



An
Bord
Pleanála

Inspector's Report 302060-18

Development	Construction of 4 houses.
Location	Amberwell, Brighton Road, Foxrock, Dublin 18.
Planning Authority	Dún Laoghaire-Rathdown County Council.
Planning Authority Reg. Ref.	D18A/0143.
Applicant(s)	Amberwell Vision Limited.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	3 rd Party v Grant.
Appellant(s)	Tom and Victoria Maughan Foxrock Area Community and Enterprise Limited.
Observer(s)	Larry and Mary Berry.
Date of Site Inspection	8 January 2019.
Inspector	Des Johnson.

1.0 Site Location and Description

- 1.1. The site is located on the northern side of Brighton Road a short distance west of its junction with Claremont Road/Brennanstown Road and adjacent to the west of Tullow Church of Ireland Church in Foxrock, Dublin 18. It is on the opposite side of Brighton Road to Brighton Hall and Brighton Avenue.
- 1.2. There is a large single storey mid-twentieth century house with brick and render finish occupying much of the width of the site. There is vehicular access at the western end of the site frontage. The frontage is marked by a rubble granite wall approximately 1.5 metres high. There are two substantial Leyland Cypress trees adjacent to the east of the entrance, the canopies of which overhang the public road. In addition, other smaller trees are planted on the site. Adjoining to the east is a relatively modern dwelling sited behind a high granite rubble front boundary (Es Vedra); to the east of Es Vedra is a two storey dwelling undergoing renovation and large extension (Glenasmole). To the west is a laneway leading to a couple of dwellings on large sites and, next to this, is a single storey gate lodge (Gleneagle Lodge).
- 1.3. Brighton Road is generally characterised by large single houses on generous sites set in an enclosed sylvan setting of mature trees and hedges. The character changes towards the eastern end of the road; it is more open where rubble granite walls predominate along front boundaries and there is a relatively higher proportion of coniferous trees. There are estate type developments off the southern side of the road along this stretch. Close to the junction with Claremont Road a large three storey nursing home is under construction with site frontage on to Brighton Road.
- 1.4. I attach photographs taken at the time of inspection.

2.0 Proposed Development

- 2.1. Demolition of existing dwelling (37 sq m) and provision of 4 no. three storey, four - bed plus study detached dwellings, measuring between 285 sq m and 305 sq m

The development also includes private car parking spaces to the front of each dwelling, the provision of an internal roadway leading to each dwelling, closing up the existing access and provision of a new access requiring partial setback of a boundary wall, the removal of trees, landscaping, boundary treatments and all associated works. It is proposed to connect to existing public services.

- 2.2. The site area is stated to be 2,150 sq m. The gross floor area proposed is stated to be 1172 sq m. The density proposed is the equivalent of 18.6 units per hectare compared to the existing density of 4.7 units per hectare.
- 2.3. The application is supported by Historic Building Consultants report (Rob Goodbody), AA Screening report (Pádraic Fogarty), Traffic and Transportation report (Stephen Reid Consulting), Arboricultural report (The Tree File Ltd.) and a Design Statement prepared by Austen Associates, Landscape Architects.

3.0 Planning Authority Decision

3.1. Decision

To Grant permission subject to 24 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Three submissions/observations received are summarised as follows:

- Not in scale or context with adjoining development
- Overdevelopment
- Visually overpowering
- Fails to preserve the character of the area
- Impact on residential amenity of existing property
- Overshadowing, overlooking and loss of light
- Loss of trees

The existing dwelling dates from the mid-20th century and is not of any architectural or historical interest. The proposed densification of this site is welcome having regard to the close proximity to the LUAS. Existing trees/shrubs to be removed are of no great quality. Private open space provision is adequate. There would not be undue overlooking of residential properties to the rear. Further Information requested in relation to the following:

- Letter of consent from Dublin Bus in respect of the relocation of the existing bus stop
- Letter of consent for relocation of an existing utility pole
- Detailed Construction Management Plan
- Request to reconsider the design of the proposed dwellings especially the roof structures.

Following the submission of Further Information on 25 May 2018 the proposed development is acceptable. The revised design to the dwellings, which included changing the roof profile of the two dwellings bookending the development (1 and 4) to a hipped profile and amending the finishes is acceptable and will not be injurious to the character of the ACA. There will be no significant overshadowing or overlooking of adjoining properties or injury to the residential amenities of the area. The proposed density is lower than policy would normally dictate but acceptable in this case having regard to the size of the site, adjoining development and the ACA status.

3.2.2. Other Technical Reports:

Surface Water Drainage – No objection subject to conditions.

Transportation Planning – No objection subject to conditions.

Conservation Division – The existing building is not considered to be of any architectural or historic interest. Replacement of the existing dwelling with 4 no. units is not considered to be in accordance with the character and urban morphology of the Foxrock ACA. If permission is being considered the number of units should be reduced and the design of the units revised to read as individual units as opposed to a 'terrace'. (**Note:** this report is dated 4 April 2018 and prior to the submission of FI

on 25 May 2018. There is no report from the Conservation Division after the submission of FI on file).

4.0 Planning History

There is no planning history relating to the current appeal site on file. The following histories relate to sites in the vicinity:

06D.246624 – Permission granted on appeal for demolition of house and the construction of a 3 storey over basement nursing home on a large site approximately 150 metres to the east of Amberwell.

302562-18 – Permission granted for demolition of house and associated structures and construction of 3 storey over basement nursing home (140 bedrooms) on a larger site than 06D.246624 but incorporating that site.

249096 – Permission granted on appeal for refurbishment and single storey and two storey extension to existing house (Glenasmole) on an adjacent site to the east.

5.0 Policy Context

5.1. Sustainable Residential Development in Urban Areas – Guidelines 2009

These generally promote the optimisation of density of development having regard to the site concerned, the location and accessibility to public transport. The Guidelines recognise that land is a scarce resource and should be used as efficiently as possible. Increased densities should be promoted within easy walking distance of bus and light rail stops while having regard to the relationship between the site and its neighbourhood.

In residential areas whose character is established by their density or architectural form, a balance should be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of the established character of the area and the need to provide residential infill.

5.2. **Dun Laoghaire Rathdown County Development Plan 2016-2022**

The site is in an area zoned 'A' with the objective to protect or improve residential amenity.

The site is within *Foxrock Architectural Conservation Area*. It is policy that proposals within the ACA to be of high quality and sensitive design, and to be sympathetic to their context and scale.

Tullow Church and Rectory, located a short distance to the east, are Protected Structures.

Policy within ACAs includes the following:

- Protection of the character and special interest of the ACA
- Ensure that all development proposals are appropriate to the character of the area having regard to the Character Appraisal for the area
- Promote high quality and sensitive design complimentary or sympathetic to the context and scale.

Foxrock Architectural Conservation Area Character Appraisal (April 2007)

The objective of the designation is to guide the process of change within the ACA and ensure that all future developments are carried out in a manner sympathetic to the special character of the area.

The architectural character of the area is created not just by the design of the individual structures. A significant aspect of its character is informed by the layout of sites, the setting of buildings within the sites and the surrounding landscaping.

The overall visual character of the area is sylvan in nature characterised by low density residential development with well enclosed road corridors which are almost rural in character.

Key considerations where demolition is proposed are:

- Contribution of the building to the ACA and the effect of its demolition on the special character of the area
- Whether the quality of the proposal for the redevelopment of the site will maintain or enhance the distinctive/special character of the area.

Development criteria for new buildings are:

- Not adversely affect the character of the streetscape
- Respect the existing pattern of development in the area with regard to setting and should be appropriately set back from the public road
- Scale and massing and height must be generally consistent with neighbouring dwellings.

5.3. **Natural Heritage Designations**

None relevant to proposed development.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

Tom and Victoria Maughan (Owners and occupiers of house (Es Vedra) immediately to east)

1. No objection to the redevelopment of this site but the proposal has not been properly assessed to the detriment of the appellants' amenities.
2. Appellants' are the most impacted by the proposal. The proposal will result in overlooking (both real and perceived), loss of light and overshadowing of the appellants property. The proposed development is 5m forward of the building line and between 1.7m and 1.0m from the boundary. Unit 4 in particular will give rise to overlooking. The proposed would block views from the appellants property, block light and impinge on privacy. It would be overbearing and visually obtrusive. The appellants' rear garden and front patio would be

overlooked and overshadowed. The revised design of Unit 4 submitted by way of FI does not alleviate concerns. The shadow analysis should have been carried out up to 9 pm in June.

3. The Conservation Officer's report is damning in assessing the scheme. The proposal does not accord with the character appraisal for Foxrock ACA or the CDP. The Conservation Officer strongly recommends a reduction in the number of units. The Conservation Officer did not report following the submission of Further Information.
4. The proposed development would, in effect, result in the total loss of trees on the site. The trees along the southern boundary contribute greatly to the character of Brighton Road. There is no input from the Council's Parks Department on file.
5. No information was submitted on measures to eliminate/minimise noise and dust, as requested.
6. The proposed development is for overdevelopment of a small site. The massing, lack of separation distances and loss of trees will have a visual impact on Brighton Road and would be completely out of character with the character and pattern of development in the area.
7. The appellants request that their objection to the Planning Authority be considered by the Board. This addresses many of the same issues as raised in the grounds of appeal, and contends that the proposal would contravene Development Plan policy for this area.

Foxrock Area Community & Enterprise Limited

1. The site is in an ACA. The planning authority and the Board must take into account the material effect (if any) that a proposal is likely to have on the character of an ACA, The Foxrock ACA was adopted on foot of a Character Appraisal of the area. Unique qualities of the ACA derive from this being a low-density residential area, characterised by large houses on generous

sites and a sylvan setting. Brighton Road is the best preserved road and an essential component of the ACA.

2. The Planning Officer totally ignored the Conservation Officer's recommendation that the number of units be reduced. The proposal is for a terrace of houses and the alteration of roof profile as requested under Further Information does not alter this. If permitted, the proposed development would set a precedent to the detriment of the ACA.
3. Increased densities should not be the ultimate deciding factor for planning decisions in the ACA. The proposal represents overdevelopment of this site. The maximum permitted development should be restricted to 2 houses with reasonable separation distances to adjoining properties.

The submission attaches a copy of the Character Appraisal for the ACA.

- In a further submission dated 9 August 2018, Foxrock Community and Enterprise Limited express support for the appeal by Tom and Victoria Maughan. The Planning Authority has set aside consideration of the need to protect and improve residential amenity, and to protect the character and special interest of the ACA. The Conservation Officer expressed opposition to the proposal from the outset and does not appear to have been consulted following the submission of Further Information. The Planner's report provides selective quotes from the Conservation Officer's report.

The proposed development should be refused.

6.2. Applicant Response

1. Es Vedra is an infill development provided in the last 6 years. It benefited from appropriate densification of a large underutilised plot. It is sited forward of Amberwell's building line and within 2.445 metres of the shared boundary at its nearest point. The proposal to densify is similar to what was ultimately done on the Glenasmole site.

2. There is no opportunity to overlook the Maughan property as the relevant windows are obscured.
3. There is no right to a view in planning. Any reference to a view from the western elevation of Es Vedra is not valid as only an obscured en-suite window has permission. There is no uniform building line along this stretch of Brighton Road. The detailed shadow study submitted at FI stage shows there is no material impact on Es Vedra. There would only be an imperceptible increase in ground shadow at 3pm on March 21st and June 21st. A small increase in evening ground shadow to the front of Es Vedra will not materially impact on residential amenity.
4. Es Vedra is built close to the boundary with Amberwell but the Maughans argue that Amberwell cannot do the same. It would not be sustainable to retain the existing setback between the two properties.
5. The site supports few trees of interest as detailed in the Arboricultural Impact Assessment (AIA) submitted. There are two large Leyland Cypresses along the frontage but their retention is considered unsustainable in an urban context. The trees would be removed to achieve safe sightlines. Proposed tree planting will add significantly to the sylvan character of the site, the area and the ACA. The AIA and the Landscape reports submitted clearly demonstrate that the proposed development will enhance the site and the sylvan character of the area.
6. The Character Appraisal for the Foxrock ACA is not referred to by the Conservation Officer. It clearly notes a change in character in the vicinity of the subject site. The proposal represents an appropriate intervention on Brighton Road.
7. Proposed access arrangements would represent an improvement for road safety reasons and in the nature of front boundaries along the street.

6.3. Planning Authority Response

1. The Maughan's objection was taken fully into account in the assessment of the proposal. The design of the proposed dwellings was amended by way of Further Information. This provided enough variation so that the proposed

dwellings would read more as individual units than a terrace. The revised design would not be injurious to the character of the Foxrock ACA.

2. The trees and shrubs to be removed are not of great quality.

6.4. **Observations/Objection**

Larry and Mark Berry Gleneagle Lodge, Brighton Road.

1. This is described as an area characterised by low density large detached dwellings. Any proposed development should be of appropriate scale and meet all requirements of the Development Plan.
2. This is an ACA and the proposed development should be complimentary to its surrounding context and scale. It does not and the decision is in error in not embracing the recommendation of the Conservation Department to reduce the number of units and the design revised so that the units read as individual units as opposed to a 'terrace'.
3. The space between the buildings is much less than more recent infill developments (e.g. Es Vedra beside Glenasmole) to the east.
4. The building line to Brighton Road is at an angle to the frontage. There is a difference in the proposed ridge height on Plot 1 (98.481m) and Glenasmole Lodge (92.360m) of 6.121m; this does not respect scale and context.
5. The proposed development would have an overpowering visual impact on Glenasmole Lodge, which is a single storey former gate lodge.
6. There is no precedent for an intensification development such as proposed on Brighton Road.

7.0 **Assessment**

- 7.1. The proposal is for the demolition of an existing mid 20th century single storey dwelling and the construction of four dwellings on a site area stated to be 2,150 m². The proposal would involve the removal of existing trees on the site and the provision of a new access to serve the proposed four houses. The site is in an area zoned A with the objective to protect and improve residential amenity and is also

within a designated Architectural Conservation Area. The site is located towards the eastern end of Brighton Road, Foxrock and is in close proximity to public transport – bus and LUAS.

7.2. I consider that the key issues to be considered in this appeal are as follows:

- Demolition of the existing dwelling
- Densification of the site
- Removal of trees
- Traffic
- Impact on residential amenities of property in the vicinity.
- Impact on the character of the Architectural Conservation Area

7.3. The existing dwelling on the site is of no particular architectural or historical merit and does not, by itself, contribute significantly to the character of the area. I consider that there is no objection in principle to the demolition of this dwelling.

7.4. The proposal is to replace one single storey dwelling with four three storey dwellings. Having regard to National policy and County Development Plan provisions which seek to optimise the density of development in areas proximate to public transport routes, and to the location of the site in close proximity to bus and LUAS stops, I consider that the increased densification of this site is acceptable in principle, subject to consideration of the impacts of the proposed development on the amenities of property in the vicinity and on the established character of this Architectural Conservation Area.

7.5. The proposed development includes the removal of most of the existing trees on the site, including substantial cypresses along the site frontage. The application documents submitted to the planning authority include an Arboricultural Report which concludes that much of the existing plant material on the site is relatively small and offers limited visual amenity beyond the immediate environs. In relation to the Leyland Cypresses located along the site frontage to the east of the existing entrance, the report advises replacement. It is noted that the proposed development includes the relocation of the entrance and front boundary wall and the replanting of this boundary with four specimen trees – two beech and two hornbeam (6-7 metres

high at the time of planting) interplanted with birch. While the existing cypresses are prominent features along this stretch of Brighton Road, I consider that the proposal to remove existing trees and provide replacement planting is acceptable and, together with the revised front boundary design, this aspect of the proposal would enhance the character of this stretch of Brighton Road over time.

- 7.6. It is proposed to provide a single revised entrance to serve the proposed development. This would be to the east of the existing entrance and centrally located along the front boundary with Brighton Road. The front boundary wall would be setback to facilitate improved sightlines in both directions along Brighton Road. I see no objection to this aspect of the proposed development.
- 7.7. The proposed four dwellings occupy almost the entire width of the site (42m approx.), with approximately 2 metres separation between the dwellings. While there is no established front building line along this stretch of Brighton Road, the proposed front building line would be approximately 6 metres forward of the front of the adjoining two storey dwelling to the east (Es Vedra) and the side elevation of the nearest unit proposed would be between approximately 1.2m and 1.7m of the boundary with Es Vedra. At the western end of the site the nearest proposed unit on plot 1 would be approximately 13.5m from the single storey Gleneagle Lodge and approximately 6 metres from the Lodges site boundary; there is a vehicular access to existing houses to the rear of the appeal site running between the two properties. The most westerly of the proposed units would be approximately 1m from the appeal site boundary at the nearest point.
- 7.8. Having regard to the siting and orientation of the proposed development relative to Es Vedra to the east, minor late evening overshadowing is likely to the front of Es Vedra but, in my view, this would not be of such significance as to warrant refusal of permission. Having regard to the design of the proposed development there would be no direct overlooking of Es Vedra. As Es Vedra is a relatively recent two storey construction built within approximately 2.4 metres of the boundary with the appeal site, I consider that it would not be reasonable to refuse permission for the proposed development on grounds of overbearing impact or loss of light.
- 7.9. Gleneagle Lodge, adjacent to the west of the appeal site, is single storey and the ridge height difference between the Lodge and the most westerly unit of the

proposed development would be in excess of 6 metres. On balance, given the separation distance and the ridge height differential between the two properties, I conclude that the proposed development would have a visually overbearing impact on the amenities of Gleneagle Lodge.

7.10. The site lies within a designated Architectural Conservation Area. Key components of this ACA are set out in a Character Appraisal and include low density residential development, the setting of the individual houses on generously sized sites, and the sylvan setting including visually enclosed road corridors. I consider that this appraisal accurately describes the character of much of Brighton Road. However, the First Party points to a change in the character of the ACA towards the eastern end of Brighton Road where the canopy becomes more open in the upper layers and rubble granite walls become common on both sides of the road and, from my observations I consider this to be correct. The pattern of development also changes along this stretch with granite boundary walls of varying heights, and varied development type including Tullow Church and Rectory and a three storey nursing home (under construction) on the north side. The estate type developments accessed off the southern side of Brighton Road lie outside the ACA.

7.11. Is the proposed development of 4 three storey houses with a rigid building line set back between approximately 15 to 17 metres from the new front boundary, occupying almost the full width of the site and set close to the eastern and western site boundaries, and with a separation of approximately 2 metres between houses, sympathetic to the special character of this area and does it respect the existing pattern of development with regard to setting? I conclude that the proposed development would visually read as a terrace from most angles, notwithstanding the design alterations made by way of Further Information and, as such, would be inconsistent and visually incompatible with the existing pattern of development and would detract from the special character of this designated Architectural Conservation Area.

8.0 Recommendation

8.1. I recommend that planning permission be refused.

9.0 Reasons

1. It is considered that the proposed development of four houses, closely spaced and with a rigid front building line, and occupying almost the entire width of the site, would conflict with the special character of the Foxrock Architectural Conservation Area as identified in the Character Appraisal for Brighton Road, would be inconsistent and visually incompatible with the existing pattern of development in the area and contrary to the proper planning and sustainable development of the area.
2. The proposed three storey dwelling on plot 1 would, by reason of its height, proximity to the site boundary and separation distance from the site of the single storey dwelling adjacent to the west, be visually overbearing and, as such, seriously injurious to the amenities of residential property in the vicinity and contrary to the proper planning and sustainable development of the area.

Des Johnson
Planning Inspector

23 January 2019