



An  
Bord  
Pleanála

## Inspector's Report ABP-300924-18

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<b>Development</b>	Demolition of 3 two storey & 1 single story houses and the construction of 47 residential units.
<b>Location</b>	South Lodge, Evergreen, The Moorings and Ash Meadow, at Church Road, Killiney, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D17A/0419
<b>Applicant(s)</b>	Durkan Residential Ltd
<b>Type of Application</b>	Planning permission.
<b>Planning Authority Decision</b>	Grant subject to 37 Conditions
<b>Type of Appeal</b>	Third Party x 2
<b>Appellant(s)</b>	(1) Terry O'Brien & Others (2) Sarah & Paul Scully
<b>Observer(s)</b>	(1) Niall & Carmel Finnegan (2) Eugene Greene (3) Jerry & Maeve O'Reilly

(4) John Kingston & Adrian Sinclair

(5) Marie O'Brien

(6) Robert & Maria Waters

(7) Frank Keegan

**Date of Site Inspection**

22<sup>nd</sup> May 2018

**Inspector**

Mary Crowley

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## 1.0 Site Location and Description

- 1.1. The appeal site with a site area of 1.19ha is located adjacent to the junction of Church Road and Wyattville Road in Killiney, south Co Dublin. The N11 is located to the south east of the site, Killiney DART station is located approximately 1km to the east and Cherrywood LUAS stop is located less than 2km southwest. The area is characterised by large detached dwelling houses built on mature landscaped grounds creating a low density residential suburb. The appeal site was created by amalgamating several house plots i.e. South Lodge, Evergreen, The Moorings and Ash Meadow all of which have extensive front and rear gardens. There are substantial mature trees within the site boundary along Church Road.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I would also refer the Board to the photos available to view throughout the appeal file together with the sites photos taken by the previous planning inspector that considered an appeal at this location (PL06D.233672 refers).

## 2.0 Proposed Development

- 2.1. The planning application submitted on **8<sup>th</sup> May 2017** was for the demolition of 3 no. two storey and 1 no. single storey habitable houses (totalling approx. 1,511 sqm) and the construction of a total of 47 no. residential units comprising 15 no. three storey three-bedroom terraced dwellings, 16 no. two-bedroom duplex apartments and 16 no. ground floor two-bedroom apartments under. The development will also include the retention of 1 no. existing access for pedestrian use at South Lodge; the modification of the existing access at Ash Meadow; the closure of 2 no. vehicle access points at Evergreen and the Moorings and the reinstatement of the footpath and boundary treatments, all onto Church Road; a single storey refuse store and all associated ancillary site development and landscaping works.
- 2.2. The application was accompanied by the following:
- Cover Letter
  - Letter of consent from the landowners; The Church Road Partnership

- Survey Plans & Drawings
- Transport Roads & Engineering Services Report and Details
- Tree Survey, Landscaping Reports & Plans
- Planning Report
- Architectural Design Statement
- Sustainable Design & Energy Statement
- Construction & Demolition Management Plan
- Photomontage

2.2.1. **Further Information** was requested on **29<sup>th</sup> June 2017**. In response the applicant submitted further information **23<sup>rd</sup> October 2017** together with revised public notices indicating that *significant further information was furnished to the Planning Authority*. The submission may be summarised as follows:

- **Planning Design & Layout** - The proposed layout does not deviate in any significant manner from the previously permitted layout. Changes in site levels have been set out. Sections show the relationship with the site levels, boundaries and the proposed terraces and adjoining dwellings. Two metre buffer shown on plans along the northwest boundary. Blocks C and D have been amended in order to provide for additional fenestration that permits passive surveillance of open spaces. Additional windows have been added at ground and first floor. As site layout includes construction within the root protection zones of some trees the layout has been amended to alter the location of the site attenuation tanks. A suitably qualified arborist will be employed for the duration of construction. Communal bin storage area have been revised to provide for a separate bin store for each block. As the proposed development is to be privately managed it is submitted that it is more appropriate for the appointed management company and refuse contractor to present a detailed waste management plan prior to occupation of the first unit. Numbering scheme has been amended.
- **Surface Water Drainage & Water Supply** - Water Services Report prepared by O'Connor Sutton Cronin Consultant Engineers
- **Transportation** - The location of the pedestrian crossing point, at the main vehicular entrance, has been relocated in order to provide minimum

disruption to pedestrian movement across the site entrance in line with the existing footpath. Agreed with the Roads Officer that the proposed 4% gradient is acceptable. The Road Quality Audit Report does not accept the alternative measures suggested for items 4.2 and 4.3 within the report, which relate to boundary wall and that the the removal of the stone boundary wall in order to provide clear visibility onto Church Road. However the applicant urged the retention of the some boundary wall in the interests of design integrity and in order to retain the natural heritage and character of the locality which is further complimented by the existing trees along the site boundary. Lighting layout and lamp standard details. Revised retaining wall proposed. Play and provision design rational has been provided

2.2.2. The response was accompanied by the following:

- Landscaping and Planting Plan, Landscape Report and Party Boundary Plan
- Architectural, Engineering and Landscaping Drawings and Sections
- Communal, Private and Environs Space
- Drainage Layout and Longitudinal Sections
- Road Layout and Swept Path Analysis
- Proposed Lighting Layout and Specifications
- Email Correspondence with Dun Laoghaire Rathdown County council re Pedestrian and Vehicular Entrances to the Development and Road Design
- Engineering Reports (Water Services, Transportation and Road Quarry Audit)
- Landscape Response (Play Prevision and Design Rational)
- Ecological Impact Assessment & AA Screening Report

2.2.3. **Clarification of Further Information** was requested on **16<sup>th</sup> November 2017**. In response the applicant submitted clarification of further information **21<sup>st</sup> December 2017** together with revised public notices indicating that *significant clarification of further information was furnished to the Planning Authority*. The submission may be summarised as follows:

- **Planning, Design and Layout** - A series of revised sections and associated details have been provided through Block A showing the height of the secondary boundary treatment, a timber palisade fence erected inside the

applicants boundary in order to provide additional screening at 2.5m above ground. Proposed to omit all long terraces form Blocks A and D and replace them with discreet terraces that are formed within / behind the rear building line. Alternative planting proposed with respect to site boundaries. Individual storage area for all proposed apartment and duplex units

- **Surface Water Drainage & Water Supply** - The surface water network has been redesigned to incorporate a Stormtech MC-4500 attenuation system in order to address concerns raised. The proposed surface water networks outfall route has been revised in order to connect to existing public surface water manhole, which has a considerably lower invert level. Maintenance and access for all of the green roofs can be managed through external mobile access i.e. cherry picker and it is snot proposed that this occurs on a site wide basis with no individual dwellings responsibility.
- **Transportation** - 11 no visitor car parking spaces outlined in blue and 62 no resident car parking spaces outlined in green together with car parking signage and 1 no visitor only motor bike parking. In order to demonstrate that safety will not be compromised OCSC (Consultants) have carried out a swept path analysis to show that there will be no conflict of movements at the entrance and also a further technical analysis of the frequency of the trips at this point.
- **Landscaping** - The arithmetic error in the calculation of open spaces including communal public opens space, private open space and environmental space has been amended as follows:

Communal / Public Open Space	3280sqm
Private Open Space (includes parking spaces)	3007sqm
Environmental (Roads / Footpath & Pathways)	2947sqm
Buildings	2478sqm

2.2.4. The submission was accompanied by the following:

- Schedule of drawings (architectural, engineering and landscaping),
- Schedule of Accommodation
- Storm sewer SW Network and Results – OCSC



- Storm Tech Design Manual
- Trip Generation Analysis – OCSC
- Church Road Public Lighting Report – McElligott Consulting

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.2. Dun Laoghaire Rathdown County Council issued a notification of decision to grant permission on the 25<sup>th</sup> January 2018 subject to 37 conditions that may be summarised as follows:

- 1) Compliance with plans and details submitted with the application as amended on 23<sup>rd</sup> October 2017 and 22<sup>nd</sup> December 2017
- 2) Development to be constructed in strict accordance with stated dimensions
- 3) Vehicular access to Church Road shall be widened
- 4) Timber palisade along north western site boundary shall be omitted and replaced by a 2.5 metre stone wall with planted buffer to match existing boundary treatment
- 5) Solid enclosure to be provided to all terraces located at level 01 on the rear elevations of each proposed 3-storey dwelling within block A and D
- 6) Following revision to be submitted and agreed:
  - Rear terrace of unit A3 at level 01 shall be reduced and centred
  - One of the larger rear windows at level O2 of each unit A2 and A3 shall be omitted
  - Eastern side elevation of units A1 and B1/B8
  - Level 00 floor plan for unit B1 to match proposed front elevation
  - Revised site layout plan that realign internal site boundaries to the rear of Units D3 and D8 in order to provide a minimum rear garden area of 60sqm for all 3-bed units
- 7) Maintenance access to green roof only
- 8) Each unit shall be used as a single dwelling unit

- 9) 2m planted buffers located along the north western and south eastern site boundaries shall be retained
- 10) Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations (as amended) shall not be carried out within the curtilage of any dwelling house
- 11) Details of a properly constituted Owners Management Company
- 12) Two car parking spaces to be allocated for exclusive use of each 3 bed dwelling, one car parking spaces to be allocated for exclusive use of each 2 bed apartment / duplex.
- 13) Bicycle parking to be dispersed throughout the site
- 14) Development to meet Dun Laoghaire Rathdown County Council "Taking in Charge" requirements
- 15) Shared area surface treatment
- 16) Public lighting
- 17) Construction and Environmental Plan
- 18) Restricted site working hours
- 19) Roadways to be kept clean
- 20) Existing materials from demolished structures shall be re-used and recycled
- 21) Bin storage area to be redesigned
- 22) Surface water drainage
- 23) Part V
- 24) Biodiversity mitigation measures outlined in the Ecological Impact Assessment to be implemented
- 25) Bat mitigation measures to be agreed
- 26) Open spaces to be completed in accordance with plans submitted
- 27) Trees and hedgerows to be retained shall be protected with plans submitted
- 28) Tree Bond
- 29) Professional services of a qualified arborist shall be retained
- 30) Undergrounding of cables
- 31) Street names and unit numbering to be agreed

- 32) No additional development above parapet
- 33) Development Contribution (Water & Drainage Public Infrastructure) in the amount of €10,578.15
- 34) Development Contribution (Roads Public Infrastructure) in the amount of €242,454.15
- 35) Development Contribution (Parks & Community Public Infrastructure) in the amount of €157,383.00
- 36) Bond
- 37) Payment of contributions

### 3.3. Planning Authority Reports

#### 3.3.1. Planning Reports

#### 3.3.2. **Case Planner** (27<sup>th</sup> June 2017) - Further Information requested in relation to the following as summarised:

- Planning, Design and Layout of Block A – To facilitate a more detailed assessment of Block A and its impact on the amenities of adjacent property further detailed were required in relation to inter alia design and layout to include contextual plans, provision of a 2m planted buffer between the north-west boundary and the rear of Block A
- Ecological Impact Assessment
- Surface Water Drainage & Water Supply matters – Details pertaining to the Attenuation Storage Tanks as per the report of the Municipal Services Department & Drainage Planning Report
- Transportation matters as per the report of Transportation Planning
- Landscaping matters – Generally as per the Parks and Landscape Services Report save for Sunlight & Shadow analysis, SuDS and Maintenance Specifications.

#### 3.3.3. Further Information was requested on 29th June 2017.

- 3.3.4. **Executive Planners AA Screening Report** (13<sup>th</sup> November 2017) – Concluded that *“having regard to the site and details submitted with the application, it is considered that there will be no likely significant impact on a Natura Site”*.
- 3.3.5. **Case Planner** (15<sup>th</sup> November 2017) – Having considered the further information submitted requested the following clarification of further information as summarised:
- Details of boundary wall along the north western site boundary. Alternative site boundary panting proposals
  - Further drawings including the layout plans, section and contextual elevations that show Block D in context with adjoining properties to the south.
  - Drainage Planning request as per their report (see below)
  - Transportation Planning request as per their report (see below)
  - Schedule of Open spaces and details of communal open spaces
- 3.3.6. Clarification of Further Information was requested on 16<sup>th</sup> November 2017.
- 3.3.7. **Case Planner** (25<sup>th</sup> January 2018) – Having considered the clarification of further information submitted recommended that permission be granted subject to 37 conditions. The notification of decision to grant permission issued by Dun Laoghaire Rathdown County council reflects this recommendation.
- 3.3.8. Other Technical Reports
- 3.3.9. **Housing Department** (22<sup>nd</sup> May 2017) – Proposal to transfer 4 units to satisfy compliance with Part V is acceptable subject to details being agreed by way of condition.
- 3.3.10. **Municipal Services Department, Drainage Planning** (28<sup>th</sup> April 2017) – Further Information requested in relation to the following as summarised:
- In-line attenuation storage solution for the entire site
  - Details of adequate cover for the above attenuation tanks
  - Interception storage
  - Cross sections between proposed utilities at key locations
  - Clarification if permeable paving is being used or a fully tanked system
  - Consideration of an alternative final collection system
  - Details of extent of proposed Green Roofs

- Correct any conflicts and submit revised calculations of invert levels

3.3.11. **Municipal Services Department, Drainage Planning** (9<sup>th</sup> November 2017) –

Having considered the further information submitted requested the following Clarification of Further Information:

- Reassess the choice of attenuation storage devices
- Details of the contributing areas to the interception storage volumes being provided
- Proposed alternative maintenance and access arrangements that will be centrally managed

3.3.12. **Municipal Services Department, Drainage Planning** (9<sup>th</sup> January 2018) – Having

considered the clarification of further information submitted had no stated objection to the scheme as amended subject to conditions as set out in their report summarised as follows:

- Surface water drainage layout shall be in accordance with plans and details submitted
- Any drainage pipe which is to be taken in charge shall be subject to a CCTV survey
- Applicant shall submit full details of the proposed green roof to the Planning Authority for written agreement

3.3.13. **Transportation Planning** (22<sup>nd</sup> June 2017) - Further Information requested in relation to the following as summarised:

- Visitor car parking provision
- Cycle parking provision
- Pedestrian connectivity from the proposed pedestrian entrance to the front of Blocks C and D and to the rear of Blocks B
- Provision of pedestrian usage at proposed vehicular entrance
- Proposed surface treatments and their locations
- “Taking in Charge Procedure Document” details
- Detailed Quality Audit to demonstrate that appropriate consideration has been given to DMURS
- Detailed Construction Management Plan

- Details of Public Lighting
- Provision of “Children at Play” warning sign

3.3.14. **Transportation Planning** (14<sup>th</sup> November 2017) – Having considered the further information submitted requested that the following clarification of further information be sought, as summarised:

- Revised car parking layout and mix
- Relocate proposed cycle parking area
- Revised drawings that eliminate conflicts between stated details, engineering, architects and landscape drawings
- Provision of a shared surface
- Additional amelioration measures that can be implemented to further address the issues raised in Section 4.2 and Section 4.3 in the Quality Audit
- Location of proposed lighting

3.3.15. **Transportation Planning** (23<sup>rd</sup> January 2018) – Having considered the clarification of further information submitted stated that there was no objection to the scheme subject to conditions as set out in their report and summarised as follows:

- 1 no car space to be allocated to each apartment
- Relocation of cycle parking stands
- All development works shall be designed and constructed to meet Dun Laoghaire Rathdown County Council “Taking in Charge” requirements
- Shared area surface treatment
- Proposed vehicular access shall be widened
- Details of the low level bollard fittings shall be widened
- Public lighting
- Detailed Construction Management Plan to be agreed
- Traffic Management Plan indulging construction vehicular access to the site shall be agreed
- Applicant shall prevent mud, dirt, debris or building material being carried onto or placed in the public road

3.3.16. **Parks and Landscape Services** (22<sup>nd</sup> June 2017) - Further Information requested in relation to the following as summarised

- Revised site layout plan showing all spaces categorised by typology
- Sunlight and Shadow Analysis of Blocks A and B Communal Open Space / Courtyards
- Landscape Design Specific Cross Sections
- Hard Landscape Design
- Soft Landscape Design
- SuDS
- Outline Landscape Development and Maintenance Specification
- Play Provision and Design Rationale

3.3.17. **Parks and Landscape Services** (13<sup>th</sup> November 2017) – Having considered the further information submitted stated that it was generally acceptable save for two remaining concerns (1) open space and (2) planting design. Conditions provided should planning permission be granted.

3.3.18. **Parks and Landscape Services** (22<sup>nd</sup> January 2018) – Having considered the clarification of further information submitted stated that they had no objection to the scheme subject to conditions summarised as follows:

- Engagement of Arboricultural Consultant
- Tree Bond and Arboricultural Agreement
- Appointment of a Landscape Consultant
- Play Provision

3.3.19. **Biodiversity Officer** (8<sup>th</sup> November 2017) – Having considered the further information submitted had no stated objection to the scheme subject to conditions as set out in their report.

3.3.20. **Public Lighting Section** (9<sup>th</sup> January 2018) - Having considered the clarification of further information submitted stated that the developer had not submitted a lux contour diagram as requested and this is required before tis department can sign off on the public lighting proposal.

3.3.21. **Waste Section Planning Report** (23<sup>rd</sup> January 2018) - Having considered the clarification of further information submitted stated that further detailed design was required to provide a workable solution, taking account for the Dun Laoghaire Rathdown Guidance Notes for Waste Management Planning

#### 3.4. **Prescribed Bodies**

3.4.1. **Irish Water** (12<sup>th</sup> June 2017) - Further Information requested in relation to the following as summarised:

- Watermain fronting units C5 to C8 shall be relocated to make it more accessible and to meet Irish Water Standards
- All road crossings shall be valved

3.4.2. **Irish Water** (11<sup>th</sup> November 2017) – Having considered the further information submitted had no stated objection.

#### 3.5. **Third Party Observations**

3.5.1. **Planning Application** - There are 18 observations recorded on the planning file from (1) Frank Friel, (2) Eugene Greene, (3) Marie O'Brien, (4) Terence O'Brien, (5) Frank Keegan, (6) Catherine Scully, (7) Andrew Collins, (8) Aidan Cassells, (9) Paul Murphy, (10) Kieran Guilfoyle, (11) Jerry & Maeve O'Reilly, (12) Richard & Jane Stafford, (13) Niamh Stapleton, (14) Terry O'Brien & Others, (15) Robert & Maria Waters, (16) Niall & Carmel Finnegan, (17) Derek Haughton and (18) Sarah O'Doherty.

3.6. The issue raised may be summarised as follows: out of character with the pattern of development in the area, loss of residential amenity, depreciation of property values, incongruous, visually obtrusive form of development, seriously injure the visual amenities of the area, traffic impact, architectural and streetscape assessment required, density unnecessary having regard to proximity to Cherrywood, demolition of houses unacceptable, overlooking, height, density and scale unacceptable, inconsistent with planning history for the area, inadequate car parking provision, site not a central place or node or a prominent corner site not does it have frontage onto a wide road or have high quality public transport, excess supply of apartments in DLRCC, pest control required, lack of sewage support, visually obtrusive, breach of



building line, inadequate open space, traffic congestion, loss of trees, separation between buildings inadequate, loss of privacy and incompatible with existing amenities unsatisfactory standard of amenity for future residents.

3.6.1. **Further Information** - There are 7 observations recorded on the planning file in response to the further information submission from (1) Terry O'Brien & Others, (2) Robert & Maria Waters, (3) Terry O'Brien, (4) Frank Friel, (5) Marie O'Brien, (6) Dr Sarah O'Doherty and (7) Paul Scully.

3.7. The issue raised may be summarised as follows: no significant amendment that would materially reduce the burden on objectors, insensitive design, overbearing, overlooking and loss of amenity, excessive density and inadequate open space, traffic congestion and traffic impact, inadequate and misleading drawings, damaging impact on Killiney Avenue, inadequate separation distances for 3 storey buildings and continued lack of detail and various discrepancies.

3.7.1. **Clarification of Further Information** - There are 7 observations recorded on the planning file in response to the clarification of further information submission from (1) Jane & Richard Stafford, (2) Terry O'Brien & Others, (3) Terry O'Brien, (4) Jerry & Maeve O'Reilly, (5) Paul Scully, (6) Niamh Stapleton and (7) Robert & Maria Water.

3.8. The issue raised may be summarised as follows; concern relation to the boundary between no 17 and 18 Killiney Avenue and the proposed development, solid boundary wall to be erected to a minimum height of 2.5m form the ground level on the Killiney Avenue side, building height must be maintained at two storeys, challenge the inconsistency of having open space artificially created from decks and balconies where the established pattern is conventional private gardens, the residential blocks would create a high concrete curtain, recommended that 5 dwellings should be removed from the scheme because of their excessive impact on the observers houses, severe overshadowing and loss of privacy then previous drawings would indicate, inadequate car parking, access / egress not possible without causing traffic mayhem and a dangerous situation, lack of detail regarding the boundary to the south east, ugly haphazard ridge of the proposed block, no sunlight / shadow analysis for blocks A and B, premature pending the carrying out of a local area plan for Ballybrack / Loughlinstown, the proposed development will be ever more visible and its bulk will be more prominent form the north-west than what

the applicant eludes to as a result of the lower boundary wall, the only solution the council should accept is permanent stone wall along rear of all units in Block A and a requirement to modify the entire roofing proposal and replace with a traditional pitched roof to prevent potential overlooking

## 4.0 Planning History

4.1.1. There were two previous appeals on this site that may be summarised as follows:

- 1) **PL06D.233672 (Reg Ref D08A/1304)** – DLRCC refused permission for the demolition of 4 No. detached houses and the construction of 32 No. 3-storey dwellings and 3 No. 2-storey dwellings for five reasons relating to the substandard layout, breaking of the established building line, height, amenity and the non re use of an existing older building. An Bord Pleanála having considered the scheme refused permission for the following reason:

*Having regard to the pattern of development and general character in the area and to the scale and design of the proposed development, it is considered that, by reason of the excessive density and rigid design and height of the proposed development and proximity to site boundaries, the proposed development would seriously injure the amenities of the area and of property in the vicinity by reason of overlooking and overbearing impact. The proposed development does not represent a sufficiently high quality design solution for this site, would unacceptably impact on the character of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.*

- 2) **PL06D.227602 (Reg Ref D07A/1515)** – DLRCC granted permission for the demolition of 3 two storey and 1 single storey habitable houses (totalling c. 1,511 sqm), and the construction of 50 no residential units comprising 20 three storey three bedroom terrace dwellings, 14 two bedroom duplex apartments and 1 one bedroom duplex apartment with 15 ground floor two bedroom apartments under subject to 25 conditions. An Bord Pleanála having considered the scheme granted permission subject to 24 conditions.

- 4.1.2. There was also a previous Extension of Duration Application on this site that may be summarised as follows:

**Reg Ref D08A/1304** - DLRCC refused permission for an Extension of Duration of Planning Permission Reg Ref D08A/1304 for the following reason:

*Having regard to Section 42(1)(a)(ii)(II) and (III) of the Planning and Development Act, 2000 as amended, it is considered that the permitted development would no longer be consistent with the proper planning and sustainable development of the areas, as 14 of the 30 no apartments do not comply with the minimum apartment size standards set out under Section 16.3.3: "Apartment Development" of the Dun Laoghaire Rathdown County Development Plan, 2010-2016. The proposal would therefore be contrary to Section 42 of the Planning and Development Act 2000 as amended).*

## 5.0 Policy Context

### 5.1. National Planning Policy & Guidance

- 5.1.1. The following is a list of Section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design manual) (2009)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013)
- The Planning System and Flood Risk Management (including the associated technical Appendices) (2009)
- Framework and Principles for the Protection of the Archaeological Heritage (1999)
- Architectural Heritage Protection Guidelines for Planning Authorities (Revised 2011)

## 5.2. Development Plan

- 5.2.1. The operative plan for the area is the **Dun Laoghaire Rathdown County Council 2016 – 2022**. The site is zoned **Objective A** which seeks *to protect and / or improve residential amenity*. Land uses that are considered to be “permitted in principle” in Zone A include the following:

*“Assisted Living Accommodation, Open Space, Public Services, Residential, Residential Institution, Travellers Accommodation”*

## 5.3. Natural Heritage Designations

- 5.3.1. The site is not located within a designated Natura 2000 site. The relevant European sites are the **Rockabill to Dalkey Island SAC**, the **South Dublin Bay SAC**, the **Dalkey Islands SPA** and the **South Dublin Bay and River Tolka Estuary SPA**.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. There are two third party appeals recorded on the file from (1) Terry O’Brien & Others and (2) Sarah & Paul Scully. The issues raised may be summarised under the following general headings:
- 6.1.2. **Loss of mature trees and other attractive features** - The tree plan is unrealistic. The proximity of the proposed development to the rear gardens at Killiney Avenue shows there would not be insufficient room for meaningful tree planting. The claim that this housing estate would form “an extension of the national landscape, a place of nature” is fanciful in the extreme. It is submitted that it would be *more accurate to describe the scheme as four intrusive, sinuous, dull blocks divided by wind-blown gaps*.
- 6.1.3. **Condition No 27 (Trees & Hedgerows to be retained)** - Not considered effective as much of the sites planning would be lost due to the excessive extent of building and paving.
- 6.1.4. **Condition No 17 (Construction and Environment Plan to be agreed)** - It is not acceptable that the Council has failed to tackle the traffic issue with essential

components to be resolved at a later stage. Concern that matters of noise, dust and vibration have not been resolved and that mitigation measures must be implemented and monitored. Implementation of zoning objective must be an integral aspect of the decision. Submitted that the decision is materially flawed for excessive uncertainty

- 6.1.5. **Density** - There is no need for a dense, rigid development at this site particularly when there will be multiple units built at current green / brown filed sites such as Cherrywood and Sandyford which have good infrastructure and a Local Area Plan. Killiney DART station is 25 minutes on foot from the site, with the QBC 35 mins away. The proposal does not take adequate account of the refusal decision of PL06.227602. A density reduction would allow for better visual integration and more variety of house type with 2 storey along the periphery with Killiney Avenue increasing towards the centre.
- 6.1.6. **Established Housing Pattern / Design** - The proposed development would have a substandard layout with significant expanses of car parking, inadequate landscaping and a dull repetitious layout / design. As a result the scheme would be out of character with the area and would not protect / improve the residential amenity that this land use zone demands. The required separation distance of 22m between opposing upstairs rear windows normally results in real garden lengths of at least 11m. The current proposal falls short in this regard
- 6.1.7. **Building Line** - The proposed development would break the established building line and passers-by would see a series of gabled elevations
- 6.1.8. **Building Height & Overlooking** - The height of the four blocks would be overbearing, with numerous balconies and windows overlooking neighbours rear gardens. An excessive devaluation of residential prosperities on Killiney Avenue is anticipated. As a “suburban area outside corridors and nodes” the benchmark height for this site is 2 storeys (Height Recommendations DLRCC Building Height Strategy 2007 Page 48). The current proposal is clearly in excess of these height guidelines and would be substantially higher than adjoining homes all of which are 1 – 2 storey. None of the 35 Upward Modifiers for height apply. However the No 1 Downward Modifier does apply. A 2.5m wall and 2m buffer should be provided between the appellants house at Birdswell and Block A. Access to the proposed sedum roof will

facilitate use of these roof spaces as recreational areas creating a roof garden and direct overlooking of neighbours.

- 6.1.9. **Open Space** - The open space should have been grouped together along the eastern perimeter, so that tree preservation would be facilitated. Further, the Council did not address the inconsistency of housing open space artificially created from decks and balconies where the established pattern is conventional private gardens
- 6.1.10. **Traffic Congestion** - The road network serving this area is substandard. Conditions No's 3, 17(a) and 17(b) would not overcome these shortcomings. At peak times the proposal would generate over 70 vehicular movements through a restrictive gateway that would give rise to adverse traffic conditions on Church Road. The proposal is premature pending an adequate upgrading of a local road network.
- 6.1.11. **Car Parking** - There is insufficient parking for the 47 units (many of which will have at least 2 no cars) as well as for visitors. This will result in parking and Church Road which will exacerbate the traffic congestion in this location and will lead to an untidy and hazardous rash of parked cars throughout the area.
- 6.1.12. **Public Transport & Accessibility** - By very reason of its distance from public transport facilities and major roads and the layout of the area, this development would actually increase the numbers as well as the use of private cars
- 6.1.13. **Infrastructure** - The sewage system on Church Road is inadequate. This inadequacy provided the grounds for appeal refusals for PL06D.213079 and PL06D.226711 on sites bounded by Church Road and Watson Road. The water supply is also unsatisfactory.
- 6.1.14. **Development Plan / Zoning** - The site is included in A Zone. About 100m to the east, an extensive tract of this A Zone is subject to the O/O Objective no increase in the number of house will be allowed. Therefore a gradual transition in the density must be implemented on this site in order to avoid an abrupt change at the O/O perimeter. Consideration needs to be given to whether the replacement of four houses, set within mature gardens, by a multi-densified scheme of apartments, constitutes an improvement for the neighbours.
- 6.1.15. **Architectural Merit of Existing Houses** - The dwellings to be demolished are all individually designed buildings and have architectural features of merit.

- 6.1.16. **Planning History** - Reference is made to the following history files; D07/1515 & PL06D.227602, 233672, D07A/1347, D17A/0160 / PL06D.248516 and D10A/0049.
- 6.1.17. **Planning Application** - The lodged drawings are inadequate. The contiguous east elevation is quite unrealistic. The substantial threat to residential amenity at Killiney Avenue has not been adequately shown.
- 6.1.18. **Contingency** - In the event of a grant of permission it is requested that conditions be included to provide for an increased separation between the proposed four blocks and the eastern boundary.
- 6.1.19. **Conclusion** - An Bord Pleanála is requested to refuse permission for 3 no reasons relating to
- 1) Overlooking and overbearing and loss of residential amenities
  - 2) Depreciation of property values
  - 3) Loss of character and overdevelopment

## 6.2. Applicant Response

- 6.2.1. The first party response to the appeal(s) was prepared and submitted by GVA Planning on behalf of the applicant and may be summarised as follows:
- 6.2.2. **Principle of Development** – The 0/0 Objective does not permit any increase in densities within that specific area. However this 0/0 Objective zone is located c300m to the east of the appeal site and is not accessed from Church Road. The appeal site is separated from this 0/0 Objective zone by several large residences located within Zoning Objective A and therefore 0/0 Objective should not form part of the assessment of this application.
- 6.2.3. **Rhetoric of Third Party Appeals** – These type of comments have no place in the consideration of a high quality and innovatively designed development that seeks to provide housing that is sensitive to the needs of the adjoining residents.
- 6.2.4. **Demolition of Existing Houses** – These buildings have not been entered onto the Record of Protected Structures. The demolition of these houses was assessed as part of the previously permitted scheme and considered to be acceptable. The Board's final decision specifically omitted any reference to the individual houses and their demolition.

- 6.2.5. **Density** – The density proposed is less than that what was previously permitted at the appeal site. The density proposed is a function of its composition, being a mix of different housing types. The proposed development, at 39.5 units per hectare is entirely within the recommended densities under the Sustainable Residential Development in Urban Areas (including the associated Urban Design manual) (2009) and the Development Plan and it is therefore considered that this density is acceptable in principle and should be considered on its merits.
- 6.2.6. **Design** – The design of the proposed development, including the integrated landscape master plan, has not altered significantly from the previously granted scheme. Submitted that it has been carefully through and it is submitted that it does not represent poor design and should accordingly be granted permission.
- 6.2.7. **Height** – The proposed 3 storey buildings have been designed in order to minimise their impact in terms of their height. At three storeys, with a parapet height similar to the adjoining (and existing) ridge heights on Church Road, their height cannot be said to be a significant increase on the existing. The layout of the proposed scheme is purposefully set back from the boundaries of the site in order to protect the character of the area and the amenity of adjoining residents.
- 6.2.8. **Overlooking of Adjoining Properties** – Overlooking was a key consideration in the formulation of the proposed development. The originally sections submitted with this application clearly show that the cutting of the blocks into the landscape mitigates any overlooking of the properties on Killiney Avenue. There are no windows facing this boundary and consequently no direct overlooking can occur. The layout of the scheme is set back from the boundaries of the site in order to protect the character of the area and the amenity of adjoining residents. The blocks are set into the site where levels are reduced to ensure that the development appears to be two storey in height when viewed from north of the site.
- 6.2.9. **Roof Access** – The rooftop areas will only be accessed for maintenance purposes, through the use of a “Cherry Picker” as per drawing CRK-901-P3-Roof Maintenance, submitted as part of Clarification of Further Information
- 6.2.10. **Impact on Killiney Avenue** – The impact on adjoining properties on Killiney Avenue is negligible. Design features such as cutting into the landscape and the landscaping master plan will mean that the proposed development will be as



noticeable only as the existing houses are. The proposed development will not have any impact in terms of overlooking on these properties. Noted that there are no windows facing into these properties so no direct overlooking can occur. The site sections clearly show that there will be no impact on the properties in term of massing, given the relative finished floor levels and ridge heights.

6.2.11. **Traffic Issues** – Adequate cycle parking provision has been provided. Visitor and car parking arrangements have been clearly delineated on drawings submitted at Clarification of Further Information stage. Regarding additional traffic to Church Road, reference is made to Appendix F of the Planning Report submitted at the Further Information stage which included a trip generation analysis proposed by OCSC Consultant Engineers. The Transportation Department did not raise any objections in their report date 23<sup>rd</sup> January 2018.

6.2.12. **Water & Drainage Issues** – There are no capacity issues in terms of foul water in the area and this is confirmed by the grant of permission issued by the Planning Authority. It is submitted that the Draining Planning Department is best placed to assess these matters ad their recommendation report dated 9<sup>th</sup> January 2018 “raising no objections subject to conditions” refers.

6.2.13. **Conclusion** – The proposed development site has been accepted as a development site by the board in its previous decision and the proposal to alter the prevailing pattern of development in the area is in line with National, regional and Local planning policy.

### 6.3. **Planning Authority Response**

6.3.1. Dun Laoghaire Rathdown County Council in their submission dated 9<sup>th</sup> March 2018 to the Board and having considered the appeal(s) set out the following as summarised:

- The site is suitable for higher density residential development and has an important role to play in terms of consolidating growth within the Dublin Metropolitan Area
- Permission had previously been granted within the subject site for a similar quantum of development (PL06D.233672 (Reg Ref D08A/1304 refers)

- All issued raised by 3<sup>rd</sup> parties in their appeals submissions have been considered as part of the overall assessment of the permitted development
- A number of key conditions were attached to the grant of permission and the Board is requested to apply these conditions in the event of a grant of permission

#### **6.4. Observations**

- 6.4.1. There are seven observations recorded on the appeal file from (1) Niall & Carmel Finnegan, (2) Eugene Greene, (3) Jerry & Maeve O'Reilly, (4) John Kingston & Adrian Sinclair, (5) Marie O'Brien, (6) Robert & Maria Waters and (7) Frank Keegan.
- 6.4.2. The issues raised re similar to those raised in the appeal(s) and the observations to DLRCC. The main points may be summarised as follows: precedent of previous refusal on this site, detrimental effect on property values in the area, traffic impact by reason of increased traffic movements on Church Road, inadequate water supply / sewage capacity, proposal is out of context with the style and character of the immediate locality, demolition of these houses should not be permitted, excessive density and height, proximity to site boundaries, overshadowing and loss of privacy to adjoining properties, Condition No 11 is contrary to the advice set out in circular letter PD 1/08 (Management Company), 2m buffer at north western boundary needs to be "ring fenced" so it cannot be eroded over time, breach of building line along Killiney Avenue, Condition No 7 is weak and will be impossible to police and all terrace spaces should be removed to the rear of block A and D. Scheme should be refused.

#### **6.5. Further Responses**

- 6.5.1. The Board issued a Section 131 correspondence on 30<sup>th</sup> April 2018. The following responses were received. Additional comments are summarised as follows:
- 6.5.2. Terry O'Brien & Others
- Support the case made by Robert & Maria Waters
  - Impact of extra traffic has not been properly assessed
  - Height of Block A would be excessive

- The zoning objective for the site is defective and is not confined to residential use only
- Neighbours concerns are treated superficially
- The proposed scheme is more suited to a neighbourhood centre or a district centre

#### 6.5.3. GVA Planning on behalf of the applicant

- Height of Block A – Third party data is incorrect and therefore does not present an accurate representation of the relationship proposed between Block A and the third party
- Separation Distance between Block A and Katonah (Third Party) – A number of design changes have been implemented throughout the application process in order to address issues of overlooking. Several conditions attached to the notification of decision to grant permission further mitigates overlooking such as Condition No's 4, 5, 6 and 9.
- Buffer at North-Western Boundary – Condition No 4 and 9 refer.
- Streetscape – The impact on streetscape character has been assessed in detail by the Planning Authority at application stage. The layout of the proposed scheme is purposefully set back from the boundaries of the site in order to protect the character of the area and minimise the impact on the existing streetscape.
- Green Roof Area – These roofs will have access for maintenance purposes only. They are not for recreation but for the production of solar energy and the inception of rainfall.
- Enclosure of Rear Terraces in Block A and D – The third party's suggestion that the removal of all terrace spaces, reduced window sizes and for frosted / obscure glass on all windows to the rear of Block A should be condition of any decision to grant permission is entirely unreasonable.
- Depreciation of the Value of Property in the Area – The impact on property prices is an economic matter and not specifically a planning issue.
- Visually Obtrusive – The three storey buildings have been designed in order to minimise their impact in terms of height.

- Previous Planning Decision - The principal of “precedent” is not a material planning consideration.
- Compulsory Management Company of the Development – The applicant has no objection to Condition No 11
- Additional Traffic Movements on Church Road – The reports submitted by the applicant highlight that the additional traffic movements to Church road would be relatively low with only an estimated 16 additional vehicles exiting the site at morning rush hour. Noted that the Transportation Department did not raise any objections to the scheme.

6.5.4. **Dun Laoghaire Rathdown County Council** in their submission dated 3<sup>rd</sup> May 2018 to the Board stated that the rounds of appeal do not raise any new matter that would justify change of attitude to the proposed development.

## 7.0 Assessment

7.1. The application submitted to Dun Laoghaire Rathdown County Council (DLRCC) on **8<sup>th</sup> May 2017** was for the demolition of 3 no. two storey and 1 no. single storey habitable houses (totalling approx. 1,511 sqm) and the construction of a total of 47 no. residential units comprising 15 no. three storey three-bedroom terraced dwellings, 16 no. two-bedroom duplex apartments and 16 no. ground floor two-bedroom apartments under. The development will also include the retention of 1 no. existing access for pedestrian use at South Lodge; the modification of the existing access at Ash Meadow; the closure of 2 no. vehicle access points at Evergreen and the Moorings and the reinstatement of the footpath and boundary treatments, all onto Church Road; a single storey refuse store and all associated ancillary site development and landscaping works.

7.2. Further information was received on the **23<sup>rd</sup> October 2017** comprising inter alia additional windows at ground and first floor; communal bin storage area have been revised to provide for a separate bin store for each block; the location of the pedestrian crossing point, at the main vehicular entrance, has been relocated in order to provide minimum disruption to pedestrian movement across the site entrance in line with the existing footpath; lighting layout and lamp standard details; revised retaining wall and play and provision design rational. Clarification of further

information was received on the **21<sup>st</sup> December 2017** comprising inter alia the omission of all long terraces from Blocks A and D and their replacement with discreet terraces that are formed within / behind the rear building line.

7.3. Accordingly this assessment is based on the plans and particulars submitted on 8<sup>th</sup> May 2017 as amended by plans and particulars received on the 23<sup>rd</sup> October 2017 and 21<sup>st</sup> December 2017.

7.4. DLRCC issued a notification of decision to grant permission for 47 residential units (as amended) subject to 37 conditions on the 25<sup>th</sup> January 2018. The decision has been appealed by 2 no third parties. Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Density & Design
- Site Access & Traffic Impact
- Residential Impact
- Screening for Appropriate Assessment
- Other Issues

## **8.0 Principle / Policy Considerations**

8.1. As pointed out by the applicant the current proposal is significantly similar to that permitted under PL06D.233672 (Reg Ref D08A/1304). I agree that it appears that this previously permitted scheme addressed matters raised in relation to a previous planning application at the site; PL06D.227602 (Reg Ref D07A/1515) refers, in that it appears it was designed to assimilate into the existing landscape of the area without adversely impacting upon the amenity levels of adjoining properties. Both applications were subject to the rigours of assessment by both the Planning Authority and An Bord Pleanála.

8.2. The applicant submits that as a result of the economic downturn the permitted scheme (PL06D.23672) was not commenced. An extension of duration application was subsequently applied for requiring the Planning Authority to assess the

permitted scheme against the provision of the Development Plan 2010-2016. However DLRCC considered that the scheme was inconsistent with the new Development Plan on the basis of new minimum apartment floor space standards for 2-bed units and therefore permission was refused.

- 8.3. The proposed development now before the Board does not in my view differ in principle from the previously permitted development at the site (PL06D.233672) save for minor changes to the layout and design in order to address issues raised in the previous refusal and in response to the further information and clarification of further information request. Notwithstanding these similarities in the interest of clarity I would point out that the current development before the Board is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.
- 8.4. The operative plan for the area is the Dun Laoghaire Rathdown County Council 2016 – 2022. Under the provision of this Development Plan the site is zoned Objective A which seeks to *protect and / or improve residential amenity* and where residential development is permitted in principle subject to compliance, with the relevant policies, standards and requirements set out in plan.
- 8.5. With regard to the appellants reference to Zoning Objective O/O where *there is to be no increase in the number of buildings permissible*. It is noted that these zoning points are located to the east of the appeal site and that the designated areas are by and large within the wider Architectural Conservation Area and not accessed from Church Road. The appeal site is separated from this area by several large residences located within Zoning Objective A and therefore I am satisfied that Zoning Objective O/O has no direct consequences for the assessment of this appeal site.
- 8.6. In addition to the proposal to develop 47 residential units at this location the proposed development also proposes the removal of extensive vegetation, internal hedges and some mature trees and landscaping together with the demolition of 4 no

relatively substantial habitable detached dwelling houses each with separate access from Church Road. Section 8.2.3.4 (xiv) of the Development Plan states that the *demolition of an existing house in single occupancy and replacement with multiple new build units will not be considered simply on the grounds of replacement numbers only, but will be weighed against other factors and that better alternatives to comprehensive demolition of, for example, a distinctive detached dwelling and its landscaped gardens, may be to construct structures around the established dwelling and seek to retain characteristic site elements.* The dwellings to be demolished are by in large not visible from the public road, are not listed on the record of protected structures and are not located within any designated conservation area. Further the structures do not in my view have any distinctive architectural merits and do not contribute significantly to this suburban area in terms of visual amenity, character, or accommodation type. Accordingly there is objection to the proposed demolition of these habitable dwelling houses.

- 8.7. In order to redevelop the site it is necessary to remove vegetation and mature trees within the site. I have noted the tree survey and arboricultural impact assessment together with the landscaping plans and proposals (as amended) and note that for the most part the trees being removed are either low quality and / or internal trees with the emphasises made on trying to retain as many outer perimeter trees as possible particularly along the boundary of the site. While the proposal will result in a loss of existing landscaping it also includes provision for the planting of additional trees and hedges (as amended) that will in my view complement the existing vegetation, adequately replacing the trees to be removed and assist in assimilating the proposed development into the surrounding landscape. I support the approach taken by the Planning Authority and recommended that should the Board be minded to grant permission that conditions similar to Condition No 27 (retention and protection of trees), 28 (tree bond) and 29 (qualified arborist) be attached.
- 8.8. While the proposed scheme before the Board is a clear densification (to be discussed separately below) of residential use at this location I consider the proposed demolition of the habitable dwelling together with the proposed residential development to be acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

8.9. In terms of apartment design, types and size I am satisfied that the development (as amended) generally complies with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2018) in terms of dual aspect, size, storage, private amenity space and aggregate floor area. I am also satisfied that the open space provision (as amended) within this scheme in terms of quality and quantity is acceptable and that it meets the requirements of the County Development Plan.

## 9.0 Density & Design

9.1. Substantial concern is raised throughout the appeal and in the observations submitted on file that the proposed density is excessive and is considered unacceptable at this location. It is essentially considered that the design proposed is overbearing and is symptomatic of the excessive density proposed.

9.2. It is generally accepted in the interests of sustainability and the efficient use of infrastructural investment that higher densities are to be encouraged in serviced urban areas. It is a clear and overriding objective of the National Planning Framework Plan (2018) to promote compact growth in serviced urban areas.

9.3. The appeal site lies comfortably within 500m of bus stops both on Church Road (a proposed Quality Bus / Bus Priority Route) and Wyattville Road (R118) and c 1.35km from Killiney Dart Station via Military Road. The Cherrywood Luas stop is over 2km from the site. The Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009) clearly states that within public transport corridors in order to maximise the return on investment that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors. As set out above the appeal site is within the required distance of a proposed Quality Bus / Bus Priority Route and bus stops but it is not within the required distance for the nearest existing Dart station or the nearest Luas stop. However, overall I am satisfied that the appeal site can in principle be considered as lying within a public transport corridor.



- 9.4. The Guidelines also distinguish *infill residential development sites* from other areas on the basis that they *range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships*. The appeal site is an assembled site comprising 4 no separate properties that lies within an existing built up area and so it comes within the category of an infill site. The Guidelines advise that in residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.
- 9.5. I am satisfied that the appeal site lies within two of the locations identified for increased densities; infill residential site and a public transport corridor. The Guidelines do not explicitly establish a hierarchy between these locations and so I consider that the advice that they give on both locations needs to be taken into account. The DLRCC Development Plan states that *apart from in exceptional circumstances, minimum residential densities should be 35 dwellings per hectare*. The Development Plan continues that as significant parts of the existing built-up area of the County are, readily accessible to public transport corridors (QBCs, Luas, DART) Government guidance is to provide densities at higher than 50 dwellings per hectare.
- 9.6. Having regard to the foregoing together with the established character of the area I am satisfied that the proposed development, at 39.5 units per hectare (47 units / 1.19ha) is entirely within the recommended densities under the guidelines outlined above and the requirements of the current Development Plan. The density proposed is in compliance with the DLRCC Development Plan 2016 - 2022 and the minimum requirements of the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ (DoEHLG, 2009). The density is therefore considered acceptable at this location.
- 9.7. With regard to height I refer to Policy 8.1.2.3 of the Development Plan where it states that *it is the Council policy to adhere to the recommendations and guidance of the Building Height Strategy for the County*. The aim of the Building Height Strategy

(Appendix 9) is to *ensure the protection of the built heritage of the County and general residential amenities while encouraging higher densities of quality where appropriate in accordance with national legislation and to ensure a plan-led approach to the assessment of taller buildings in the County.* In the Strategy the appeal site is located within the area described as “*residual suburban areas not included within cumulative areas of control*”. In these areas the Building Height Strategy applies a maximum height of 3-4 storeys subject to “upward and downward modifiers”. The building height of the proposed scheme is 3 storeys and as such complies with the recommended range provided for in the Development Plan.

- 9.7.1. I am satisfied that the three storey buildings have been designed in order to minimise their impact in terms of height. I agree with the applicant that at three storeys, with a parapet height similar to the adjoining (and existing) ridge heights on Church Road, their height cannot be said to be a significant increase on the existing. I also agree that by cutting the blocks into the landscape, this will reduce their impact significantly, and that the “canting” (or angling) of the roof profile further reduces the impact of the height of the buildings.
- 9.7.2. Having regard to the foregoing, the Dun Laoghaire Rathdown County Council Development Plan 2016-2022 and National Policy and Guidance I am satisfied that the design and density proposed is acceptable at this location.

## 10.0 Site Access & Traffic Impact

- 10.1. Concern is raised that the proposed development including access facilities etc will result in a very significant diminution in the safe use and passage for pedestrians, cyclist and motorists in the area as the road network serving the area is considered to be substandard.
- 10.2. Modification of the existing access at Ash Meadow will provide for vehicle access while the existing access at South Lodge will be maintained for pedestrian use. With regard to the proposed vehicle site access I agree with the approach of the Local Authority as set out in Condition No 3 where it was requested that the proposed vehicular access to Church Road be widened through the relocation of the northern boundary wall further to the northwest in order to provide improved sightlines, so as to be in accordance with Section 4.2 of the Quality Audit submitted by the applicant

as further information dated 23<sup>rd</sup> October 2017. In the interest of traffic safety it is recommended that a similar condition be attached should the Board be minded to grant permission.

- 10.3. I am satisfied that adequate cycle parking provision has been provided. Visitor and car parking arrangements have been clearly delineated on drawings submitted at Clarification of Further Information stage. Regarding additional traffic to Church Road, I refer to Appendix F of the Planning Report submitted at the Further Information stage which included a trip generation analysis proposed by OCSC Consultant Engineers. I also note that the Transportation Department did not raise any objections in their report date 23<sup>rd</sup> January 2018.
- 10.4. Given the location of the appeal site together with the layout of the proposed scheme I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. Overall I consider the proposal (as amended) to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard.

## 11.0 Residential Impact

- 11.1. Concern is raised at all stages of the planning application process and the appeal regarding the scale and proximity of the proposed scheme to adjoining properties and the associated loss of residential amenity. It is clear from the zoning objective for t site that the attainment of higher densities is not a stand-alone objective; rather higher densities must be delivered in tandem the protection and / or improvements of residential amenity. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design manual) state that *inner suburban infill development offers an opportunity for increased densities of development but that a balance has to be struck between the reasonable protection of the amenities of adjoining dwellings, the protection of established character and the need to provide residential infill.*
- 11.2. As pointed out by the applicant the original sections submitted with this application show that the cutting of the blocks into the landscape mitigates any overlooking of

the properties on Killiney Avenue. There are no windows facing this boundary and consequently no direct overlooking can occur. The layout of the scheme is set back from the boundaries of the site in order to protect the character of the area and the amenity of adjoining residents. The blocks are set into the site where levels are reduced to ensure that the development appears to be two storey in height when viewed from north of the site. I am satisfied that the proposed separation distances and boundary treatment (as amended) will mitigate overlooking to the adjoining property to the south. Further the cutting into the slope will mitigate overlooking of the rear gardens. I agree with the applicant that the addition of vertical and horizontal “canting” of the blocks of the blocks will further reduce the impacts of overlooking on the properties to the north and south. In the Clarification of Further Information submission all long terraces from blocks A and D were omitted and replaced with discreet terraces that are formed within / behind the rear building line in order to address concerns regarding overlooking to adjoining properties.

11.3. I note the approach taken by the Local Authority in Condition No 5 and 6 in requiring the applicant to make some changes to the scheme in the interest of residential amenity as follows:

- Solid enclosure to be provided to all terraces located at level 01 on the rear elevations of each proposed 3-storey dwelling within block A and D
- Rear terrace of unit A3 at level 01 shall be reduced and centred
- One of the larger rear windows at level O2 of each unit A2 and A3 shall be omitted
- **Eastern side elevation of units A1 and B1/B8**
- Level 00 floor plan for unit B1 to match proposed front elevation
- Revised site layout plan that realign internal site boundaries to the rear of Units D3 and D8 in order to provide a minimum rear garden area of 60sqm for all 3-bed units

11.4. In the interest of residential amenities it is recommended that a similar condition be attached should the Board be minded to grant permission

- 11.5. Having regard to the information and details available on file (as amended) together with my site I am satisfied having regard to the layout and design of the proposed scheme, that the development in its architectural treatment, orientation and proximity to adjoining properties strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings in terms of overlooking with the requirement at national and local policy level to make better use of under-utilised lands through the delivery of higher density residential units on this zoned serviced sites.
- 11.6. With regard to the boundary treatment along the north western boundary I agree with the approach of the Planning Authority as set out in Condition No 4 where it was required that the proposed timber palisade fence along the north western site boundary be omitted and replaced by a stone wall to match the existing boundary treatment. It is recommended that a similar condition be attached should the Board be minded to grant permission.
- 11.7. The proposed scheme strikes a reasonable and appropriate balance between meeting the density requirements necessary to achieve an effective and sustainable use of zoned lands while addressing the sites constraints and the established residential character of the surrounding area. Overall I am a satisfied that the proposed development (as amended) would not seriously injure the residential amenity of the area of property in the vicinity.

## **12.0 Screening for Appropriate Assessment**

- 12.1. I have noted the Ecological Impact Assessment and the Appropriate Assessment Screening Information Report submitted with the further information. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site (Rockabill to Dalkey Island SAC, South Dublin Bay SAC, Dalkey Islands SPA and South Dublin Bay and River Tolka Estuary SPA) it is reasonable to conclude on the basis of the information available, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site. An appropriate assessment (and submission of a NIS) is not therefore required.

## 13.0 Other Issues

- 13.1. **Water & Sewage Infrastructure** – Concern is raised that the sewage system on Church Road is inadequate and that the water supply is also unsatisfactory. It is noted that the DLRCC Drainage Planning Water Services Reports have no stated objection to the development in terms of capacity and the Local Authority Planner in their report has raised no concerns regarding capacity. Having regard to the information available on file I am satisfied that there is no capacity issues in terms of foul water in the area and this is confirmed by the grant of permission issued by DLRCC.
- 13.2. **Roof Access** – I note the concerns raised in the appeal that access to the proposed sedum roof will facilitate use of these roof spaces as recreational areas creating a roof garden and direct overlooking of neighbours and loss of amenity. According to the application (as amended) the rooftop areas will only be accessed for maintenance purposes, through the use of a “Cherry Picker” as per drawing CRK-901-P3-Roof Maintenance, submitted as part of Clarification of Further Information. I agree with the approach of the Planning Authority as set out in Condition No 7 of the notification of decision to grant permission requiring that *access to each green roof shall be restricted for the purposes of maintenance works only and that no flat roof area shall be used as a garden / terrace*. Should the Board be minded to grant permission I recommended that a similar condition be attached.
- 13.3. **Development Contributions** - DLRR has adopted a Development Contribution Scheme under Section 48 of the Planning and Development Act 2000 (as amended). The proposed development does not fall under the exemptions listed in the Scheme. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition, similar to Conditions No 33, 34 and 35 attached to the notification of decision to grant permission requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.
- 13.4. **Property Valuation** - I note that concern is raised regarding the depreciation in adjoining residential property values. The proposal before the Board is for a residential development on lands zoned for residential use where such developments is considered a permissible use and where it is reasonable to expect

developments of this kind would normally be located. The units proposed (as amended) in terms of design, scale, layout and location are not considered to be a bad neighbour in this context and I do not therefore consider that to permit this development would lead to a significant devaluation of property values in the vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal in this instance.

- 13.5. **Condition No 17** – The appellants raised concern that Condition No 17 (Construction and Environment Plan to be agreed) requires the developer to revert to the planning authority for clarification and further information on several aspects. Section 34(5) of the Planning and Development Act 2000 (as amended) states that conditions may provide that points of detail relating to a grant of permission may be agreed between the planning authority and the person to whom the permission is granted. However, the Development Management Guidelines (2007) recommend that the use of conditions that require matters to be agreed should be avoided where the matters involved are of a fundamental nature or such that third parties could be affected. I have considered the details of Condition No 17 and I am satisfied that the matters to be agreed relate to points of detail in relation to the construction of the development and are therefore temporary in nature and are not a fundamental nature or such that third parties could be affected. Should the Board be minded to grant permission I recommended that a similar condition be attached.
- 13.6. **Management Company** – I note the concerns raised in the observations that Condition No 11 requiring the establishment of an owners management company with compulsory membership for all purchasers in the development as it would be contrary to the advice set out in circular letter PD 1/08. This “Taking in Charge of Residential Developments / Management Arrangements Circular was issued in February 2008 and states that *management companies are normally necessary for multi-unit structures (i.e. apartments and / or apartments and duplex houses) of four or more* in order to maintain shared exteriors of buildings and shared internal areas. Accordingly it is recommended that should the Board be minded to grant permission that a condition be attached requiring that a legally incorporated management company be established responsibility for the future maintenance and upkeep of all services associated with the apartment blocks of this development including drains, sewers, watermains, public lighting, paths, open spaces and refuse storage areas.

- 13.7. **Adequacy of Drawings** – I note the concerns raised in the appeal regarding the inadequate presentation of information regarding contiguous elevations. Together with my site visit I am satisfied that there is adequate information available on the appeal file to consider the issues raised in the appeal and to determine this application.
- 13.8. **Flood Risk Assessment** - The proposed development site is not located within Flood zones A or B as specified in the Flood Risk Management Guidelines for Planning Authorities 2009.

## 14.0 Conclusion

- 14.1. Overall I am satisfied that the proposed development (as amended) provides a suitable mix of housing, separation distance and car parking together with the quantitative requirements for private and public open space which are practical in terms of scale and layout. I am satisfied that the overall building form and layout responds to the land use policy objectives as set out in the Dun Laoghaire Rathdown County Council 2016 – 2022 and to its site and context and will not detract from the visual or residential amenities of the area. Accordingly there is no objection to the layout and design of the development proposed (as amended) at this location.

## 15.0 Recommendation

- 15.1. Having considered the contents of the application (as amended), the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the reasons and considerations set out below.

## 16.0 Reasons and Considerations

- 16.1. Having regard to the residential zoning of the site in the Dun Laoghaire Rathdown County Council 2016 – 2022, the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009), the location of the site, the pattern of development in the area and to the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed



development would be in accordance with the zoning objectives for the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing architectural heritage and character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 17.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 8<sup>th</sup> May 2017, as amended by the further plans and particulars submitted on the 23<sup>rd</sup> October 2017 and 21<sup>st</sup> December 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. Prior to commencement of any other development, the four existing dwelling houses shall be demolished and the accesses to “Evergreen” and “The Moorings” closed up in accordance with the permitted plans and the adjoining footway reinstated. The access to “South Lodge” shall be retained as a pedestrian access only and the adjoining footway reinstated. The access to “Ash Meadow” shall be widened in accordance with the permitted plans. Thereafter, the remainder of the proposed development shall proceed.

**Reason:** In the interest of traffic safety during the construction phase.

3. The proposed vehicular access to Church Road shall be widened through the relocation of the northern boundary wall further to the northwest in order to provide improved sightlines, so as to be in accordance with Section 4.2 of the Quality Audit submitted by the applicant as further

information dated 23<sup>rd</sup> October 2017. Revised drawings, including site plans, elevations and an updated approved Quality Audit, shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

**Reason:** In the interest of traffic safety.

4. (a) 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.

5. Prior to the commencement of development, the developer shall retain the professional services:

(a) A qualified arborist as a Arboricultural Consultant/Site Arborist for the entire period of construction. The applicant shall inform the Planning Authority in writing of the appointment and name of the Consultant, prior to commencement of development. The Consultant shall visit the site on a regular basis and shall liaise with DLRCC Parks & Landscape Services during construction; all to ensure the implementation of the all of the arboricultural recommendations and method statements, in the submitted

Tree Report.

(b) A qualified Landscape Architect, as his/her Landscape Consultant, throughout the course of the development works; and shall notify the planning authority of that appointment in writing prior to commencement. 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 fully inspected and completed to the satisfaction of the Landscape Consultant, he/she shall prepare, sign and submit a Practical Completion Certificate (P.C.C) to DLRCC Parks and Landscape Services, as verification that 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 timber palisade fence along the north western site boundary shall be omitted and replaced by a stone wall to match the existing boundary treatment and shall have a height of 2.5 metres above ground level within the planted buffer area. This wall shall be provided either in the form of increasing the height of the existing boundary wall, with the agreement of the adjoining property owner, or shall be provided immediately adjoining the existing boundary wall.

**Reason:** In the interest of proper planning and sustainable development.

7. Prior to the commencement of development, the Applicant shall submit revised drawings for the written agreement by the Planning Authority that detail:

(a) All proposed terraces located at level '01' on the rear elevations of each proposed 3-storey dwelling within Block A and Block D, shall be provided with a solid enclosure along the rear elevation.

(b) The proposed terrace to the rear of Unit A3 at level '01' reduced in size and centrally located within the rear elevation.

(c) One of the larger proposed windows located on the rear elevations at

level '02' of each unit A2 and unit A3 shall be omitted.

(d) An eastern side elevation of proposed units A1 and B1/B8, at a scale of 1:100.

(e) A revised 'Level 00' floor plan for proposed Unit B1 that exactly matches the proposed front elevation.

(f) A revised site layout plan that realigns proposed internal site boundaries to the rear of Units D3 and D8 in order to provide a minimum rear garden area of 60 metres squared for all proposed 3-bed dwelling units.

**Reason:** In the interest of residential amenity.

8. Access to each green roof shall be restricted for the purposes of maintenance works only. No flat roof area shall be used as a garden / terrace.

**Reason:** In the interest of residential amenities

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

**Reason:** In the interest of visual amenity.

10. 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.

11. 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. Such lighting shall be provided prior to the making available for occupation of any house.

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

12. All service cables associated with the proposed development (such as

electrical, telecommunications and television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

13. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility.

14. (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.  
  
(b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.  
  
(c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.  
  
(d) The materials used, including tactile paving, in any roads/footpaths provided by the developer shall comply with the detailed standards of the

planning authority for such road works.

(e) Two car parking spaces shall be allocated for the exclusive use of each 3-bed dwelling and one car parking space shall be allocated for exclusive use of each 2-bed apartment / duplex. Allocated car parking shall not be let or sold independently.

(e) The vehicular and pedestrian entrances to the development shall remain ungated.

(f) The Applicant shall disperse bicycle parking provision throughout site providing for more conveniently located residential bicycle parking. This shall be achieved by relocating a minimum of 2, and a maximum of 3, cycle parking stands, including that located within the communal/public open space to the rear of units A7/A8.

**Reason:** In the interests of traffic, cyclist, pedestrian safety and social integration

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

16. 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 hours of working, noise management measures and offsite disposal of construction/demolition waste.

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

17. The site and construction works required to implement the development shall only be carried out between 0800 hours and 1800 hours, Monday to Friday and between 0900 hours and 1400 hours on Saturday and not at all on Sundays, Bank Holidays or Public Holidays.

**Reason:** To safeguard the amenities of adjoining residential properties.

18. Prior to commencement of work on site the developer shall agree in writing full details of a legally incorporated management company which shall be responsible for the future maintenance and upkeep of all services associated with the apartment blocks of this development including drains, sewers, watermains, public lighting, paths, open spaces and refuse storage areas.

**Reason:** To ensure the satisfactory maintenance of the site in the interest of visual and residential amenity.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and 96(2) and 3 (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the protection of trees and hedgerows to be retained, coupled with an agreement empowering the planning authority to

apply such security or part thereof to the protection or replacement of any such trees and hedgerows. The form and amount of the security shall be agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

**Reason:** To ensure the protection of trees and hedgerows on the site.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. 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 determined by An Bord Pleanála.

**Reason:** To ensure the satisfactory completion of the development.

22. 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 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 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.

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**Mary Crowley**

**Senior Planning Inspector**

**8<sup>th</sup> June 2018**