



An
Bord
Pleanála

Inspector's Report ABP 300121-17

Development	Modifications to the permitted 113 bedroom nursing home granted under Reg. Ref. D15A/0807 extending onto a larger site that incorporates part of the curtilage of the dwelling house known as Tall Trees.
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/0742
Applicant(s)	FWNH Ltd.
Type of Application	Permission
Planning Authority Decision	To Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Brian and Paula Harrison Edward and Patricia Wallace
Observer(s)	Foxrock Area Community and Enterprise Ltd.
Date of Site Inspection	30 th January 2018
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.667 ha and is located on 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.
- 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 seeks 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. It is detailed in the application that the purpose of the current application is to facilitate the construction of the development with improved internal amenities which were compromised in the parent application to ensure that adequate separation distances could be maintained from the northern boundary with 'Tall Trees'.
- 2.2. It is noted that 'Tall Trees' is now in the ownership of the applicants and part of the curtilage of this property is now included in the development boundary of the subject site. The proposed revised site boundary encroaches 10-15 metres into the southern

side garden of Tall Trees. It is stated that this will provide a more generous separation of buildings internally whilst still maintaining an appropriate separation distance to the northern boundary. It is proposed to retain the Tall Trees dwelling. A small domestic garage to the south of the dwelling is to be demolished. 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. 8 additional bicycle spaces.
- 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.

2.3 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. The development will not result in the removal of any additional trees.

3.0 Planning Authority Decision

3.1. Decision

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

Condition 2: "The proposed northern boundary, shared with Tall Trees shall be relocated southwards by at least 2 metres starting from the boundary with

Claremount Road to 2 metres beyond the rear building line of Tall Trees. Details of the revised boundary line and a landscaping drawing reflecting this change shall be submitted to the Planning Authority for written agreement before the commencement of development.

Reason: In the interest of the residential amenity of the adjoining property.”

3.2. Planning Authority Reports

3.2.1. Planning Report (11.10.17)

- The extension of the site is acceptable as ‘Tall Trees’ has a substantial rear garden and adequate private amenity space will be retained for this house.
- It is considered that the proposed northern boundary, shared with ‘Tall Trees’ should be relocated southwards by at least 2 metres starting from the boundary with Claremount Road to beyond the rear building line of ‘Tall Trees’. This will provide for a better visual setting for ‘Tall Trees’ in its site.
- It is considered that the increase in floor area will not cause an intensification of the buildings use or undue loss of residential amenity to the adjoining properties.
- The resulting changes to the elevations are acceptable and harmonise with the overall design of the building as previously granted planning permission.
- It is not considered that the increase in height will have any undue significant adverse impact on the streetscape over and above that currently permitted.

3.2.2. Other Technical Reports

Environmental Health Service (13.06.2017): No objection subject to conditions.

Transportation Planning (27.09.2017): No objection.

Drainage Planning (05.10.2017): No objection subject to condition.

Parks, Municipal Services Department (05.10.2017): No comment.

Conservation Office, Architects Department (05.10.2017): No comment.

3.3. Prescribed Bodies

- No reports received.

3.4. Third Party Observations

3.4.1 4 no. third party observations received. Issues raised can be summarised as follows:

- Object to the extension of the property boundary into the curtilage of 'Tall Trees'. Consider the set back of the nursing home from 'Tall Trees' to be inadequate. State that the increase in height by 30 cm is substantial. The scale of development is considered out of keeping with the character of the area.
- Concerns regarding potential impacts on the residential amenities of adjoining properties particularly in relation to visual impact, overlooking, overshadowing, light pollution and traffic safety.
- Raise objections regarding a separate planning application – Planning Authority Reference D17A/0455.
- State that revised details regarding surface water drainage and up to date Traffic Impact Assessment need to be submitted. Concerns regarding potential loss of trees and that revised Arborist Report is required. Object to potential noise impacts and waste management issues.
- The development will set an undesirable precedent for further commercial developments in the vicinity and is contrary to the zoning objective.
- The development will have a negative impact on groundwater due to deeper excavation required for basement. Concerns regarding surface water drainage and water supply.
- The applicant has undertaken project splitting in their approach to seeking planning permission.
- Concerns regarding impacts on the Architectural Conservation Area.
- Negative impact on the property values in the vicinity.

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/0455/Appeal Reference ABP300116-17

- 4.2 There is currently a separate planning application under consideration by the Board for a development comprising the demolition of 'Four Winds' house and associated structures on the site and the construction of a three storey over basement nursing home to accommodate 140 bedrooms and ancillary resident and staff facilities; relocation of the vehicular entrance to 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 a substation and store 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'.
- 4.3 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

- 4.4 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.

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.

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

- The development due to its scale and increase in height by 300mm will compromise the unique character of the area and have a negative impact on the Architectural Conservation Area.
- The development will set a precedent for further commercial development in the area.
- The development will result in increased traffic congestion and the development is reliant on an out of date Traffic Impact Assessment Report.
- Concerns regarding surface water drainage.

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

- Object to the inclusion of part of the curtilage of the 'Tall Trees' property into the development boundary of the subject site. Consider that this will result in the over development of the site. The residential amenity of 'Tall Trees' would be eroded by the elimination of its open space. The development is considered to contravene the zoning objective for the site.
- State that the closer proximity of the development to their property and the increase in height of 30 cm will have consequent negative impacts on their residential amenities. Consider that the design, scale and massing of the development will result in an adverse visual impact and that their property will be overlooked and overshadowed. Concerns raised regarding potential traffic impacts arising from the re-opening of the Claremont Road entrance and potential light pollution.
- 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. The condition imposed by the council regarding the relocation of the northern boundary is not considered sufficient.

- State that there are inaccuracies in the application documentation and that the position of the party boundary between the 'Tall Trees' site and 'Rosbeg' has been misrepresented.
- Note that there is a concurrent application (Planning Authority Reference D17A/0455/Appeal Reference ABP300116-17) under appeal for a development comprising a nursing home with 140 beds. Consider that this gives rise to uncertainty regarding the extent of development proposed and open space provision.
- 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 a revised traffic impact statement should be submitted in support of the current application. Also consider that inadequate details have been submitted with the regard to impacts on ground water, surface water drainage, noise impact and waste management. Consider that an updated Arborist report is required.
- State that the development will lead to pressure for further commercial developments, thus destroying the unique character of the area.

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.

- With resolution of the judicial review proceedings and having full control of 'Tall Trees', the current application seek to reinstate the quality of the internal amenities in the central core at all floors. A number of other minor amendments are proposed.

Appeal by Patricia and Edward Wallace

- 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.
- There will be no increase in bedrooms or bed spaces as a result of the development and, therefore, no implications for traffic generation or car parking. No new issues arise relating to the disposal of surface water.
- It is noted that Patricia and Edward Wallace were parties to the judicial review proceedings. By withdrawing the Judicial Review proceedings, they accepted the planning permission and principles upon which it was made. It is inappropriate to readdress these issues in the context of minor modifications to the permitted development. Consider that appeal should be dismissed for the reason of lack of substance or foundation.

Appeal by Brian and Paula Harrison

- In relation to the alleged inaccuracies regarding the property boundary, this relates to the blue line rather than the red line and is thus irrelevant. In any event, An Bord Pleanála has no role or function in relation to allegations of disputed boundaries.
- Two separate planning applications for substantially different developments have been made. The current application is as a modification to an existing permission. The other (D17A/0455) is for an entirely new and separate development. The applicant's agent should be able to explain this to his clients. There will be no cumulative impact. An applicant has the right to make a number of planning applications but can only implement one permission.

- There will be no increase in resident population on the site as a result of the proposed development. As there is no increase in capacity, there is no implications for traffic generation. An updated TIA has been submitted in respect of the concurrent application – D17A/0455.
- Hours of construction are normally addressed by way of condition. Request a specific condition in this regard.
- The northern wings of the development are to be moved forward by 1 metre. The original footprint of the building is not moved. It is incorrectly stated that the movement of the boundary will result in the removal of trees. No trees will be removed. Substantial trees will be retained and a new landscaping scheme put in place in accordance with condition 2 of the parent permission.
- No new issues arise in relation to waste management, noise or impact upon the water table that have not already been addressed in the parent permission.

6.3. **Planning Authority Response**

- The proposed modifications do not result in an increase in the number of bedrooms for the nursing home as granted permission
- It is considered that the modifications to the previously permitted development are consistent with the zoning objective of the site and Chapter 8.2.3.4 (Additional Accommodation in Existing Built-Up Areas) (xiii) (Nursing Homes for the Elderly/Assisted Living Accommodation in Existing Built-Up Areas) (xiii) (Nursing Homes for the Elderly/Assisted Living Accommodation) and the Building Height Strategy, Appendix 9 of the County Development Plan 2016-2022 and are considered acceptable subject to conditions.

6.4. **Observations**

Foxrock Area Community and Enterprise Ltd.

- Concern that the development will set a precedent and lead to further pressure for further commercial developments in the area. It is considered that this is contrary to the zoning objective for the area.

- Note that a separate application has been made under application reference D17A/0455. Concern that there may be future applications to extend further into the 'Tall Trees' property and beyond.
- It is considered that the development will have a detrimental impact on the Foxrock Architectural Conservation Area. Specific guidance is set out regarding the amalgamation of sites and it is noted that the integrity of existing individual plots is a distinctive feature of the pattern of development in the area. It is considered that the proposed amendments should be accommodated within the existing site and building envelope.

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:

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

7.2 **Principle of Development**

7.2.1 The proposed development comprises minor modifications to a previously permitted nursing home. 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. The purpose of the application is to facilitate the construction of the permitted nursing home with improved internal amenities which were compromised in the original application to ensure maintenance of an adequate separation distance from the 'Tall Trees' dwelling. It is detailed that the enlarged site facilitates the provision of a more

generous separation of buildings internally whilst maintaining an adequate distance to the northern boundary.

- 7.2.2 The principal amendment to the permitted nursing home is the repositioning of the northern building wings by 1 metre north to create improved internal and amenity space at ground, first and second floors. The other amendments comprise amendments to the north eastern wing to provide wider circulation corridors, reconfigured and additional floorspace at basement, alterations to the floor levels and parapet level and minor elevation changes. I do not consider any of these amendments to be material in nature and all are acceptable from a planning perspective. I consider that the principle of this development at this location was accepted and established in the previous permission pertaining to the site and in this context the proposed minor alterations are acceptable. The amendments will improve the internal amenities and environment of the permitted nursing home and this is considered appropriate from a planning perspective.
- 7.2.3 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 a larger nursing home development comprising 140 bedrooms – application reference D17A/0455. This application is currently under appeal to the Board – Appeal Reference ABP300116-17. It is contended that it was always the applicant's intention to expand the development into a larger site.
- 7.2.4 As outlined by the applicant, 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 appeal relates to minor amendments to the parent permission that was granted under D15A/0807/Appeal Reference PL06D.246624. The other application refers to a separate proposal to develop a larger nursing home on the site comprising 140 bedrooms. 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, as highlighted by the applicant, 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.

7.2.5 Concerns have also been raised that the development sets an undesirable precedent and will lead to pressure for further commercial development in the vicinity. It is noted that the subject nursing home would be defined as an assisted living accommodation use which is a use permitted in principle under the zoning objective for the site. 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 Impact on Residential Amenity

7.3.1 It is contended that the proposed amendment will result in the overdevelopment of the site. As detailed above, the proposed amendments are very minor in nature and in this regard will have no significant impact on the plot ratio or site coverage of the development. The gross floor area of the development increases by 338 sq. metres. However, the majority of this (175 sq. m.) will be at basement level and it is considered that the overall increase in area is immaterial.

7.3.2 Concerns have also been raised regarding the increase in height of the parapet level by 30cm. It is considered by one of the appellants that this is a significant increase and will have an adverse visual impact. I would consider such a minor increase in height to 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.

7.3.3 It is also contended that the moving forward of the northern wings by 1 metre will have an overbearing impact and adversely affect the amenities of 'Rosbeg' – which is located to the northeast of the site. 'Rosbeg' is located to the north of 'Tall Trees' and will be separated from the proposed northern elevation of the nursing home by c. 43 metres. There is also extensive screen planting along the northern boundary of the site which will further obscure any views and potential impacts. It is considered

having regard to this extensive separation distance, that the proposed minor repositioning of the northern building wings will have no impact on the residential amenities of 'Rosbeg'.

7.3.4 With regard to potential impacts from light pollution, it is noted that condition 11 of the parent permission requires that public lighting must be in accordance with a scheme to be agreed with the planning authority and that lighting within the development shall be directed and controlled such as to reduce as far as possible the light scatter to adjacent property and the public road. I am satisfied that this condition is sufficient to address any potential concerns regarding light pollution.

7.3.5 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 over 18 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'.

7.3.6 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.

7.3.7 With regard to the loss of trees, given the marginal nature of the proposed amendments, it is not considered likely that the development will have any negative impact on any of the mature trees to be retained in the development. Condition 9 of the parent permission adequately addresses tree protection measures.

7.3.8 It has been stated in the appeal by Mr. and Mrs. Brian Harrison that there is an inaccuracy regarding the location of the boundary between 'Rosbeg' and 'Tall Trees'. It is noted that Dun Laoghaire Rathdown raised no validation issues regarding the application drawings. It is considered that any dispute regarding the boundary is a civil matter and outside the scope of this assessment.

7.4 Traffic Impact, Parking and Drainage

7.4.1 Objections on the grounds of traffic impact and potential overspill car parking have been raised. It is noted that the proposed development does not increase the overall number of bedrooms or bedspaces within the development. There will, therefore, be no intensification of use arising from the proposed amendments. In this context it is considered that no additional traffic or parking impacts will arise from the development. It is noted that the Traffic Department of Dun Laoghaire Rathdown County Council raised no objection to the proposed development.

7.4.2 It is considered that the provisions for surface water drainage were set out in the parent permission and I do not consider that the proposed amendments will give rise to materially different run off rates to that previously approved. The Drainage Department of Dun Laoghaire Rathdown County Council have raised no objection to the development.

7.5 Impact on the Foxrock Architectural Conservation Area

7.5.1 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. Having regard to the nature of the modifications proposed which

include minor alterations to the permitted elevations, I do not consider that the development will be materially changed so as to have negative impact on the ACA.

7.6 **Appropriate Assessment**

7.6.1 Having regard to the nature and scale of the proposed development, comprising minor modifications to a previously permitted development 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 Dun Laoghaire County Development Plan 2016 to 2022. The proposed development comprises modifications to a previously permitted development comprising assisted living accommodation which is acceptable in principle under the zoning objective. Having regard to the minor nature of the proposed modifications and to the pattern of development in the area, subject to 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 properties or the visual amenity of the area, would not give rise to traffic hazard and would, otherwise, be in accordance with the provisions of the County Development Plan. 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 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 applicant shall comply with all conditions of the previous permission covering the wider development area (Reg. Ref. D15A/0807/Appeal Reference PL06D.246624), unless required to do so otherwise by any condition attached to this permission.

Reason: In the interest of clarity.

3. 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 fence shall be submitted to the Planning Authority for written agreement before the commencement of development.

Reason: In the interest of residential amenity.

4. 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. The contribution shall be paid prior to the

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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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

5. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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

31st January 2018