



An
Bord
Pleanála

Inspector's Report ABP-301809-18

Development	Permission for new residential development consisting of 50 no. apartments and 1 no. 2 bedroomed house.
Location	Overall site of c.1.14ha at Weavers Hall, Plunkett Avenue, Foxrock, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown Co. Co.
Planning Authority Reg. Ref.	D17A/0486
Applicant(s)	Tigerlight Limited
Type of Application	Permission
Planning Authority Decision	To Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	James and Catherine O' Connor Paul McArdle John and Joanne Keane Don and Jacqui Maher Jonathan Stanley Orla O' Callaghan

Frank and Breda Mc Cabe
Margaret Clarkin
Caroline Kennedy and Others
Ann Kenny
Kilteragh Pines Management Society

Observer(s)

Tim Brosnan
Brian Murphy
Edward and Nuala Clarke
Nicky Kenny
Catherine Toomey
Cathal O' Connor
Kevin and Maria Nolan
Foxrock Area Community and
Enterprise Ltd

Date of Site Inspection

19th December 2018

Inspector

Erika Casey

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1.0 Site Location and Description

- 1.1. The subject site is located in Foxrock c. 0.5km from Foxrock Village Centre. The site is located at the end of Plunkett Avenue with frontage also to Hainault Park. It currently accommodates two detached dwellings. To the rear of the site, accessed via a gated vehicular entrance off Plunkett Avenue, is 'Weavers Hall', a detached two storey dwelling with associated detached double garage. The dwelling is surrounded by extensive landscaped gardens. This existing dwelling is a relatively recent construction and was granted permission in 2000. The second property is no. 10 Hainault Park, located to the south. It is a 2 storey detached property with an adjoining single storey garage. Access to this part of the site is from Hainault Park via Hainault Road.
- 1.2. The existing pattern of development in the area comprises detached houses on generous sites. To the north east, are no.s 12 and 13 Kilteragh Pines which are both large detached bungalows located within the Foxrock Architectural Conservation Area. To the south west, are a number of detached houses that are accessed from Hainault Park.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - Demolition of the existing 2 storey residential dwellings known as Weavers Hall and No. 10 Hainault Park and associated outbuildings with a combined area of c. 560 sq. metres.
 - Construction of a residential development comprising 51 residential units consisting of 50 no. apartments and 1 dwelling house.
 - The apartments will be constructed in two interlinked 4 storey blocks over part basement level and will accommodate 35 no. 2 bed units and 15 no. 3 bed units.
 - The apartments will range in size from 86 sq. metres to 179 sq. metres and will be served by private balconies/terraces/garden areas.

- The development provides for 2,336 sq. metres of public open space of which, 1,650 sq. metres is public open space and 686 sq. metres is semi private/communal open space.
- The proposed dwelling house is a single storey, 2 bed unit with a floor area of 75 sq. metres. It will be served by its own private garden and courtyard area. The design of the dwelling house was modified at Further Information Stage.
- The development provides for 92 no. car parking spaces to serve the apartments (88 no. spaces at basement level and 4 no. spaces at surface level) and 1 no. car parking space for the house.
- The development also provides for 140 bicycle spaces and associated bike stores and stands (86 no. spaces at basement level and 16 no. spaces at surface level), bin storage areas, plant areas, electricity switch room and substation, public open space, new boundary treatment, site services and all associated site development works including service connections and landscape works. The proposed surface water drainage arrangements for the site were amended at Further Information Stage and it is proposed to discharge the surface water run-off from the development by gravity to the existing 750mm diameter culvert under Gordon Avenue via a new 225mm diameter surface water sewer running parallel to the existing 150mm diameter sewer.
- Access to the development will be primarily via Hainault Park with an additional vehicular set down areas and pedestrian/cycle access via a secondary access point from Plunkett Avenue. There shall be no vehicular access to the basement level or car parking areas from Plunkett Avenue.

3.0 Planning Authority Decision

3.1. Decision

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

Condition 8 and 9: Surface water drainage.

Condition 11 and 12: SuDS.

Condition 14: Prior to the commencement of development the applicant shall submit to the Planning Authority for its written agreement an emergency plan that is reflective of the design life of the development, the proposed use and vulnerability of items to be kept in the premises, the occupants and users, and shall include flood resilience and recovery measures, in particular, alternative access/egress to the apartments to the northeast of the site.

Conditions 16 and 17: Tree protection

Condition 19: Quality Audit Report.

Conditions 22, 23 and 24: Mobility Management Measures.

Conditions 31 and 32: Construction Management Plan.

Condition 33: Construction Environmental Management Plan.

Condition 34: Biodiversity measures.

Condition 39: Building life cycle report to be submitted and agreed.

Condition 41: Revised drawings to indicate the re-location of the proposed substation a further 10m north west of the rear boundary wall of the gate lodge.

3.2. Planning Authority Reports

3.2.1. Planning Reports (21.07.2017 and 24.05.2018)

- The subject site is underutilised and presents a significant opportunity to achieve a higher density and a greater mix of dwelling types. It is considered the existing dwellings have no significant architectural merit or historical significance.
- The density of the development is equivalent to 45 units per ha. The subject site is located 2km from the closest Luas stop and 1km from the N11 which is a QBC. The site is located within the S49 Development Contribution Scheme for Luas Line B1. It is considered that the site is capable of accommodating higher density having regard to its proximity to Foxrock Village. It may also offer the potential for elderly people to remain in their community who wish to downsize. The proposal represents an efficient and sustainable use of the site.

- It is proposed to locate the apartment block within the centre of the site with a setback applied at the third level to ensure that the fourth floor element of the scheme is not overbearing in appearance. It is considered that the built environment would permit higher development without damaging the appearance of the area.
- The heights proposed are considered acceptable and there are generous separation distances between the proposed development and neighbouring properties. It is considered that the development represents an appropriate site specific design response.
- The development is considered to comply with the Design Standards for New Apartments – Guidelines for Planning Authorities published in March 2018. The proposal provides a sufficient amount of both passive and active open space and is, therefore, considered acceptable.
- It is considered that the proposed gate lodge creates a legible and easily navigable entrance into the scheme and is acceptable.

3.2.2. Other Technical Reports

Transportation Planning (14.07.2017 and 16.05.2018): No objection subject to conditions.

Drainage Planning (13.07.2017 and 23.05.2018): No objection subject to conditions. The report notes:

“Municipal Services is of the opinion that the analysis contained in the AECOM Flood Risk Assessment is appropriately detailed and provides sufficient evidence to pass the Development Management Justification Test and that the proposal, subject to the conditions listed below, are in accordance with and satisfy the requirements of Appendix 13 (Strategic Flood Risk Assessment) of the Dun Laoghaire Rathdown County Development Plan and the Flood Risk Management Guidelines for Planning Authorities”.

Parks and Landscape Services (19.07.2017): Recommended Further Information. Notes that the landscape proposals are generally well considered and detailed.

Public Lighting (14.07.2017 and 22.05.2018): No objection.

Housing Report (08.06.2017): No objection subject to conditions.

Biodiversity Officer (18.07.2017 and 23.05.2018): No objection subject to conditions.

Conservation Officer (20.07.2017): No objection. The report states:

“The site is not located within an ACA or in close proximity to any Protected Structures, as such there are no built heritage issues to consider”.

3.3. Prescribed Bodies

Irish Water (15.07.2017): No objection subject to conditions.

Department of Culture, Heritage and the Gaeltacht (17.08.2018): Notes that the Foxrock ACA appraisal document includes a number of views including View 1 – the view toward the Dublin Mountains as one moves south along Westminster Road for approximately 300-400m before Hainault Road.

States that it is open to the Board to seek information as to whether a material effect could arise to view 1 and, therefore, potentially on the character of the ACA caused by the height and/or scale of the proposed development when viewed from Westminster Road or Kilteragh.

3.4. Third Party Observations

3.4.1 There were a significant number of objections in relation to the application. The issues raised are similar to those raised in the third party appeals and observations which are summarised in detail in section 6 below. Principal concerns related to impacts on residential amenities due to noise, light, overlooking, overbearing and overshadowing impacts; intensification of traffic and inadequate parking; development is contrary to the objectives of the Development Plan; height and scale and that development constitutes overdevelopment; negative impacts on the ACA; loss of trees; concerns regarding surface water drainage and increased flood risk; legal and procedural issues; development sets an undesirable precedent; concerns regarding accuracy of drawings and construction stage impacts, particularly traffic.

4.0 Planning History

Planning Authority Reference D15A/0790

- 4.1 Permission granted in June 2016 for a development on a site of 0.37ha comprising a detached 2 storey dwelling with an area of 349 sq. metres. The development provided for a new enlarged set back shared driveway with 2 no. entrance points and a new brick boundary wall separating Weavers Hall from the proposed dwelling. This dwelling has not been constructed.

Planning Authority Reference D00A/751

- 4.2 Permission granted for the retention of minor amendments to previously permitted dwelling under D97A/0924 and omission of second dwelling.

Planning Authority Reference D97A/0924

- 4.3 Permission granted for demolition of dwelling (Weavers Hall) and construction of two dwellings and double garages. Only one dwelling constructed.

5.0 Policy Context

5.1. Development Plan

- 5.1.1 The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A: *To Protect and/or Improve Residential Amenity*.
- 5.1.2 The site is located adjacent to the Foxrock Architectural Conservation Area. There is an objective to '*preserve and protect trees and woodlands*' at the northern boundary of the site.
- 5.1.3 Relevant policies and objectives include:

Policy RES 3: *It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development.*

Where a site is located within 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route,

and/or 1 kilometre of a Town or District Centre, higher densities of 50 units per hectare will be encouraged.

Section 8.2.3.4 (vii) Infill: *“New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.”*

Section 2.1.3.4 Existing Housing Stock Densification: *“Encourage densification of the existing suburbs in order to help retain population levels - by ‘infill housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc.*

In older residential suburbs, infill will be encouraged while still protecting the character of these areas.”

5.1.4 **Section 8.2.3.2** sets out the relevant guidance on quantitative and qualitative, and development management criteria for **residential developments**. **Section 8.2.3.3** refers to **apartment developments** and standards required in relation to (i) design, (ii) dual aspect, (iii) mix of units, (iv) separation between blocks), (v) internal storage, (vi) penthouse development, (vii) minimum floor areas, (viii) public, private and communal open space standards and (ix) play facilities. **Section 8.2.8.6** addresses **Trees and Hedgerows** and states that Arboricultural Assessments carried out by an independent, qualified arborist shall be submitted as part of planning applications for sites that contain trees or other significant vegetation. The assessment shall contain a tree survey, implications assessment and method statement.

5.2. Other Policy

National Planning Framework

5.2.1 **Objective 33** seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. **Objective 35** seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHPLG 2018).

5.2.2 These guidelines provide recommended minimum standards for floor areas for different types of apartments; storage spaces; sizes of apartment balconies/patios and room dimensions for certain rooms.

Sustainable Urban Residential Development Guidelines (DoEHLG 2009) and the Urban Design Manual - A Best Practice Guide (DoEHLG 2009).

5.2.3 These include detailed advice on the role of Urban Design and planning for new sustainable neighbourhoods. In cities and larger towns, appropriate locations for increased densities, are identified, including outer suburban greenfield sites and public transport corridors.

Urban Development and Building Heights

5.2.4 States that it is Government policy that building heights must be generally increased in appropriate locations. Regarding building height in suburban/edge locations it is stated:

“Newer housing developments outside city and town centres and inner suburbs, i.e. the suburban edges of towns and cities, typically now include town-houses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). Such developments deliver medium densities, in the range of 35-50 dwellings per hectare net.”

5.2.5 It is a Specific Planning Policy Requirement:

“In accordance with Government policy to support increased building height and density on locations with good public transport accessibility, particularly town/city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial Economic Strategies and shall not provide for blanket numerical limitations on building height.”

5.3. Natural Heritage Designations

5.3.1 The subject lands do not overlap with any European sites. The South Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA are located c. 3.5km to the north of the site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 11 no. 3rd party appeals were submitted by Paul McArdle, James O' Connor, John and Joanne Keane, Don and Jacqui Maher, Johnathan Stanley, Orla O' Callaghan, Frank and Breda Mc Cabe, Margaret Clarkin, Caroline Kennedy and others, Kilteragh Pines Management Society and Ann Kenny. Issues raised overlap and can be summarised under the following key headings:

Legal and Procedural

- Consider the description of development is inadequate on the public notices and on planning application form. State that the public notices do not make reference to the fact that part of the site is located within the ACA and that they do not provide an appropriate description of the buildings to be demolished.
- Note inaccuracies/omissions in public notices at Further Information Stage and that the nature and extent of application was materially amended. In particular, the further information notices did not highlight the revised drainage arrangements for the development or refer to the statutory 2 week period to make a submission. States site notices were not erected at the location of the extended site boundaries, including Gordon Avenue, and that, therefore, the public were not adequately informed as to the nature and extent of works proposed.
- State that the applicant has insufficient legal interest in the site. Note in particular, that there is an absence of evidence of legal entitlement to use Plunkett Avenue and that the proposed 225mm new surface water sewer required to serve the development is located on land outside the applicant's

ownership and the consent of the owner has not been sought or submitted within the legal planning framework. Consider red line boundary incorrect.

- Submit that the documentation provided by the applicants was imprecise, flawed and inaccurate. Highlight a number of inaccuracies and omissions on the application drawings and documentation.
- Consider that the conditions imposed by the Planning Authority in their decision requires extensive information to be agreed prior to the commencement of the development. This approach is contrary to the Aarhus Convention.

Principle of Development

- Development is contrary to the zoning objective pertaining to the site and will not protect and/or improve residential amenity. Consider the development is contrary to objectives RES 3 and RES 4 and policy UD6 regarding building height set out in the County Development Plan.
- State that the density is inappropriate and does not meet the criteria set out in the Development Plan as a location where higher densities should be encouraged. Note the site is located a significant distance away from public transport and existing bus services serving Foxrock are poor. Neither proximity to Foxrock Village nor the low density character of the surrounding areas are a sustainable justification for higher density development at this location. Foxrock does not have the necessary social or community services to support the development.
- Consider that the same density could be achieved by increasing the footprint of the development but reducing its height. Note recent precedents in the vicinity have been for housing developments rather than apartments.
- State that the development is contrary to the provisions of the Building Height Strategy in the Development Plan. There are no upward modifiers that justify the additional height.
- The use of precedent D15A/0839 at the Birches to justify and support the development is erroneous. Reference made to a number of other previous applications in the vicinity which have been refused permission.

- Consider that inadequate consideration has been given to the existing dwellings to be demolished which contribute to the mature residential pattern of the area.

Impact on Residential Amenities

- Development represents an overdevelopment of the site and the scale and height of the proposal is out of context with the prevailing character of the area which predominantly comprises 1 and 2 storey houses. The proposed 4 storey over basement blocks will dramatically affect the appearance of the area and are considered visually obtrusive. The development does not integrate or harmonise with the surrounding residential developments. No adequate visual impact assessment undertaken.
- Particular concerns raised regarding the impact of the development on Kilteragh Pines and that the development will have an adverse impact on the amenities and privacy of these dwellings most notably no.s 12, 13 and 14 Kilteragh Pines. Note that these existing dwellings are bungalows and were designed to protect the setting and character of Kilteragh House. Concerns in particular regarding overlooking from the elevated windows and balconies. The design features that contribute to the character of these dwellings, including extensive glazing, make their interior more exposed to potential overlooking. Existing screening and landscaping (which is deciduous in nature) will not mitigate the impact. CGI's and photographs of 3D model submitted to demonstrate the impact. Refer to previous decision under Appeal Reference PL06D.241537 where permission was refused on the basis of impacts to Kilteragh Pines.
- Consider that the development will have an overbearing impact on Kilteragh Pines. Notes that the north east elevation will be over 63 m long and have a height of between 14.7 and 15.1 metres. This substantial structure will be 15 metres from the common boundary and is incongruous relative to the adjoining single storey dwellings.
- The development will have adverse overshadowing impacts. No adequate information submitted regarding such impacts. The development will result in a

material diminution in the existing residential amenity enjoyed by Kilteragh Pines. Shadow study submitted to demonstrate adverse impacts.

- Should the Board grant permission, recommend a number of conditions to be imposed, to mitigate against the impacts on Kilteragh Pines, particularly landscaping proposals along the boundary. Consider that an acoustic barrier between Kilteragh Pines and the site should be erected to negate noise pollution.
- Consider that the use of the 22m separation rule is used to assign permitted distances between buildings of the same height, scale and type. It is not an appropriate tool to satisfy the appropriate distance between a single storey building and an apartment, 4.5 times the height over ground level. A separation distance of 35m is more appropriate to upper floors of apartments.
- The development will break the building line along Hainault Park and have an adverse impact on adjacent structures in terms of setting and context. Concerns in particular regarding the impact of the proposed gate lodge and substation on the amenities of no. 12 Hainault Park. Consider the gate lodge will serve as a service area for the development rather than a dwelling house.
- Concerns regarding light pollution and noise impacts from electronic gates at the entrance of the development, from increased vehicular traffic movements and from the open space areas.
- The development will depreciate the value of property in the vicinity and sets and undesirable precedent.

Architectural Design

- Consider that the proposed development is poorly designed and that the blocks should be rotated to increase access to sunlight and daylight. The development will provide a poor standard of amenity to future residents. The development is a generic non site specific proposal.
- State that the appearance of the development is of a flat roofed monolithic block, rendered incongruous by institutional style glazing and large balconies.

Impact on the Foxrock Architectural Conservation Area

- The development will have an adverse impact on the Foxrock Architectural Conservation Area.
- Note that the upper two floors of the development will be visible from Kilteragh Pines and will detract from the setting of these houses which are within the ACA.
- Consider that the development will have an adverse impact on protected structures in the vicinity of the site, particularly Kilteragh House.
- The development fails to provide an appropriate transition between the development site and the ACA.

Surface Water Drainage and Flooding

- Concerns that the development will result in flooding and that revised surface water drainage proposals are unsatisfactory. Note historic flooding events at Kilteragh Drive and that St. Brides Stream has finite capacity. State that surface water run-off will increase due to the development.
- Consider that no detail is supplied on the impact the large additional volume entering the stream at Gordon Ave. will have on adjoining properties. There are no sustainable mitigation flood measures, irrespective of the rate of discharge, should the stream, which is outside the control of the applicant, reach capacity or become blocked. Concern that additional discharge to the stream will place pressure on the culvert and cause serious flooding to private properties adjoining the stream.
- Particular concerns raised regarding the flood water storage area, designated as a public open space amenity area for the residents, located on the north eastern side of the site. Consider this presents a serious health and safety issue and it has not been demonstrated how it would be managed safely as open space for children and other vulnerable users. This area may also be rendered unsuitable as an amenity space in a flood event. No evidence is submitted that the soil is suitable for soakaway action. Note that rock strata prevails at shallow depths which may inhibit percolation.

- Notes that the site is located within Flood Zones A and B and that the County Development Plan Strategic Flood Risk Assessment does not allow for high density development in such areas. Conditions attached in the decision by the Planning Authority regarding flood risk are vague and unenforceable. Consider the development is prejudicial to public health and would represent a threat to lands outside the subject site.

Traffic, Access and Parking

- Concerns regarding construction stage traffic and impacts on the local road network.
- Consider the access to the site is inappropriate, has insufficient sightlines and contrary to DMURS. It is not suitable for HGV access including bin lorries. The development will create a traffic hazard. No road safety audit submitted. Notes inconsistencies in the Applicant's Traffic and Transport Assessment.
- Development will exacerbate existing congestion problems on Hainault Park and access by emergency vehicles may be impeded. The development will increase traffic volumes on the local road network. Existing on street parking along Hainault Park will impede access to the site during construction phase.
- Development provides for insufficient car parking, including visitor parking.
- Note that Plunkett Avenue is not taken in charge by the local authority and concerns raised regarding the adequacy of this road to cater for the proposed intensification of use.
- Pedestrian connectivity is poor and Plunkett Avenue has no footpath. Any improvements required for cyclists and pedestrians are outside the applicants control and ownership.
- Foxrock is poorly served by public transport and the development will be car dependent.

Other Issues

Construction Phase Impacts

- Construction stage impacts particularly from excavation (including potential rock removal) and haul routes through Hainault Park.

Ecology

- Concern that a full ecological assessment was not undertaken of the site and that the Kilteragh Pines estate is an undocumented but important wildlife corridor supported by St. Brides stream. Consider the development is contrary to stated council policy to maintain and protect the natural character and ecological value of river and stream corridors due to potential adverse impacts to the St. Brides Stream, particularly from pollution.

Trees

- Object to loss of trees, particularly adjoining the Plunkett Avenue entrance. Concerned that basement works will result in additional loss of trees and that tree survey is inadequate. Consider that conditions attached by the Planning Authority to address trees and landscaping are imprecise and cannot be relied upon.

6.2. Applicant Response

Legal and Procedural

- The applicant has all the necessary consents to make the application. With regard to service proposal along Hainault Park and Gordon Avenue, notes that these lands are taken in charge by the Council and consent is not required to accompany the application. These works have been agreed with Dun Laoghaire Rathdown County Council. The current proposals for service arrangements are a typical approach to development. These service connections and upgrade works are considered necessary to ensure the proposal can operate effectively.
- With regard to access from Plunkett Avenue, this is an existing access to which the applicant has sufficient control by way of a formal right of way for access. This is a legal matter for consideration by the relevant parties and is not considered a planning matter for assessment in this case. The primary access to the development is via Hainault Park. The access from Plunkett Avenue is primarily for connectivity and permeability.

- With regard to public notices, state that they comply with the statutory requirements including Form 4 of the Regulations. Whilst it is acknowledged that the red line was amended at Further Information Stage, this revision related solely to the provision of services and such works are considered a standard approach to development in any case.

Principle of Development

Density

- The density of the scheme is 45 units per ha. Note Policy RES3 of the plan and that the minimum default density for new residential development is 35 units per ha. Consider the site is not sensitive and that the density is a balanced approach. It meets the minimum requirement but does not breach the threshold for higher densities of 50+. The proposed development represents an appropriate site specific design response.

Height

- State that the proposal is a 3 to 4 storey over basement development with the fourth floor set back. The overall height of the existing dwelling Weavers Hall is 10 metres in height, whilst the proposed development is 14.9 m. There is an overarching strategic requirement to make the most efficient use of infill sites, whilst ensuring that there is a reasonable protection of existing residential amenity.
- Refers to the Upwards and Downward modifiers set out in the Development Plan regarding building height. Consider the development complies with 2 of the upward modifiers in that it is a site in excess of 0.5ha and that the existing built environment permits higher development noting in particular, that the development will have no impact on surrounding properties as the separation distances ensure there is no direct overlooking or overshadowing. Do not consider that any of the downward modifiers apply to the site and that the distances to the boundaries are appropriate in a suburban living environment. Height is not considered unreasonable in this suburban residential site context. Note no objections from the Conservation Department and that there are no issues of built heritage consideration. Consider the scheme assimilates well into the landscape.

Impacts on Residential Amenities

- Note the minimum standard of 22 metres between directly opposing first floor windows and that this should be considered in relation to the site and the proposed apartment development.
- Consider that there are sufficient separation distances between the development and Kilteragh Pines and that no direct overlooking will occur. The site has the capacity to absorb the development.
- Consider that overshadowing model is an artist's impression and cannot be accepted or verified. CGI material also cannot be verified and should be disregarded.
- Request the Board to take a balanced view and that the development provides for an appropriate density and height without unduly detracting from the adjoining levels of residential amenity.
- The appellants request to omit a full floor is unreasonable. It would significantly reduce the residential density and would have a significant impact on the overall design intent.
- Note applicant is amenable to addressing any landscape requirements the Bord may consider appropriate by way of condition but does not consider the use of an acoustic barrier to be appropriate.
- The design of the gate lodge was substantially modified at Further Information Stage, in particular to address potential impacts to no. 12 Hainault Park. The overall floor area was reduced from 200 sq. metres to 75 sq. metres and the height reduced from 4.3 metres to 2.9 metres. Length of the dwelling was reduced from 51.7m to 32m. Consider the development will act as an entry point to the development and create a legible and easily navigable entrance to the new scheme.
- With regard to the location of the substation, state that condition 41 requires the applicant to submit revised drawings indicating the relocation of the substation. Bin storage for the development will be located at basement level, not adjacent to the gate lodge.

- The nature of the development is residential with basement parking. Consider objections on the basis of noise pollution are unreasonable having regard to the suburban residential environment.

Impact on the Foxrock ACA

- Note the site is not within the ACA and maintains separation distances of 19 to 31m from the ACA boundary. The development is not proximate to a protected structure. The Conservation Officer raised no objections.

Surface Water Drainage and Flooding

- The proposed development design has been subject to the requirements of the Greater Dublin Strategic Drainage Strategy. SUDS have been proposed to mitigate the impact to the existing environment and include green roofs, permeable paving features and a BMS Stormbreaker attenuation system. Sediments are captured in the stone bed, providing treatment by removing silts and hydrocarbons from the run off. Silt trap manholes will also be provided as a further silt removing treatment measure.
- In terms of surface water runoff, note that the development will reduce the impact on the receiving environment as compared to the existing situation on site, it will provide a reduction on surface water outflow. It is acknowledged by DLRCC that discharging runoff from the proposed development at a reduced rate of 2.3 l/s directly to the 750mm dia culvert will greatly improve the current situation where approximately 112 l/s would discharge upstream of the culverted section of the Cabinteely Stream.
- While the exact invert level of the 750mm culvert is not recorded on the services maps, it is evident that it is feasible to discharge at this location due to the existing connection of the existing 150mm dia sewer. It was, therefore, agreed with DLRCC to carry out investigative surveys at construction stage and any remedial works required to be carried out.
- Under the Flood Risk Management Guidelines, open space is considered a water compatible type of development in all flood zones. The Guidelines also highlight that retaining open spaces for storage and conveyance of flood water, flood risk to both upstream and downstream areas can be more effectively

managed. Climate change has been considered in the design proposals for both the hydraulic model of Cabinteely Stream and the surface water run off simulation.

- The development layout has been modified through careful flood considerate design to avoid losing flood water storage on site. Analysis has been carried out to provide compensatory flood storage to ensure the development will not result in an increase of flood risk elsewhere. Measures have been incorporated in the design to mitigate residual flood risk to people, property, the economy and the environment as far as reasonably possible.
- Regarding concerns that the hydraulic model should have been carried out for a culvert blockage of 100% rather than 50%, a value of 50% is considered in accordance with the guidelines set out in the Strategic Flood Risk Assessment of the DLRCC Development Plan.
- Safe access and egress routes to and from the development is provided for from both Plunkett Avenue and Hainault Park. The access ramp to the basement is defenced by a retaining wall towards the compensation depression area.
- Aecom submitted a pre connection enquiry form to Irish Water. A Certificate of Feasibility was received confirming that following a hydraulic assessment, based on the capacity currently available, both water supply and waste water connections can be facilitated without any upgrade works.

Traffic, Access and Parking

- With regard to the access from Plunkett Avenue, note that this is a secondary access, primarily to facilitate pedestrian and cyclist permeability and for occasional emergency vehicle access and taxi drop off/pick up. The avenue is generally 4m wide and 3.6m at its narrowest point. This is sufficient to cater for a fire tender, typically 2.5m wide. DMURS notes that lightly trafficked, narrow carriageways are suitable as shared surfaces.
- The main vehicular access to the site off Hainault Park has been designed in accordance with DMURS. The visibility splays are reflective of the design speeds of 50km/h and in accordance with the sight stopping distances specified

in DMURS. The proposed corner radii have been minimised on the geometries available and will work with other elements of the scheme to maximise pedestrian priority.

- The proposed parking provision is in accordance with the DLRCC Development Plan requirements. The site is within walking distance of the N11 QBC. A Mobility Management Plan will be implemented which will promote travel by sustainable modes.
- Existing on street parking is an operational matter unrelated to the proposed development which can be dealt with by DLRCC by way of parking restrictions should they deem this necessary. On street parking is typical for an urban area and is acknowledged in DMURS as a traffic calming mechanism. The width of the carriageway is 5.4m. In many cases, it is not possible for cars to park opposite each other due to the presence of driveways which provides numerous opportunities for vehicles to pass each other.
- An Outline Construction Management Plan was submitted at Further Information Stage. As is usual practice, a construction management plan will be submitted by the appointed contractor to DLRCC for approval prior to any construction activity. The carriageway is of sufficient width (5.4m) to cater for construction vehicles.
- Should any temporary traffic management be required, all existing dwellings on Hainault Park contain private driveways and, therefore, residential parking demand can be catered for off street temporarily, for short periods, similar to what would take place for service works. There is no dedicated on street parking on Hainault Park and, therefore, any rigid trucks exiting along this route could pass a car safely once co-ordinated and agreed in advance with local residents and DLRCC. The Outline Construction Management Plan includes a series of measures to minimise the potential temporary disruption on residential amenity during the construction phase.
- Should any excavation be carried out in rock, the Contractor will adhere to the guidance for noise and dust pollution regulations as outlined in the CMP and further developed into a Site Specific Method Statement in accordance with the relevant regulations.

- With regard to refuse vehicle access, a swept path analysis is submitted which demonstrates that a rear steering refuse vehicle can complete the required turns and access to the site in line with DMURS. A supplementary analysis for a front steer refuse vehicle has also been undertaken which confirms both vehicles can service the proposed development. The development has been designed to cater for refuse vehicles accessing the site, whilst also ensuring pedestrian priority at the main site entrance off Hainault Park due to the proposed corner radii and raised pedestrian ramp as the main entrance.
- The trip generation of the proposed development was calculated with reference to the industry standard TRICS database. The resultant trip generation was 15 vehicles in the AM peak hour and 16 vehicles in the PM peak hour. Note that a Road Safety Audit was completed for the development and submitted with the application.

Other Issues

Construction Phase Impacts

- With regard to construction management, note that condition 33 requires the submission of a detailed Environmental Management Plan.

Trees

- Significant care and consideration has been given to retain as many of the trees as possible within the site. A detailed landscape plan and tree survey was submitted at Further Information Stage.
- With regard to boundary treatment between the site and Kilteragh Pines, note that 15 trees were surveyed at this location (of these 9 will be retained and 6 removed). To compensate for those removed, 15 trees are proposed for planting. In addition the beech hedge bounding no.s 12 and 13 will be retained. Consider boundary treatment to be appropriate.

Ecology

- Consider the conditions attached by the Council in relation to Ecology, Landscape and Trees are appropriate.

6.3. **Planning Authority Response**

- The Planning Authority have had regard to the third party concerns in the assessment of the application and it is considered the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity.
- It is considered that the proposed development succeeds in achieving an efficient use of land while respecting the amenities of the area. The development is considered in accordance with local and national policy.
- The Drainage Department note that that issues raised regarding surface water drainage and flooding have been addressed and there is no further comment.

6.4. **Observations**

6.4.1 Observations on the appeals were made by Tim Brosnan, Brian A. Murphy, Nicky Kenny, Catherine Toomey, Edward and Nuala Clarke, Cathal O' Connor, Kevin B. Nolan and Maria C. Nolan, Foxrock Area Community and Enterprise Ltd.

6.4.2 The issues raised by the observers overlap with those made in the third party appeals which are summarised above in section 6.2 and no further substantive issues arise.

6.5. **Further Responses**

6.5.1 The third party appeals were cross circulated to all parties and further submissions were received from Ann Kenny, Don and Jacqui Maher, Frank and Breda McCabe and Caroline Kennedy and Others. No further substantive issues were raised.

6.5.2 Under Section 131 of the Planning and Development Act 2000 the first party response to the appeals was circulated to the appellants and Dun Laoghaire Rathdown for comment. Further responses were received from Caroline Kennedy and Others, Orla O' Callaghan, Ann Kenny, Kilteragh Pines Management Society, James O' Connor, Paul Mc Cardle, Margaret Clarkin, Johnathan Stanley, Edward and Nuala Clarke, Don and Jacqui Maher and Frank and Breda Mc Cabe and John Keane. The submissions generally reiterate the points made in the appeals and can be summarised as follows:

- Refute the assertion that the development assimilates with the site. Density and height are inappropriate and the development would have a significant adverse impact on the residential amenities of adjoining properties. Development will overlook adjoining properties. Note no sunlight and daylight study undertaken by the applicant and that no contextual sections, elevations or 3D modelling were submitted which would demonstrate the height, scale, mass and proximity to adjoining properties.
- Concerns regarding break in the building line along Hainault Park and impacts of the proposed gate lodge on adjoining properties.
- Reiterate that site notices are incorrect and that application was materially amended at Further Information Stage. Note inaccuracies in architectural drawings.
- Consider that the set back at 4th floor is minimal and has a terrace designed for occupation. State that the use of upward modifiers set out in the Development Plan does not apply to the subject site. Note no response or comment was made by the applicant in relation to the photographs of 3D model submitted. The applicant's attempt to discredit and dismiss the overshadowing and overlooking models must be rejected by the Board.
- The applicants have failed to acknowledge the real and substantial impact this development will have on the Foxrock ACA.
- No proof provided by the applicants that they hold the necessary title to use Plunkett Avenue. Consider that infrastructure provision cannot be implemented without the express legal consent of the landowners.
- Consider that the application has not passed the Justification Test and that there is inadequate drainage capacity to support the development. Concerns raised regarding the capacity of the existing culvert and the invert level at the proposed discharge point. The applicants have not addressed the fact that it is development plan policy to refuse development within Flood Zone A and B. Flood Risk Assessment inadequate. Note that there is significant evidence that the stream floods and the development will exacerbate this. Use of the proposed recreational open space as a store for storm water overflow is incompatible. Concern regarding flooding of the pedestrian route.

- No clarity provided as to how rock (if encountered) will be removed. No attempt to quantify the extent of rock and soil to be removed.
- Consider it inappropriate that Construction Traffic Management should be addressed by condition. State impacts on Hainault Park during construction and operational stage will be significant. Consider applicant's response regarding existing on street parking inadequate.
- A further response was received from the Planning Authority the 2nd of August 2018. It states that it is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

7.0 **Assessment**

7.1 **Introduction**

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

- Legal and Procedural.
- Principle of Development.
- Impact on Residential Amenities.
- Architectural Design.
- Impact on the Foxrock ACA.
- Surface Water Drainage and Flooding.
- Traffic, Access and Parking.
- Other Issues.
- Appropriate Assessment.
- EIA Screening.

7.2 Legal and Procedural

Site Notices and Architectural Drawings

7.2.1 A number of the appellants/observers raised concerns regarding the public notices. With regard to the notices submitted with the application when lodged, comment is made that they fail to adequately describe the nature and extent of the development, particularly the extent of demolition.

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

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

7.2.3 Having regard to this guidance, I am satisfied that the nature and content of the site and newspaper notice submitted with the application was sufficient and the extent of demolition works adequately described. It is not a statutory requirement to state that a development site is within or adjacent to an ACA (refer to Form 1 template – Schedule 3 of the Planning and Development Regulations 2001 as amended).

7.2.4 It is set out by a number of the appellants/observers, that the nature and extent of the development was materially amended at Further Information Stage as the applicant proposed revised surface water drainage arrangements and amended the red line boundary of the development and that this was not adequately described in the revised public notices. It is also detailed that the notice did not state the statutory period within which to make a submission. Article 35 of the Planning and Development Regulations sets out the requirements of the public notices required in respect of further information or revised plans. It is detailed that the revised public notices must state that significant further information or revised plans, as appropriate, in relation to the application has or have been furnished to the planning authority.

- 7.2.5 Form no. 4 of the regulations sets out a template of the site notice of further information/revised plans. It is noted that there is no requirement under the regulations to specify the nature of the significant further information or the revised plans. Guidance regarding significant additional data (Article 35) is also set out in section 5.9 of the Development Management Guidelines. This makes no reference of the requirement to specify the nature and extent of the significant further information/revised plans. Furthermore, the template (Form 4) outlines that the notice must state that the significant further information/revised plans are available for inspection or purchase at the offices of the planning authority during its public opening hours. It is not a requirement to state that submissions or observations must be made within a 2 week period.
- 7.2.6 It is evident that the purpose of such public notices is to inform the public that significant additional data has been submitted in respect of an application, and if they are an interested party, affords them the opportunity to view such information and make a further submission if necessary. I am satisfied that the public notices submitted by the applicant at Further Information Stage comply with the relevant regulations and that no third party rights were prejudiced in this regard.
- 7.2.7 A number of the parties, make reference to inaccuracies in the planning drawings. The application was fully validated by the Planning Authority and deemed to be generally in accordance with the requirements of the regulations. I am satisfied that the applicant has provided sufficient material on which to make an informed assessment of all aspects of the proposed development.

Legal Ownership

- 7.2.8 A number of the appellants/observers raised concerns that the applicants do not have the necessary legal consent to make the application. It is detailed in particular, that there is an absence of evidence of legal entitlement to use Plunkett Avenue and that the proposed 225mm new surface water sewer required to serve the development is located on land outside the applicant's ownership. It is stated by the applicant that they have the necessary legal consent to make the application.
- 7.2.9 In considering this matter, the Board should have regard to section 34(13) of the Planning and Development Act 2000 (as amended) which states '*A person shall not be entitled solely by reason of a permission under section 37(g) to carry out any*

development'. This subsection makes it clear that the grant of permission does not relieve the applicant of the necessity of obtaining other permits or licences which statutes or regulations or common law may necessitate.

7.2.10 In this regard, I am satisfied that any disagreement regarding the legal entitlement to use Plunkett Avenue to access the development is a legal matter between the applicant and other third parties and it is outside the scope of this assessment. Accordingly, I do not consider that these matters are reasonable and substantive grounds for refusal of the proposed development.

7.2.11 With regard to the proposed new sewer required to serve the development, this will be located in public roads, which it is understood have been taken in charge by the local authority. Whilst a letter of consent has not been provided by the Council, I note that no objections to this proposal have been raised by either the Drainage Department or the Planning Department. In this regard, I consider consent is implicit.

Aarhus Convention and Validity of Planning Conditions

7.2.12 Concerns have also been raised by the appellants/observers regarding a number of the conditions imposed by the Planning Authority. It is stated that some of the conditions are unenforceable and require the submission of additional plans and details to be agreed with the planning authority which may be prejudicial to the rights of third parties. Having reviewed the contested conditions, I am of the view that they are valid and enforceable.

7.2.13 The Development Management Guidelines (Section 7.9) advise that conditions requiring matters to be agreed where matters involved are of a fundamental nature or such that third parties could be affected should be avoided. In this instance, the Planning Authority imposed conditions regarding various technical details primarily relating to drainage and traffic management matters to be agreed by way of compliance. I consider these to be relatively minor issues and that it would be unreasonable to require the applicant to go through the statutory application procedure in relation to these details of the proposed development. I am satisfied that these are matters which can be agreed to the satisfaction of the Planning Authority without prejudice to third parties.

7.3 Principle of Development

7.3.1 In considering the principle of development, the key issues raised by the appellants and observers relate to:

- Principle of demolition.
- Density.
- Height.
- Compliance with the zoning objective.

Principle of Demolition

7.3.2 Concerns were raised by some of the parties regarding the demolition of the existing dwelling houses due to the contribution they make to the general character of the area. Both houses are of relatively recent construction, with the dwelling on the Weavers Hall site being constructed as recently as 2000. Neither dwelling is considered to be of any particular architectural importance of heritage value nor are they located in the Foxrock ACA. The merits of demolishing the dwellings must be considered in the context of the redevelopment proposal which in my view, will provide for a greater intensification of the lands and a more sustainable use of this infill site. In this context, the demolition of the existing dwellings is considered justifiable and in accordance with the proper planning and sustainable development of the area.

Density

7.3.3 Significant concerns have been raised by the appellants/observers regarding the density of the proposed development. It is considered that the density is excessive having regard to the prevailing pattern and character of development in the vicinity and is unjustified having regard to the distance of the site from public transport and the lack of adequate social infrastructure in Foxrock to serve the development.

7.3.4 The proposed development provides for a net density of 45 units per hectare. There is a clear policy presumption at a national, regional and local level to promote a greater intensity of development on urban lands. The National Planning Framework 2018 highlights the need for consolidation and densification in meeting our future

accommodation needs with a clear objective that at least half of the future housing growth of the main cities will be delivered within existing built up areas through infill and brownfield development.

- 7.3.5 Guidance on density is set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas. Regarding infill residential development, it notes that a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. Further guidance is set out in the Dun Laoghaire Rathdown County Development Plan 2016 under Policy RES3 which promotes more compact, good quality, higher density forms of development. The plan states that the minimum default density for new residential development is 35 units per hectare. Where a site is within 1km pedestrian catchment of a rail station, Luas line, BRT, QBC or town or district centre, higher densities at a minimum of 50 units per hectare.
- 7.3.6 The subject site is currently an underutilised serviced site within an urban area. It is clearly an appropriate location for a higher intensity of development having regard to its proximity to Foxrock Village Centre as well as the social and economic amenities and facilities available in the wider geographical area. The site is within 1km of the QBC located on the N11. It is also noted that the site is located within the Section 49 Development Contribution Scheme for Luas Line B1 and thus, its public transport accessibility may be further enhanced in the future.
- 7.3.7 The concerns of the appellants/observers regarding the relatively low scale of adjacent development are noted. The prevailing character in the vicinity is primarily single and two storey detached housing. However, as noted in the guidance, a balance must be struck between the protecting the amenities of adjacent properties and achieving more sustainable, compact urban growth. In this context, the applicant has sought a more modest medium density of 45 units per hectare rather than the recommended minimum of 50 units per ha. The subject site is large and in my view, having regard to its proximity to a QBC and the village centre of Foxrock, has the capacity to absorb a development of this scale and density.
- 7.3.8 I also note that the Board previously granted a development of 28 apartments at the Birches, Torquay Road on a site of 0.643 hectares which equates to a density of

43.5 units per hectare. This density was deemed appropriate having regard to the location of the site adjacent to the village and public transport nodes. This in my view is a relevant precedent. I am satisfied, therefore, that the proposed density of 45 units per hectare is acceptable in principle at this location, subject to the amenities of neighbouring residential properties being protected. This issue is addressed further in section 7.4 below.

Height

7.3.9 Significant objections are raised regarding the height of the proposed development and it stated by a number of the appellants that it is contrary to the height strategy set out in the County Development Plan. The Building Height Strategy is set out in Appendix 9 of the plan. The site is located in an area defined as a 'residual suburban area' where there is a general recommended height of two storeys. The plan also however, provides for situations where modifications upward or downwards in height can be considered. Various arguments are put forward by both the applicants and the appellants/observers regarding the appropriateness of the upwards modifier criteria and how they apply to the subject site.

7.3.10 On balance however, I am satisfied that the following upward modifiers are of relevance to the subject site namely 4.8.1 (d) which states:

"The built environment or topography would permit development without damaging the appearance of character of the area."

and 4.8.1 (f)

"The size of the site e.g. 0.5ha or more, could set its own context for development."

7.3.11 In this context, the site is well in excess of 0.5ha and subject to appropriate siting and design, I am satisfied that additional height could be accommodated on the site without adverse impacts to the character of the area. Accordingly, there is a case for the upward modifiers to be applied.

7.3.12 In considering the appropriates of the height proposed, regard must also be had to the recently published Guidelines for Planning Authorities on Urban Development and Building Heights which cautions against blanket numerical limitations on building height. The guidelines set out key development management principles including that in considering development proposals for buildings taller than the prevailing

building heights, it must be considered whether the development would positively assist in securing National Planning Framework objectives of focussing development in key urban centres and in particular, fulfilling targets related to brownfield and infill development and deliver compact urban growth in our urban centres. In this context, I am satisfied that the proposed building height of 4 storeys is appropriate at this location and will ensure the effective utilisation of the lands at a sustainable density.

Compliance with the Zoning Objective

7.3.13 The subject site is zoned Objective A: *To Protect and/or Improve Residential Amenity*. It is stated by a number of the parties that the development is contrary to the zoning for the site as the development will not protect or improve the residential amenities of adjacent properties. Under the zoning matrix of the plan, residential use is permitted in principle under the zoning objective. I note that a number of infill developments have been permitted in the wider Foxrock area on such zoned lands. I am satisfied, therefore, that the development is in accordance with the zoning objective pertaining to the site.

7.4 Impact on Residential Amenities

7.4.1 Perhaps the greatest objection raised by the appellants and observers is the impact of the development on the residential amenities of the area. Particular concerns are raised regarding potential overlooking, overshadowing and overbearing impacts and that the development will result in a diminution of privacy. A number of appeals include detailed 3D modelling, CGI's and shadow studies.

7.4.2 Due to the locational context of the site and its infill nature, the site is surrounded by low density residential development. To the north east, is Kilteragh Pines which comprises a series of low scale single storey bungalows set in the grounds of Kilteragh House – a protected structure. This development is located within the Foxrock ACA. To the south and west, are a series of detached houses located along Hainault Road and Hainaut Park and Kilteragh Drive. To the north, is a further detached house set on a large site, accessed from Plunkett Avenue.

7.4.3 The development as proposed comprises 2 no. 4 storey blocks over a basement level. The upper floor of the building is set back to reduce its massing and scale. The two parallel blocks are orientated east west and sit centrally within the site separated by a landscaped courtyard. Revised site plan and floor plans have been

submitted with the applicant's response to the appeal clarifying the separation distances between the proposed development and adjacent properties. In terms of Kilteragh Pines, these dwellings are separated from the development by a distance varying between c. 19 metres and 27 metres. The third floor is set back further increasing the separation distances to between c. 22 metres and 31 metres. The properties to the east on Hainault Park and Kilteragh Drive are separated from the development site by considerable rear gardens and separation distances ranging from 35 metres to over 60 metres. The detached property to the west is surrounded by mature landscape gardens and set back considerably from the proposal.

7.4.4 With regard to overlooking, the most sensitive receptors are the dwellings in Kilteragh Pines. Due to their low scale and design, it is evident that any development on the adjoining site will have the potential to overlook these properties. I note the applicant's submission regarding the development plan standard of 22 metres between directly opposing windows. I would concur with the appellants that this is a standard more typically applied to a suburban context where there are opposing 2 storey dwellings. However, it does provide a useful benchmark to assess overlooking. I am satisfied having regard to the separation distances proposed that no adverse overlooking impacts will occur. I also note that the penthouse level is to be provided with a planted edge at the building perimeter to prevent residents of these apartments standing at the parapet edge, thereby minimising overlooking from the terraces towards Kilteragh Pines. A detailed landscape plan is submitted which provides for the retention of the existing beach hedge and mature trees along the boundary with Kilteragh Pines to be augmented with additional planting and trees which will screen the development further.

7.4.5 In terms of overbearing impacts, concerns are raised regarding the scale of the building and that it will present as a substantial structure that is incongruous relative to the adjoining single storey dwellings in Kilteragh Pines. The proposed development will irrevocably alter the character of this urban area and will be visible from the surrounding area. Notwithstanding this, the proposal, in my opinion presents as a relatively modest structure with a maximum overall height of c. 15 metres. The proposed landscaping will soften and mitigate the visual impact. The elevational design, including set back, roof terraces and modulation of materials breaks down the overall massing.

- 7.4.6 I note that no overshadowing study has been submitted in support of the application. However, having regard to its overall height, orientation and separation distance from adjacent dwellings, I am satisfied that no significant adverse overshadowing impacts will occur. I have reviewed the shadow study submitted by one of the appellants. I note however, that this does not include any assessment of the existing environment and omits existing vegetation from the assessment which is likely in its own right to have shadow impacts. Nor is there any quantitative assessment of impacts to sunlight and daylight. In any event, this study demonstrates that during the summer months (June assessment) when the exterior amenity spaces of Kilteragh Pines are most likely to be utilised, no adverse shadow impact occur.
- 7.4.7 Concerns are raised by some parties regarding the impact of the development on Hainault Park and it is contended that the proposed single storey gate lodge structure will break the building line. I note the design of the gate lodge was substantially modified at Further Information Stage to address concerns regarding its potential impact on number 12. Hainault Park is characterised by a series of detached dwellings of varying styles and character. Whilst the proposed development will be set forward of the existing building line of no. 12, I do not consider that it will look incongruous or out of character with the existing streetscape. The design of the dwelling is contemporary and in my view, it provides an appropriate feature at the entrance to this new residential scheme.
- 7.4.8 I note concerns were raised by one party that the dwelling would be utilised as a service area for the development. It is evident however, that refuse storage associated with the scheme will be from the proposed basement. The floor plans submitted clearly indicate that this unit is a dwelling house. I note the concerns regarding the location of the substation, and I am satisfied that this can be addressed by way of appropriate condition.
- 7.4.9 Objections regarding potential adverse impacts to residential amenities in terms of noise pollution and light pollution have also been raised by a number of the appellants and observers. A detailed lighting plan was submitted with the application and no objections to the proposal have been raised in this regard by the Public Lighting section of the Council. I also note that lighting around the perimeter of the site will be very low in order to protect bats and the majority of artificial illumination at the perimeter will be by bollard lighting with potential for limited downward and

horizontal spill only. Light spill will be less than 3 lux. Due to the intensification of use of the site, some increase in noise is inevitable. However, the scheme is relatively modest residential development and located within an urban area and in this context, I am satisfied that no material impacts are likely to arise. I would concur with the applicants that the erection of an acoustic screen would not be appropriate in this instance.

7.4.10 In conclusion, I am satisfied that the proposed development achieves an appropriate balance between achieving a sustainable density for this well located urban site, whilst protecting the amenities of adjacent dwellings. The site in my opinion is of sufficient scale to absorb a development of this nature. The appropriate separation distances coupled with the design and orientation of the building and extensive landscaping will mitigate the visual impact and the development will have no material or adverse impacts on the amenities of adjoining properties.

7.5 Architectural Design

7.5.1 A number of objections are raised regarding the architectural design of the proposal stating that it is a generic, non site specific proposal and will offer a poor standard of amenity to future residents.

7.5.2 I am satisfied that the scheme as proposed is an appropriate design response to the site. I note the blocks are situated centrally within the site to minimise potential impacts on adjacent sensitive boundaries, and their orientation will maximise sunlight and daylight penetration throughout the day. A detailed landscaping plan is submitted and I consider the landscape proposals to be generally of a high standard with the retention of a number of mature trees augmented with additional planting where appropriate. The materials proposed are high quality and comprise natural stone and clay brick complemented by bronze anodized window frames.

7.5.3 In terms of the relevant quantitative standards as prescribed in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, the development meets and indeed exceeds the relevant standards in many instances. Concern is raised by one of the appellants regarding the bedroom accommodation in a number of units and that it is substandard. I note however, the minimum bedroom floor area for a single bedroom as set out in the guidelines is 7.1 metres, and the proposed development is compliant with this.

7.5.4 I consider the design of the development to be an appropriate response to the site and is of sufficient quality to afford future residents a high standard of amenity. A refusal in the basis of architectural design is, therefore, not warranted in this instance.

7.6 Impact on the Foxrock ACA

7.6.1 The subject site abuts the Foxrock Architectural Conservation Area and it is contended by the appellants and observers that the development will have as significant adverse impact on the character and integrity of the ACA.

7.6.2 The Character Appraisal for the Foxrock Conservation Area notes the following key points:

- The boundary of the ACA is informed with reference to the historical development of the area as a Garden Suburb in the late 19th century.
- The development of the suburb commenced in 1859 with the construction of a number of villa residences and large dwellings, many designed by prominent architects.

7.6.3 There are four sub areas within the ACA, and the lands to the north west of the site which includes Kilteragh House and Kilteragh Pines are located within the Westminster Road area. It notes that Kilteragh Pines is a good example of a sensitive development within the grounds of an historic building, enabling the original house to retain a large setting befitting their grandeur. The appraisal states:

“The low lying nature of this sensitive development, accompanied by the planting scheme now in a mature state, has not affected the character of the Protected Structure and has maintained the sylvan setting of the site.”

7.6.4 The Kilteragh Pines dwellings are not protected structures, and whilst they have been sensitively designed in the context of their location within the curtilage of a protected structure, they in themselves are relatively recent constructions.

7.6.5 The subject site is not located in the ACA. It is clearly stated in the Appraisal Document that those areas excluded from the ACA are considered not to contribute to the special character of Foxrock and, therefore, do not warrant inclusion. As detailed above, the proposed development will be set back considerably from the

boundary of the ACA and existing mature trees and planting along the common boundary will be retained and augmented. I note the Conservation Officer has raised no objections to the proposal. In this context, I am satisfied that the development will not detract or materially impact on the ACA.

7.6.6 I note that the submission from the Department of Culture, Heritage and the Gaeltacht raises concerns regarding the potential impact on View 1 listed in the ACA appraisal document which relates to the view towards the Dublin Mountains as one moves south along Westminster Road for approximately 300-400m before Hainault Road. The ACA notes that this view is available at street level and adds to the sense that Foxrock has a rural setting.

7.6.7 Whilst a visual study to demonstrate the impact of the development on this view has not been submitted by the applicant, from observations on site, I am satisfied that due to the siting of the development to the south east of Westminster Road and its limited height, views toward the mountains will not be impeded as one travels southwards.

7.7 Surface Water Drainage and Flooding

Surface Water Drainage

7.7.1 A number of objections are raised regarding the surface water drainage proposals pertaining to the site. Whilst the development will generate a greater volume of surface water run off than the current land use, detailed measures are proposed by the applicant to restrict outflow in accordance with the Greater Dublin Strategic Drainage Study. The development will thus reduce the impact on the receiving environment compared to the current development at Weavers Hall which currently discharges attenuated upstream of the culverted section of the Cabinteely Stream.

7.7.2 I note that a number of specific technical objections are raised by one appellant in their submission. The report from the Drainage Planning Department (30.05.2017) addresses a number of these issues and concludes that the alternative disposal route for surface water is acceptable to DLRCC. I note that no concerns have been raised by the Planning Authority or Drainage Department regarding the capacity of the existing culvert or the invert level of the proposed connection point. Regarding submissions that there will be excessive discharge from the Hydrobrake and that

discharges should be restricted to 1 litre/sec in order to mitigate against flooding, I note the response by the drainage department of Dun Laoghaire Rathdown Co. Co. which states:

“Runoff is restricted to 2l/s/ha or Qbar whichever is the greater. It is this allowable runoff rate that determines the maximum outflow from the chosen hydrobrake and not a general restriction of 1 l/s. As in this case the 2l/s/ha (2 x 1.14ha = 2.28 l/s) is greater than the calculated Qbar (0.28l/s).”

7.7.3 In conclusion, I am satisfied that the surface water drainage proposals for the development are acceptable.

Flooding

7.7.4 Concerns are raised that the development will exacerbate flooding that currently occurs locally and that proposed flood mitigation measures, including the proposed flood water storage area is unsatisfactory.

7.7.5 At further information stage the surface water drainage arrangements were comprehensively revised by the applicant. As part of this submission a detailed Flood Risk Assessment Report including a Site Specific Flood Risk Assessment was also submitted. This identifies that the site is a potential risk from fluvial (from the Cabinteely Stream (a.k.a St. Brides Stream)) and pluvial flood risk. In terms of the latter, surface water run off from the proposed development will be attenuated appropriately and discharges to an existing 750mm diameter culvert under Gordon Avenue.

7.7.6 The SSFRA includes a detailed hydraulic model of the Cabinteely Stream which determines the extent of Flood Zone A and B within the site of the proposed development. The landscape proposals were revised to include a local depression to provide flood water storage compensation. This mechanism is an improvement over the existing condition and reduces the impact on the lands across the Cabinteely stream. A detailed assessment of this proposal in the context of the compensatory storage criteria set out in Appendix 13 of the DLRCC Development Plan is provided. The appropriateness of this mitigation measure is also assessed in the context of the Planning System and Flood Risk Management Guidelines. I am satisfied that the

proposed flood storage compensation proposal is in accordance with the relevant guidelines.

- 7.7.7 I note the concerns from some parties regarding this feature, that it will be a health and safety hazard and will result in a reduction of amenity space. However, as this feature will only become effective in an extreme flood event, any such impacts will be temporary and short term in nature. I also note the objections regarding the use of public open space as flood storage which is considered by some parties to be contrary to section 3.5 of the Guidelines. It is explicitly stated however, in the guidelines that amenity open space is considered an appropriate land use within Flood Zone A and in this context, I am satisfied the location of open space to serve the development within this zone is appropriate.
- 7.7.8 I note the comments by one appellant that the development is contrary to the County Development Plan Strategic Flood Risk Assessment which does not allow for high density development in areas located within Flood Zone A or B. Notwithstanding this, I note the Planning System and Flood Risk Management Guidelines sets out that residential development which is classed as a highly vulnerable development, may be appropriate in Flood Zone A and B subject to the provisions of the Justification Test. The applicants have in section 6.2 of the SSFRA set out the criteria of the development management justification test and how the proposed development complies with same. Having regard to the detail set out in Table 17 of the SSFRA, the limited extent of flood zone A and B that affects the subject site and the detailed hydraulic testing and mitigation measures proposed including the flood storage compensation measures, I am satisfied that the development will not increase flood risk elsewhere. Furthermore, I note the development has been designed with flood resilience measures including appropriate finished floor levels and a retaining wall defending the vehicular ramp. Appropriate measures to address residual flood risk are also set out.
- 7.7.9 Having regard to the details survey and analysis undertaken, I am satisfied that the development will not result in an increase of flood risk on the site or elsewhere. Whilst there may be localised flooding on the site from the Cabinteely Stream, this will be stored in an appropriately designed compensation storage depression which

will form part of the landscape proposals for the development which is located away from the main building and associated infrastructure.

7.8 Traffic, Access and Parking

7.8.1 Objections to the development on the grounds of traffic have been raised and include issues such as congestion, HGV access, parking etc.

7.8.2 A detailed Traffic and Transport Assessment was submitted by the applicant. A Quality Audit and Road Safety Audit have also been submitted. It is proposed to access the site primarily via Hainault Park with Plunkett Avenue to be used as a secondary pedestrian and cyclist route. 93 car parking spaces are provided, including 8 spaces reserved for visitors. 140 bicycle spaces will be provided.

7.8.3 With regard to concerns relating to car parking, Table 8.23 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 sets out the car parking standards for residential schemes. This outlines that generally 1.5 car parking spaces are required for a 2 bedroom unit and 2 car parking spaces required for an apartment with three bedrooms or larger. The development comprises 35 no. 2 bed units and 15 no. 3 bed apartments and 1 no. 1 bedroom house. The apartment scheme, therefore, requires 82 spaces with a further 10% provision for visitor parking. The proposed house is served by one dedicated off street space. Accordingly, I am satisfied with the proposed car parking provision and cycling parking arrangements which I consider generally compliant with the relevant standards.

7.8.4 A number of the appeals have raised concerns regarding the suitability of the existing road network to accommodate the additional traffic which would be generated by the proposed development. It is notable that the TIA submitted with the application includes modelling to estimate trip generation for the proposed development as well as an assessment of construction traffic. The report outlines that the proposed development would generate 15 no. two way vehicle trips in the AM period and 16 no. two way vehicle trip in the PM peak period. This traffic generation compared with the existing traffic flows on the local road network is considered minimal and, therefore, would have a negligible impact on the capacity and operation of the existing road network across the peak hours and result in a relatively low increase in overall traffic levels on the road network. The junction

capacity analysis undertaken indicates that the junctions in the vicinity of the site will continue to operate well within capacity following completion of the development.

7.8.5 The development is for a modest residential scheme within an established urban area. I do not consider that the nature or extent of traffic likely to be generated by the development would be out of character with the existing traffic flow and volumes on the road network in the vicinity of the site. I also note that the Transportation Planning Department raised no objections to the development and that the applicant also proposes to implement a suite of mobility management measures to reduce reliance on the private car. In conclusion, I am satisfied that the road network in the vicinity has the capacity to absorb the level of traffic likely to be generated by the development.

7.8.6 In terms of access, I am satisfied that having regard to design speed surveyed along Hainault Park, that adequate visibility and sightlines can be achieved from the proposed access. Particular concerns have been raised regarding refuse truck access. Autotrack analysis has been carried out to demonstrate the capacity of the site to cater for such larger vehicles. Whilst this assessment has been contested by some of the parties, I note that Hainault Park is an established residential street, where HGV access by refuse trucks is already in operation. In this context, I am satisfied that the site can cater for traffic movements of this nature.

7.8.7 Plunket Avenue will solely be used for pedestrian and cyclist accessibility with occasional use for taxi drop off and emergency access. The carriageway of this access is sufficient to allow for access by a fire tender. The avenue currently provides vehicular access to a limited number of dwellings and has very low traffic volumes. In this context, I do not consider that the proposed intensification of use is likely to give rise to any significant issues.

7.9 Other Issues

Construction Phase Impacts

7.9.1 A number of the appellants and observers raised concerns regarding the construction phase of the project. Whilst I acknowledge there may be some short term impacts during the construction phase, I consider that such impacts will be short term, temporary in nature and can be mitigated through appropriate

construction management. Particular concerns are raised regarding potential haul routes due to the constrained nature of Hainault Park and existing on street parking. The applicant has addressed this matter comprehensively in their appeal response, and I am satisfied that like any urban site, that these issues are not insurmountable and can be addressed through an appropriate construction traffic management plan. The applicant has stated that a detailed construction management plan will be submitted to the Planning Authority prior to the commencement of development, on appointment of the contractor. This would address such matters as mitigation measures for noise, dust and vibration, demolition, excavation and disposal of waste and the timing and routing of construction traffic. This is standard procedure and I consider this matter can be addressed by way of appropriate condition.

Trees

- 7.9.2 With regard to tree loss, a detailed Tree Survey Report was submitted at Further Information Stage. 139 trees were surveyed of which 0 were category A, 20 category B, 128 were category C and 5 were classed as category U. Section 8 of the report sets out in details the arboricultural impact of the development. Trees will be removed where impacted upon by the footprint of the development as well as the flood relief measures to the north east and the revised entrance from Plunkett Ave. 67 trees are proposed for removal of which 57 are category C and 4 are category U and 10 are category B. No high value trees are affected by the development.
- 7.9.3 The report notes that the landscape plan has been designed to retain as much of the existing tree cover as possible, especially around the boundary of the property. In particular there will be little change to the trees and hedges around the edge of the site that create a landscape screen between Weavers Hall and the neighbouring properties. The plan also includes design measures such as permeable, root friendly surfacing where hard surface area are required. A comprehensive new planting scheme to replace trees removed and to increase the age class and species diversity of the tree population is proposed.
- 7.9.4 The trees to be removed over both sites are generally of low Arboricultural value and that the landscaping plan will ensure a robust new planting regime across the site. In this context, I am satisfied that the extent of tree loss will have no significant

adverse impacts in terms of the amenity of the area. Measures to address the protection of trees to be retained can be addressed by way of condition.

Ecology

- 7.9.5 I note the objections raised by some parties to the appeal with respect to the potential negative impacts of the development on ecology. A detailed Ecological Impact Assessment was submitted with the application and further detail, including a bat survey was submitted at Further Information Stage. The stream to the north east of the site was also surveyed. I note the site is not subject to any specific environmental designations and the lands comprises residential housing and their associated suburban gardens.
- 7.9.6 The Ecological Impact Assessment details that no significant effects are predicted to result from the construction and operation of the proposed development and that whilst there will be some loss of local importance habitats, the retention of trees and hedgerows along the boundaries of the site and proposed landscaping will not result in any significant effects on key ecological receptors. The surveys undertaken revealed that the presence of bats on the site is unlikely. Bat species were recorded passing through the area around the site and in this context, the lighting plan around the perimeter of the site was reviewed to ensure that dark corridors will be maintained. Potential impacts on bats were assessed as not significant due to the retention of trees and sensitive lighting design. The report notes that whilst water birds and occasionally otters use the stream, its ecological value is limited by culverting and poor water quality due to run off from road surface and leachate of fertilisers and herbicides from nearby gardens.
- 7.9.7 Having regard to the detailed surveys undertaken, I am satisfied that the proposed development will have no material adverse impacts on the ecology or biodiversity of the area. I also note the Biodiversity Officer had no objection to the development.
- 7.9.8 In terms of potential contamination of St. Brides Stream (Cabinteely Stream), I note that SuDS measures are incorporated into the design of the development which will significantly reduce potential contaminants infiltrating this existing watercourse.

7.10 Appropriate Assessment

7.10.1 An Appropriate Assessment Screening Report is submitted with the application. This details that the subject site does not physically overlap with any European site. In terms of the source, pathway, receptor model, the report identifies three European sites within 15km that have a potential hydrological connection with the site.

7.10.2 The South Dublin Bay SAC (000210) is located c. 3.6km to the north of the site and the North Dublin Bay SAC (000206) located c. 9km to the north. Surface waters generated during the construction and operation stage could carry contaminants into the local surface water sewer network which discharges to Killiney Bay. Significant effects on the conservation objectives of these sites are ruled out having regard to the temporary nature of any discharges and the short duration of the construction phase, the distance between the sites and potential for dilution in the drainage network as well as the known potential for waters in the Dublin Bay to rapidly mix and assimilate pollutants. Foul waters generated during the operation will be treated at Ringsend WWTP and discharged into Dublin Bay within the European site. It is noted that the coastal water within both Dublin Bay and Killiney Bay are classed as unpolluted by the EPA.

7.10.3 The Rockabill to Dalkey Island SAC (003000) is located c. 5.7km to the east of the site. Whilst the subject lands are connected to the European site by the foul and surface water networks which discharge to Dublin Bay at Ringsend and Killiney Bay, respectively, there is a significant open marine water buffer between these outfalls and the European site which any potential pollutants/inputs would become diluted.

7.10.4 The report concludes that it is possible to rule out likely significant effects on all European sites.

7.10.5 It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on European Sites 000210, 000206 and 003000, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and the submission of a NIS) is not, therefore, required.

7.11 EIA Screening

7.11.1 Having regard to nature of the development comprising an infill residential scheme and the urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016–2022, and in particular the objectives of this Plan that seek to promote infill residential development and increased residential densities, and having regard to the pattern of existing development in the area and the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, would not have a detrimental impact on the Foxrock Architectural Conservation Area, would be acceptable in terms of pedestrian and traffic safety, and would not lead to a risk of flooding of the subject site or adjacent properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 27th day of April, 2018, 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. 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. Prior to the commencement of construction the applicant shall submit full details of the proposed Green Roofs and formal maintenance of same to be agreed in writing with the Planning Authority.

Reason: In the interest of public health.

3. Prior to Surface Water connection to the public system, in the case of any drainage pipe which is to be taken in charge or whose diameter is 225mm or greater, in particular the new sewer connecting the development site to the culvert on Gordon Avenue, the applicant shall carry out a CCTV survey over the full length of such pipe when constructed and shall provide the Planning Authority with the results of such survey, together with a satisfactory remediation report (if required).

Reason: In the interest of public health.

4. Prior to the commencement of development, the applicant shall submit to the Planning Authority for its written agreement an emergency plan that is reflective of the design life of the development, the proposed use and vulnerability of items to be kept in the premises, the occupants and users, and shall include flood resilience and recovery measures, in particular, alternative access/egress to the apartments to the northeast of the site.

Reason: In the interest of public health.

5. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, traffic management signage, footpaths and kerbs, and the basement car park shall be in accordance with the detailed requirements of the planning authority for such works. All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points.

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

6. No dwelling units within the proposed development shall be sold separately, independent from the associated car parking provision. All the proposed car parking spaces shall be for occupants of the residential units and shall be sold off with the units and not sold separately or let independently from the residential development.

Reason: In the interest of orderly development.

7. The landscaping scheme as submitted to the planning authority on the 27th day of April, 2018 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

The developer shall retain the services of a suitably qualified landscape architect throughout the duration of the site development works. The developer's landscape architect shall certify to the planning authority by letter his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

Reason: In the interest of residential and visual amenity.

8. The areas of open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

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

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

10. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer 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 at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the in the submitted Tree Survey Report. All tree felling, surgery

and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

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

Reason: In the interest of visual amenity.

13. Prior to the commencement of development, the applicant shall submit revised drawings to indicate the re-location of the proposed sub station a further 10m north west of the rear boundary wall of the gate lodge.

Reason: To protect the residential amenities of the properties in the vicinity.

14. Proposals for an estate/development name, apartment 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/development signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility, and to ensure the use of locally appropriate place names for new residential developments.

15. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity, and of sustainable development.

16. Site development and building works shall be carried only out between 08.00 hours and 18.00 hours Mondays to Fridays excluding bank holidays and between 08.00 hours and 13.00 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of protecting the residential amenities of adjoining properties.

17. 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

18. A Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery (which shall not be within the areas designated for tree protection) and for storage of deliveries to the site.

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

19. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities 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: In the interests of residential amenity and proper waste management.

20. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development. The agreed lighting system shall be implemented and operational, before the proposed development is made available for occupation.

Reason: In the interests of amenity and public safety.

21. 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 Section 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

22. 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 of roads, footpaths, watermains, drains, communal open spaces and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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 referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development.

23. 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.

24. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood’) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Erika Casey
Senior Planning Inspector

24th December 2018

