that would give rise to any adverse noise impact.

7.4.9 A number of parties have raised concerns regarding the extent of open space serving the development, which is considered inadequate, resulting in a poor level of amenity to future occupants of the development. Concerns are also raised regarding the loss of trees across the site. It is noted that the Parks Department of Dun Laoghaire Rathdown County Council raised no objection to the proposal. The proposed development provides for over 2,888 sq. metres of public open space. This is well in excess of the 10% of the site area required under Section 9.2.8.2 of the

Development Plan. The largest area is located in a courtyard to the north of the development. The layout and orientation of the open space area is similar to that previously proposed, although it has a greater depth due to the extension of the site northwards.

7.4.10 A landscape masterplan for the site has been prepared. This details that the internal courtyard will include seating, water features and raised planters suitable for wheelchair users and provide a gardening club facility. An arborist report has been also prepared which details that a number of trees are to be removed due to their category U status or because they impede construction works. The landscape proposal however, is to reinforce the woodland habitat with significant planting of replacement trees. A secure woodland path will be created through these trees. A number of mature trees will be retained where feasible, particularly along the western boundary. It is noted that an independent review of the arboricultural impact assessment has been submitted by one of the appellants. Whilst the comments in this report are noted, it is considered that concerns regarding protection of existing trees during construction can be addressed by appropriate condition. Furthermore, the report does not assesses the detailed landscape proposals submitted by the applicant which proposes significant new tree planting across the site.

7.4.11 Having regard to the extent and quality of the landscape proposals, I am satisfied that the development will have adequate amenity and will be landscaped to a high standard. It is also noted that the development provides for internal amenities and facilities for the residents including hairdressers, oratory, dining and breakout areas.

7.4.12 In conclusion, I am satisfied that the development will not give rise to any material impacts on the residential amenities of adjacent properties. The scale and height of development is similar to that previously proposed. The principal change is the extension of the northern wings into the curtilage of the 'Tall Trees' property. I am satisfied however, given the generous open space serving this dwelling that the development will not have any adverse overbearing or overlooking impacts. The setbacks retained from 'Tall Trees' and 'Rosbeg' to the north are considered sufficient. No evidence has been submitted to support the claim that the proposed development would result in devaluation of property. Concerns regarding potential construction impacts can be addressed by way of appropriate condition.

7.5 Traffic Impact, Parking and Drainage

- 7.5.1 Objections on the grounds of traffic impact and potential overspill car parking have been raised. It is noted that the Traffic Department of Dun Laoghaire Rathdown County Council raised no objection to the proposed development. A detailed Traffic Impact Assessment was submitted with the application and was updated further as part of a submission at Further Information Stage on the 14th September 2017 to include fully classified traffic counts. A Stage 1-2 Road Safety Audit was also submitted.
- 7.5.2 The traffic flows recorded show that the highest volume of traffic travels north –south along the R842 (Glenamuck Road/Claremont Road), which connects with the M50. The majority of journeys along Brighton Road were also recorded to be travelling to and from the M50. The report notes that staff for the nursing home will generally work 12 hour shifts and, therefore, arrive before 08:00 hrs and depart after 18:00hrs outside the peak hour traffic periods. The trip generation figures for the nursing home are derived by comparing the proposed development to a similar operation in Blackrock. The trip generation rates set out in the report are considered reasonable having regard to the nature of the development.
- 7.5.3 The report goes on to assess the additional traffic likely to be generated by the development and the impact of the development on the local road network. To account for potential growth in background traffic, NRA growth rates are used. In relation to Brighton Road, it is noted that this road is operating at well below its threshold capacity and that there is more than adequate link capacity to accommodate the proposed development at opening year and design year. In terms of wider network traffic impacts, the report estimates that the development traffic is projected to add a maximum of 5 vehicles per hour to the total junction flows. This is 0.31% of the total junction flows and is well below the 5% threshold levels as set out in the NRA document Traffic and Transport Assessment Guidelines. The report concludes that the development will not generate any measurable traffic impact on the adjacent road network.
- 7.5.4 Having regard to the detailed assessment undertaken by the applicants which includes updated traffic counts which I consider to be robust, the reports of the Transportation Section of Dun Laoghaire Rathdown County Council, the nature of

the development and the levels of car parking provision proposed, I am satisfied that the development will not give rise to any adverse traffic impacts. I consider that the relocation of the site access on Brighton Road to a position that is further away from the junction with Glenamuck Road is a positive aspect of the proposed development and that the revised sightlines provided at the entrance will enhance visibility for users of this entrance. It is noted that one of the applicants has submitted an independent review of the traffic and transportation implications of the proposed development. This report however, was undertaken in 2016 and relates to the previous application on the site. The report predates the current application and takes no account of the traffic counts and detailed assessment undertaken in relation to the current proposal.

- 7.5.5 The appellants and observers are of the view that there is insufficient parking provided to serve the development. The County Development Plan (table 8.2.4) sets out a requirement for 1 parking space per 4 residents for nursing homes/elderly persons homes. The application provides 143 bed spaces and 36 car parking spaces. The development is thus compliant with the Development Plan standards. Having regard to the nature of the proposed use and its likely parking requirements, the standards set out in the County Development Plan, the availability of public transport infrastructure including the Luas (at Carrickmines) and the reports of the Transport Planning Section, I am satisfied that the proposed parking provision is adequate.
- 7.5.6 Concerns have also been raised regarding the Claremount Road Access and its use would constitute a traffic hazard. It is explicitly stated however, in the application documentation that this entrance will be used solely as a means to access the substation for maintenance purposes by ESB. I am satisfied given its intended limited use that no adverse traffic impacts are likely to occur.
- 7.5.7 Objections to potential surface water flooding has been raised some of the appellants and observers. The Services Report submitted with the application notes that the storm water drainage requirements will be designed as recommended in the Greater Dublin Strategic Drainage Study. SUDs measures include green roofs and permeable paving. Having regard to the provisions for surface water drainage set out in the application, the reports of the Drainage Division and the provision for of 'green roofs' and permeable paving, I am satisfied that the surface water attenuation

measures are adequate and that the proposed development will not give rise to surface water flooding.

7.6 Impact on the Foxrock Architectural Conservation Area

7.6.1 The site of 'Four Winds' is located within the boundary of the Foxrock Architectural Conservation Area (ACA). 'Tall Trees' is not located within the boundary. It is the policy of the Planning Authority to protect the character and special interest of the ACA. It was concluded in the previous Inspector's Report in respect of the parent permission that the development would not offend against the advice set out in the Development Plan in relation to new development in ACA's and that the nursing home would not undermine the objective to protect the character and special interest of the Foxrock ACA.

7.6.2 In the current application, it is proposed to extend the site northwards into the curtilage of 'Tall Trees' in order to provide extended bedroom accommodation. The bulk of the proposed extension is, therefore, within the 'Tall Trees' site, which is located outside of the ACA. In this context, I do not consider that the development will have any material negative impact on the ACA.

7.6.3 It is noted that the subject site is located adjacent to two protected structures. Concerns have been raised regarding the impact of the development on these buildings. As noted above however, the separation distances to the eastern and western boundaries is the same as that previously permitted. The contextual elevation drawings submitted (drawing 3.4-200 P1) clearly indicate that the height of the structure proposed is not excessive compared to the adjacent buildings. Having regard to the extent of existing and proposed planting proposed and the set back of the building from the perimeter of the site, I am satisfied that the development will have no adverse impact on the character and setting of these protected structures.

7.6.4 A number of the appellants and observers make reference to the Conservation Officer's Report. Whilst the comments in the report are noted, it is considered that regard must be had to the planning history of the site and the fact that a development of this nature, albeit with a small footprint has previously been granted on the site. The issue of loss of trees is addressed elsewhere in this report. It is noted however, that a number of mature trees have been retained, including along

Brighton Road which will help the development assimilate with the existing sylvan setting and streetscape.

7.6.5 One of the appellants raises particular concerns regarding the proposed boundary treatment to Brighton Road. The applicant provides for three options for the Brighton Road elevation with Option 1 cited as the most appropriate where the existing granite rubble wall is retained and repaired. Condition 8 of the Planning Authority decision requires the implementation of this option. Having reviewed the three options, I consider option 1 to be appropriate and recommend a condition be included to this effect.

7.7 **Appropriate Assessment**

7.7.1 A screening statement is submitted by the applicants. This notes that there are two Natura 2000 sites within 5km of the site – the South Dublin Bay and Tolka SPA (site code 004024 and the South Dublin Bay SAC (site code 000210). The report notes that there is no potential source pathway receptor link between the subject site and the Natura 2000 sites. The report concludes that there is no likelihood of any significant effects on Natura 2000 sites arising from the development. I would concur with the conclusions of the screening statement. Having regard to the nature and scale of the proposed development, comprising a nursing home within an established urban area on zoned and serviced land, and the distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

9.1 The proposed development is located on lands zoned 'to protect and/or improve residential amenity' and is within the Foxrock Architectural Conservation Area designated in the Dún Laoghaire-Rathdown County Development Plan 2016 to 2022.

The proposed development comprises nursing home accommodation which is acceptable in principle on lands so zoned. Having regard to the unexceptional architectural quality of the existing house on site, to the pattern of development in the area and subject to compliance with the conditions set out below, it is considered that the proposed development would not detract from the character of the Foxrock Architectural Conservation Area, would not seriously injure the residential amenity of adjoining property or the visual amenity of the area, would not give rise to traffic hazard and would, therefore, be in accordance with the provisions of the Dún Laoghaire-Rathdown County Development Plan and with the proper planning and sustainable development of the area. The proposed development would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 14th day of September, 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed Brighton Road boundary wall shall be retained and repaired as shown on Section A-A Option 1 on drawing No. BD-03-PP.

Reason: In the interest of the visual amenity of the Foxrock Architectural Conservation Area.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The landscaping scheme submitted to the planning authority on the 18th day of May 2017 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

5. Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing. The developer shall engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented.

Reason: To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.

6. The proposed northern boundary between the subject site and 'Tall Trees' shall be located southwards by 2 metres for its entirety. Details of the revised boundary line, landscape drawing and details of proposed boundary treatment shall be submitted to the Planning Authority for written agreement before the commencement of development.

Reason: In the interest of residential amenity.

7. Bat roosts shall be incorporated into the site and the recommendation of the Bat Survey report shall be carried out on the site to the written satisfaction of the planning authority and in accordance with the details submitted to the planning authority on the 14th day of September, 2017.

Reason: To ensure the protection of the natural heritage on the site.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

9. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of adjoining property in the vicinity.

10. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

11. Details of signage for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity and legibility.

12. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

13. Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

14. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

15. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. Public lighting within the proposed development shall be directed and cowled such as to reduce as far as possible the light scatter to adjacent properties and the public road.

Reason: In the interests of amenity and public safety.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of any archaeological material on the site, and
(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to

secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of two years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the protection of the trees on the site.

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

19. The developer shall pay to the planning authority a financial contribution in respect of 'the extension of Luas Line B1 – Sandyford to Cherrywood' in accordance with the terms of the Supplementary Development Contribution

Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Erika Casey
Senior Planning Inspector

22nd March 2018