



An
Bord
Pleanála

Inspector's Report ABP-302718-18

Development

Demolition of the existing nursing home (c. 951.5 sq.m); Construction of 2 no. terraces of 2-3 storeys with a total of 15 no. dwelling units comprising: 9 no. 3 bedroom houses, 3 no. 3 bedroom duplex apartments and 3 no. 2 bedroom duplex apartments. Total residential gross floor area 2,529 sq.m; All associated site development works, services provision, car parking, cycle parking, bin stores, open space, revised vehicular / pedestrian access (including separate access to 1 no. unit), landscaping and boundary treatment works.

Location

Dalkey Lodge Nursing Home,
Ardbrough Road, Dalkey, Co. Dublin.

Planning Authority

Dún Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D18A/0700

Applicant(s)

Grassridge Limited

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|------------------------------------|--|
| Type of Application | Permission |
| Planning Authority Decision | Refusal |
| Type of Appeal | First Party v. Decision |
| Appellant(s) | Grassridge Limited |
| Observer(s) | Susan McDonnell (Dalkey Community Council) Ann Hegarty Brett Becker & Catherine Mooney Debbie & Stephen O'Flaherty Niamh Coleman The Concerned Residents of Ardbrugh Road and Dalkey Avenue |
| Date of Site Inspection | 28 th February, 2019 |
| Inspector | Robert Speer |

1.0 Site Location and Description

- 1.1. The proposed development site is located along the southern side of Ardbrough Road, Co. Dublin, approximately 700m south of Dalkey village centre, where it occupies an elevated position affording views northwards towards Dublin Bay. The surrounding area is primarily residential and is generally characterised by a variety of vernacular housing types interspersed with more contemporary / conventional construction whilst the wider topography is dominated by Dalkey Hill which rises steeply to the south / southeast and serves as a popular recreational resource for the area.
- 1.2. The site itself has a stated site area of approximately 0.4 hectares, is irregularly shaped, and is presently occupied by a disused / vacant two-storey nursing home, which appears to have originally comprised a substantial private dwelling that was subsequently converted and extended. The building is surrounded by associated grounds, including a driveway and parking area to the front, and a garden to the side and rear. There are mature trees and vegetation on the site boundaries and some smaller trees and shrubs on the lawns to the front of the building. There is also a high stone wall along the road frontage. Access to the property is obtained via an existing entrance from Ardbrough Road towards the northernmost end of the site frontage, however, a secondary access would appear to have been intended at the junction of Ardbrough Road with a minor cul-de-sac to the southeast given the removal of a section of roadside boundary wall at this location.
- 1.3. The site is bounded by a series of 4 No. residential properties to the northwest, all of which are located on lands at a lower level than the site. There are also several dwellings on the more elevated lands to the immediate east / southeast of the site, which have developed in a piecemeal fashion around a narrow cul-de-sac off Ardbrough Road with several of these properties overlooking the site. The site is bounded by the public road to the northeast and by Killiney Hill Park to the southeast and southwest.

2.0 Proposed Development

- 2.1. The proposed development provides for the demolition of an existing vacant / unoccupied two-storey nursing home (Dalkey Lodge) and the subsequent

construction of 15 No. residential units in 2 No. terraced blocks of 2-3 storeys as follows:

- 9 No. 3 bedroom houses;
- 3 No. 3 bedroom duplex apartments; and
- 3 No. 2 bedroom duplex apartments.

2.2. It also includes for all associated site development works, services provision, car parking, cycle parking, bin stores, open space, revised vehicular / pedestrian access arrangements, landscaping and boundary treatment works. Water and sewerage services are available via connection to the public mains.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 11th September, 2018 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 2 No. reasons:

- Having regard to the demographics and an increase in elderly and single person households within the County, it is not considered appropriate to demolish a nursing home that has and could cater for local elderly residents within an established residential area without an appropriate level and mix of compensatory accommodation choice that caters for changing needs at particular stages of life and offers a housing choice for all ages and abilities. In this regard, it is considered that the proposed development of multi-level dwellings and duplex units, fails to provide an appropriate mix of residential accommodation and housing for all, and is therefore contrary to policies RES7: Overall Housing Mix and RES9: Housing for All, in the Dún Laoghaire Rathdown County Development Plan, 2016-2022, and would set an undesirable precedent for similar development within the County. The proposed development therefore considered to be contrary with the proper planning and sustainable development of the area.
- Having regard to layout of the proposed development that fails to provide for any form of public or communal open space to serve future residents, it is

considered that the proposed development is contrary to the provisions of Section 8.2.8.2 Public / Communal Open Space – Quantity, in the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. It is considered that the proposed development would set a poor precedent for future development in the area and would therefore seriously injure the amenities, or depreciate the value, of property in the vicinity and is therefore considered to be contrary with the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context, planning history, and the applicable policy considerations, including Policies RES7: ‘Overall Housing Mix’ & RES9: ‘Housing for All’, before suggesting that consideration should be given to the retention of the existing facility in order to ensure that an appropriate mix of residential typologies remain in the area rather than potentially moving a local facility for elderly residents away from the established community. It subsequently states that the proposal to demolish the existing nursing home would unacceptably erode the mix of housing types in this area with no provision having been made for any form of compensatory single level / downsizing opportunities for elderly persons.

With regard to the design and layout of the proposed development, concerns are raised that the proposal will have a detrimental impact on the residential amenity of adjacent properties, primarily by reason of overlooking, overshadowing and an overbearing appearance / aspect. In addition, it is considered that the absence of any public or communal open space within the confines of the scheme would be contrary to Section 8.2.8.2 of the Development Plan and would set an undesirable precedent for future development in the area.

In terms of traffic considerations, reference is made to the recommendations of the Transportation Department, including a need for the site layout to be revised to provide for only one vehicular entrance to cater for all the proposed dwellings.

In relation to the proposed servicing arrangements, it is noted that Irish Water has highlighted the limited capacity available within the adjacent combined sewer whilst

the Drainage Division has recommended that further details be sought in respect of surface water drainage etc.

The report subsequently concludes by recommending a refusal of permission for the reasons outlined.

3.2.2. Other Technical Reports:

Drainage Planning, Municipal Services Department: Recommends that further information be sought with regard to the proposed drainage arrangements.

Housing: States that the applicant's proposals are capable of complying with the requirements of Part V of the Planning and Development Act, 2000, as amended, the County Development Plan, and the Housing Strategy, 2016-2022, subject to agreement being reached on land values and development costs and the availability of funding. It is therefore recommended that a suitable condition pertaining to Part V be included in any decision to grant permission.

Parks and Landscape Services: States that whilst the development proposals are generally acceptable in principle, there are a number of specific concerns which will be required to be addressed by way of condition in the event of a grant of permission (such as inconsistencies in the submitted details and the absence of any public / communal open space on site).

Transportation Planning: States that the site layout should be revised to provide for only one vehicular entrance to cater for all the proposed dwellings and that further information should be sought in respect of a variety of roads / traffic related matters, including car and bicycle parking, and adherence to the requirements of the Design Manual for Urban Roads & Streets.

Public Lighting: Recommends that further information be sought as regards the lighting proposals, including the provision of a lux contour diagram showing the light levels around the development and the surrounding roads and adjoining properties.

3.3. **Prescribed Bodies**

- 3.3.1. *Irish Water:* Recommends that the applicant be required by way of a request for further information to demonstrate that Irish Water has agreed (on the pre-connection enquiry) to discharge 1.7l/s of surface water to the combined sewer, which is known to be of a limited capacity.

3.4. Third Party Observations

3.4.1. A total of 10 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental impact on the residential amenity of neighbouring properties by reason of overlooking, overshadowing, disturbance during the construction phase (including noise and dust generated by excavation / rock-breaking activities), and an overbearing appearance / visual intrusiveness.
- The devaluation of property.
- The overall design, scale, height, and density of the proposal is not in keeping with the surrounding area.
- Adverse impact on the visual amenity and character of the wider area, including views to and from Killiney / Dalkey Hill.
- Inaccuracies as regards the identification of property boundaries.
- The loss of mature tree specimens and other planting on site.
- Concerns as regards the flooding implications for surrounding properties.
- Inadequate private and public open space provision.
- The negative traffic impact of the proposed development on the surrounding road network, and traffic safety considerations (including the proposal to provide two separate entrances).
- The inadequacy of the on-site car parking arrangements.
- Inaccuracies / inconsistencies / deficiencies in the information provided with the application, including the existing ground levels on site.
- Concerns as regards the capacity and condition of the existing substandard sewerage network to accommodate the additional loadings consequent on the proposed development.
- The proposed scheme is not directly comparable to the development previously approved under PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566.

- The existing use of the site as a nursing home should be retained given the demand for such services in the surrounding area.

4.0 Planning History

4.1. On Site:

PA Ref. No. D03A/0339. Was granted on 9th July, 2003 permitting Riddermark Ltd. permission for a two storey extension to side of existing nursing home, single storey extension to rear and first floor extension over existing single storey bedroom wing to rear with new ground floor exit doors to provide 21 additional single en-suite bedrooms, new dining room, treatment room, staff room, storage and ancillary accommodation including car parking and site works.

PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566. Was granted on 29th January, 2007 permitting Riddermark Limited permission for the demolition of the existing nursing home and the erection of 7 No. three bedroom and 8 No. four bedroom, three-storey terraced houses, including revised site access, car parking and ancillary site works.

PA Ref. No. D14A/0547. Was granted on 15th October, 2014 permitting Dalkey Lodge Nursing Home Ltd. permission for refurbishment works and new extension to existing part two storey, part single storey pitched roof Nursing Home. Development to include: 1. Two storey pitched roof extension with part flat roof (1,515m²) to side and rear of existing building (south east) with roof level accommodation and associated dormers and velux, to provide 35 new bed spaces and associated ancillary rooms. 2. Single storey pitched roof extension (12m²) to front of existing building (north) to provide new veranda and elevational changes. 3. Replacement of windows to front of existing building. 4. Internal refurbishment to existing building. 5. Landscaping to site generally. 6. Site works to include provision for 22 no. parking spaces (total), including 7 no. existing. Storage shed (20m²) with flat roof. Associated drainage and site works.

ABP Ref. No. PL06D.FS0538. Was determined on 20th September, 2016 whereby the Board directed that the Building Control Authority grant a fire safety certificate for a proposed extension and minor material alterations to the existing nursing home at Dalkey Lodge Nursing Home.

PA Ref. No. D16A/0921. Was granted on 24th July, 2017 permitting Dalkey Lodge Nursing Home Ltd. permission for modifications to the development permitted under Reg. Ref. D14A/0547 for refurbishment works and a new 3-storey extension at the southeast elevation resulting in a reduction in total bedrooms from 59 no. as previously permitted to 58 no. overall. The revised development will now consist of:

1. Two storey pitched roof extension with part flat roof (c.1,627 sqm) to side and rear of existing building (southeast) with roof level accommodation and associated dormers and velux to provide 31 new bedrooms and associated ancillary rooms.
2. Internal refurbishment works to existing building to replace 2 no. bedrooms at first floor level with a treatment room.
3. New emergency access to/from Ardbrough Road.
4. 17 no. surface parking spaces, site landscaping and all associated drainage and site works.

5.0 Policy Context

5.1. National and Regional Policy:

- 5.1.1. The *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.
- 5.1.2. The *'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018'* (which update the *'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015'*) provide detailed guidance and policy requirements in respect of the design of new

apartment developments. Where specific planning policy requirements are stated in the document, these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes. Furthermore, these Guidelines apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease. They also apply to housing developments that include apartments that are built specifically for rental purposes, whether as 'build to rent' or as 'shared accommodation'. Unless stated otherwise, they apply to both private and public schemes. These updated guidelines aim to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types. They also seek to ensure that, through the application of a nationally consistent approach, new apartment developments will be affordable to construct and that supply will be forthcoming to meet the housing needs of citizens.

5.2. Development Plan

5.2.1. Dún Laoghaire Rathdown County Development Plan, 2016-2022:

Land Use Zoning:

The proposed development site is located in an area zoned as 'A' with the stated land use zoning objective '*To protect and-or improve residential amenity*'.

Other Relevant Sections / Policies:

Chapter 2: Sustainable Communities Strategy:

Section 2.1: Residential Development:

Policy RES3: Residential Density:

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. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- ‘Sustainable Residential Development in Urban Areas’ (DoEHLG 2009).
- ‘Urban Design Manual - A Best Practice Guide’ (DoEHLG 2009).
- ‘Quality Housing for Sustainable Communities’ (DoEHLG 2007).
- ‘Irish Design Manual for Urban Roads and Streets’ (DTTaS and DoECLG, 2013).
- ‘National Climate Change Adaptation Framework Building Resilience to Climate Change’ (DoECLG, 2013).

Policy RES4: Existing Housing Stock and Densification:

It is Council policy to improve and conserve the housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

Policy RES7: Overall Housing Mix:

It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy.

Policy RES9: Housing for All:

It is Council policy to support the concept of independent and/or assisted living for older people and people with disabilities/mental health issues. In this regard the Council will support the provision of specific purpose-built accommodation, or adaptation of existing properties, and will promote opportunities for elderly householders to avail of the option of ‘downsizing’ within their community.

Section 2.1.3.9: (i) Housing for Older People:

The changing demographics and the ageing of the County's population profile pose challenges for the development of responsive health and social policies. As a key social policy area, housing is a function that needs to adapt in order to meet these changing needs. While the majority of older people own their own homes, some may find that their accommodation is not entirely suitable to their needs. For those who wish to continue to live independently, it is important that the opportunity exists to trade down or downsize in the area in which they live (to a smaller dwelling or apartment) or there may be opportunity to adapt their existing home to suit their needs e.g. by converting a garage or building an attached 'family flat' or annex.

It is Council policy that proposals for accommodation for the elderly should be located in existing residential areas well served by social infrastructure and amenities such as footpath networks, local shops and public transport in order not to isolate residents and allow for better care in the community, independence and access. This preference and presumption towards convenient locations applies to any scheme whether provided by communal set-ups or similar, facilities providing higher levels of care, self-contained units or a mix of these (Refer also to Section 8.2.3.4(xiii)).

In instances where it is proposed that the site or a portion of a site be developed for assisted living units, a reduction in the required percentage of social and affordable housing on site may be accepted. This is to encourage the development of these types of residential units.

In order to provide suitable housing for older people throughout the County, the Council will work closely with other housing bodies and agencies associated with the provision of elderly housing and/or assisted living accommodation.

Policy RES14: Planning for Communities:

It is Council policy to plan for communities in accordance with the aims, objectives and principles of 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual – A Best Practice Guide'. In all new development growth areas, and in existing residential communities it is policy to ensure that proper community and neighbourhood facilities

are provided in conjunction with, and as an integral component of, major new residential developments and proposed renewal/redevelopment areas, in accordance with the concept of sustainable urban villages outlined under Policy RES15.

Chapter 4: Green County Strategy:

Section 4.1: Landscape, Heritage and Biodiversity:

Section 4.1.2: Landscape:

Policy LHB6: Views and Prospects:

It is Council policy to protect and encourage the enjoyment of views and prospects of special amenity value or special interests.

Section 4.1.3: Biodiversity:

Policy LHB19: Protection of Natural Heritage and the Environment:

It is Council policy to protect and conserve the environment including, in particular, the natural heritage of the County and to conserve and manage Nationally and Internationally important and EU designated sites - such as Special Protection Areas, candidate Special Areas of Conservation, proposed Natural Heritage Areas and Ramsar sites - as well as non-designated areas of high nature conservation value which serve as 'Stepping Stones' for the purposes of Article 10 of the Habitats Directive.

Policy LHB22: Designated Sites:

It is Council policy to protect and preserve areas designated as proposed Natural Heritage Areas, candidate Special Areas of Conservation, and Special Protection Areas. It is Council policy to promote the maintenance and as appropriate, delivery of 'favourable' conservation status of habitats and species within these areas.

Policy LHB23: Non-Designated Areas of Biodiversity Importance:

It is Council policy to protect and promote the conservation of biodiversity in areas of natural heritage importance outside Designated Areas and to ensure that notable sites, habitats and features of biodiversity importance - including species protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979, the Habitats Directive 1992, and rare species - are adequately protected. Ecological assessments will be carried out for all developments in areas that support, or have potential to support, features of biodiversity importance or rare and protected species and appropriate mitigation/avoidance measures will be implemented. In implementing this policy regard shall be had to the recommendations and objectives of the Green City Guidelines (2008) and 'Ecological Guidance Notes for Local Authorities and Developers' (Dún Laoghaire-Rathdown Version 2014).

Policy LHB27: Geological Sites:

It is Council policy to protect, promote and preserve sites of Geological and Geomorphological importance, in particular the proposed Natural Heritage Areas (NHAs) and any County Geological Sites (CGS) that become designated during the lifetime of this Plan.

N.B. Dalkey Hill is identified as a 'Geological Site' in Table 4.1.3 of the Development Plan.

Chapter 8: Principles of Development:

Section 8.1: Urban Design:

Policy UD1: Urban Design Principles:

It is Council policy to ensure that all development is of high quality design that assists in promoting a 'sense of place'. The Council will promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in

the 'Design Manual for Urban Roads and Streets' (2013) and will seek to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

Policy UD3: Public Realm Design:

It is Council policy that all development proposals, whether in established areas or in new growth nodes, should contribute positively to an enhanced public realm and should demonstrate that the highest quality in public realm design is achieved.

Section 8.1.2: Urban Design at the Local Level:

Policy UD5: Shared Space Layouts:

It is Council policy to promote safer and more attractive streets and public realm for all road users throughout the County by pro-actively engaging with, and adhering to, the 'shared space' concept and guidance set out in the 'Design Manual for Urban Roads and Streets' (2013).

Policy UD6: Building Height Strategy:

It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.

Section 8.2: Development Management:

Section 8.2.3: Residential Development:

Section 8.2.3.1: Quality Residential Design

Section 8.2.3.2: Quantitative Standards

Section 8.2.3.3: Apartment Development

N.B. The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018' supersede several of the standards and

specifications set out in Section 8.2.3.3 of the Development Plan as regards apartment development.

Section 8.2.3.4: *Additional Accommodation in Existing Built-up Areas (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.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

Section 8.2.3.5: *Residential Development – General Requirements*

Section 8.2.7: *Landscape, Heritage and Biodiversity:*

Section 8.2.7.1: *Biodiversity*

Section 8.2.8: *Open Space and Recreation*

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Dalkey Islands Special Protection Area (Site Code: 004172), approximately 1.2km to the northeast of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 1.3km to the east of the site.
- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 3.7km to the northwest of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 3.6km to the northwest of the site.

N.B. This list is not intended to be exhaustive as there are a number of other Natura 2000 sites in excess of the aforementioned distances yet within a 15km radius of the application site.

5.3.2. In addition to the foregoing, it should be noted that the proposed development site is located c. 25m northwest of the Dalkey Coastal Zone and Killiney Hill Proposed Natural Heritage Area (Site Code: 001206).

6.0 The Appeal

6.1. Grounds of Appeal

- Whilst it may be the preference of the Planning Authority that the use of the site as a nursing home be retained, the existing premises has ceased operation and there is no possibility of its being reopened.
- The accompanying correspondence from Mr. John Martin, Managing Director of Hibernia Homes, outlines the circumstances which led to the voluntary closure of the nursing home in 2017. In this respect it is submitted that the redevelopment of the nursing home was no longer commercially viable due to a number of factors and that the existing building, in the absence of complete redevelopment, would not adequately cater for the care needs of its residents into the future.
- The existing facility was not a purpose-built nursing home but originally comprised a single large dwelling house that was converted into a small care home in the 1980s. Whilst permission was approved for an extension to the nursing home in 2016, this proposal was subsequently abandoned in 2017 and the facility was forced to close for a number of financial and regulatory reasons.
- The site is no longer considered suitable or large enough to accommodate modern nursing home services. A 90+ bed facility is seen as the industry minimum for the operation of a nursing home that is both commercially viable and compliant with HIQA standards.

- A 2015 survey carried out by Nursing Homes Ireland (NHI) revealed that there was a 4% drop in the number of nursing homes nationwide between 2010 and 2015. However, over the same period the actual number of nursing home beds increased which confirms that modern nursing homes are consolidating and getting larger.
- The wider area is in no way deficient in nursing home provision with 9 No. such facilities located within a 10-minute drive of Dalkey and a further 2 No. nursing homes in Shankill.
- Across the Dún Laoghaire administrative area there are 26 No. registered nursing homes with at least 1,770 No. residents. Furthermore, several of these facilities have expanded over the last 10 years since permission was previously granted for residential development on the subject site.
- Whilst the closure of the Dalkey Lodge facility is regrettable, all its residents were successfully rehoused in the wider area. With no other operators interested in purchasing the subject site, it was sold to the current applicant.
- Upon an analysis of the results of the 2011 and 2016 Census for the county and local area (estimated on the basis of the 10 No. Local Electoral Areas nearest the subject site), the following trends should be noted:
 - The local area has a higher than normal proportion of the population over 65 years of age at 24% (up from 21% in 2011). This compares with 16% for Dún Laoghaire as a whole (up from 14% in 2011). However, this higher than normal figure has been sustained because the overall population has stagnated (Between 2011 and 2016 the overall local population only increased by 1% whilst the county-wide population grew by 16%).

This poor rate of natural increase is due, in part, to a lack of additional residential units that would attract younger households to live locally. Notwithstanding, within the small number of developments that have occurred in the area there has been a gradual improvement in the mix of unit types, albeit from a very poor base when compared to the rest of the county.

- In 2011 only 8% of the housing stock in the local area comprised apartments, however, by 2016 this had increased by 10%. Given the poor population increase over the same period and the increases in the overall proportion of those aged 65+, it is reasonable to assume that some of these smaller units have been acquired by older residents.
 - Most recent infill development in the Dalkey / Killiney area comprises smaller own-door units and such schemes provide a sustainable housing mix which is suitable to both ends of the demographic spectrum (i.e. younger couples / families and those wishing to downsize). The subject proposal reflects these trends by providing a mix of housing that includes 40% duplexes.
- The proposal to redevelop the site for residential purposes is reasonable given the applicable land use zoning, the planning history, and as the site is no longer viable to meet the needs of a modern nursing home.
 - The residential zoning of the site is unchanged since the grant of permission issued for PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566.
 - The subject proposal has been unreasonably scrutinised against Policy Nos. RES7 & RES9 of the Development Plan simply due to the previous use of the site as a nursing home.
 - In reference to Policy RES9, the site has no special status for the provision of a nursing home or other accommodation for the elderly. Moreover, the Planning Authority previously approved the replacement of a then operational nursing home with standard housing.
 - With regard to Policy RES7, there has been no acknowledgement that the proposal provides for a sustainable mix of accommodation given the site location at a density in excess of 35 No. units per hectare.
 - The introduction of duplex units provides a viable alternative housing type in an area dominated by large family homes.
 - The mix of housing proposed accords with Policy RES9 in that a number of the units can be considered suitable for 'downsizing' etc.

- Having regard to the requirements of Section 2.1.3.9 of the Development Plan, it is not considered that the subject site is a suitable location for the provision of housing for the elderly, assisted living, or those with disabilities / mental health issues. In this respect it should be noted that the site is located on the periphery of Dalkey Village and is removed from the social infrastructure and public transport utilities available in the village centre (both by distance and a change in topography).
- Section 8.2.3.4(xiii) of the Development Plan states that new nursing home proposals are not appropriate in remote locations and in this regard the Board is referred to the accompanying 'Walking Audit' prepared by Stephen Reid, Traffic Consultant, which highlights a number of critical issues for the elderly and mobility impaired walkers along the route between the site and the village centre / public transport, including the changes in gradient, the absence of a footpath between the site and Dalkey Avenue via Ardbrough Road, and difficulties with wheelchair access. Accordingly, if the subject site were 'greenfield', it would not be deemed suitable for a nursing home when considered against the accessibility standards expected to be applied by the Planning Authority.
- In response to the comment by the case planner that none of the proposed units are single level, the Board is referred to the amended proposals provided with the grounds of appeal which detail an alternative internal arrangement for the duplex units (Drg. No. DRH-RAU-ZZ-ZZ-DR-A-1121 Rev. P03).

The revised floor plan shows 3 No. ground floor units each with a downstairs bedroom which could accommodate less mobile / elderly residents.

Consideration should also be given to the use of other modern house devices which allow mobility impaired, but independent, residents to live in multi-storey accommodation e.g. stairlifts.

- The housing scheme previously permitted on site under PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566 did not include for any public open space and the reporting inspector noted (with reference to the Residential Density Guidelines, 1999):

‘ . . . the layout does not provide for an area of public open space, however the landscaping scheme submitted . . . indicates a high quality of public domain within the scheme and the site is, of course, immediately adjoining the public amenity of Killiney Hill Park. The Guidelines recommend a relaxation of public open space standards where residential developments are in close proximity to public parks or other natural amenities’.

- The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*’ recommend that planning authorities ‘*take a more flexible approach to quantitative open space standards*’ whilst Section 8.2.8.2 of the Development Plan also states that the Council ‘*will employ a flexible approach to the delivery of public open space / communal open space*’. Therefore, it is considered that the small infill scheme proposed does not require the provision of public open space given the proximity of a significant public amenity / open space in the area (e.g. Killiney Hill Park).
- Residents of the scheme, as originally submitted, would be required to walk c. 300m to the entrance to Killiney Hill Park on Dalkey Avenue, however, there is an opportunity to provide a more direct pedestrian route given that the site levels correspond with those of the directly adjoining parkland. In this regard the Board is referred to the accompanying amended site plan (Drg. No. DRH-RAU-ZZ-00-DR-A-1151: Site Plan: Option 1) which proposes a dedicated pedestrian access to the park via the south-western boundary of the site. This access would also be available to residents of the wider area and would be an attractive and more direct route to Killiney Hill Park and playground for residents of the Ardbrough Road area. Furthermore, any such access would accord with the provisions of the ‘*Urban Design Manual*’ (the companion document to the ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*’).
- In light of Section 4.21 of the ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*’, and the planning history of the site, the Board is requested to apply a flexible approach to the provision of public open space for this infill site and to include a financial contribution in lieu of same.

- In the event the Board is of the opinion that some element of public open space should be provided on site, it is considered that this can be readily achieved without significant revision to the submitted scheme i.e. Drg. No. DRH-RAU-ZZ-00-DR-A-1152: '*Site Plan: Option 2*' details the substitution of 5 No. visitor parking spaces with a small pocket park for residents. This space would equate to c. 5% of the site area, however, if the Board is of the view that 10% of the site area is required as open space then this can be achieved to the north of the access road with some adjustment of Unit No. 1, namely, the omission of the rear vehicular access along with the car port and the secondary living room (Unit No. 1 would instead have car parking on curtilage to the front of the property). A second pocket park could be located in the area of the car port and with the original large rear garden reduced to c. 89m². The two pocket parks combined would achieve the 10% of the site area required by the Planning Authority.
- Any grant of permission for the development of this small infill site in the absence of on-site public open space would not set an undesirable precedent for future development in the area. The subject site is unique locally given its previous use and planning history.
- The provision of an infill scheme without its own open space at a location adjacent to Killiney Hill Park will not injure the amenities or depreciate the value of property in the area.
- Contrary to the assertions of third parties, the accompanying correspondence and mapping from 'AMOSS Solicitors' confirms that the site boundary is correct. Therefore, by extension, the proposed rear garden depths are also correct and the proposed houses will not result in overlooking of those properties to the north.
- The three-storey construction of Block 'A' reflects the scheme previously permitted on site which the Planning Authority and Board both considered to be acceptable in terms of residential amenity etc.
- In response to concerns raised by the case planner, the grounds of appeal have been accompanied by an 'Appropriate Assessment Screening Report' and an Ecological Impact Assessment. This screening report has concluded

that the integrity of nearby Natura 2000 sites will be maintained and that the habitats and species associated with same will not be adversely affected.

- The Ecological Impact Assessment has concluded that the proposed development will be acceptable, subject to the implementation of certain mitigation measures as a condition of any grant of permission.
- The provision of adequate and secure bicycle parking can be addressed by way of condition.
- The parking provision accords with the requirements of the Development Plan and national guidance.
- The proposed parking spaces are adequately sized etc. and will not obstruct footpaths or drivers from adjoining residences.
- Issues pertaining to services and construction management are not in themselves reasons for refusal and can be addressed by way of condition in the event of a grant of permission.
- The subject proposal provides for the redevelopment of a zoned and serviced infill site which will serve to densify this suburban location and improve the overall mix of housing units available to people who wish to live in the locality.
- Whilst not an age-specific scheme, it will provide a range of accommodation suitable for a variety of household types, including elderly residents wishing to downsize.

6.2. Planning Authority's Response

- The proposed development was carefully and thoroughly assessed having regard to the provisions of the County Development Plan, Ministerial Guidance and the Regional Guidelines.
- Whilst there is planning history on site for a very similar residential development, that scheme was assessed and permitted under the provisions of the previous Development Plan, subsequent to which census data has indicated a shift in demographics within the County.
- Having regard to the average household size and the aging population within the County, it is considered appropriate that a broad mix of house types is

provided for in any new residential development, including suitable accommodation for older and / or less mobile residents.

- The development as presented is not considered to have sufficient regard to all potential residents' needs and fails to take account of all ability and lifecycle housing requirements.
- The assessment of the proposed development did not insist upon the retention of the nursing home on site, rather, the key concern related to the inability of the proposed development to provide for any suitable compensatory dwelling type for older residents who may wish to downsize within their community and in turn free up existing dwellings more suited to families.

6.3. Observations

6.3.1. Susan McDonnell (Dalkey Community Council):

- The three-storey construction of the proposed terraces would be incongruous and out of keeping with the surrounding pattern of development, with particular reference to the former quarry workers' single storey cottages to the east of the site, the setting of which would be seriously compromised by the proposal.
- The proposed development will have a detrimental impact on the residential amenity of adjacent properties by reason of overlooking and overshadowing (contrary to the applicable land use zoning objective which seeks *'to protect and / or improve residential amenities'*).
- There are concerns that excavation and drilling works previously conducted on site may have contributed to recent flooding within the rear garden area of an adjacent dwelling ('Drumbarra') and, therefore, this matter should be investigated and preventative measures put in place so as to avoid any further flooding of that property.
- No reference has been made to the former nursing home having been served by its own well and, therefore, in light of recent flooding within adjacent properties, this matter should be investigated further.

- The proposed development does not include for any communal open space in contravention of the Development Plan.
- It is unclear whether or not the Parks Department of the Local Authority is amenable to the provision of an access / pathway through the proposed development to Killiney Hill. In this respect there are further concerns that any such arrangement would give rise to traffic congestion / hazards within the scheme due to the haphazard parking of cars by visitors to the area.
- The layout of the proposed car park is unclear and no provision for bicycle parking is shown.
- Concerns arise as regards the adequacy of the private open space provision for House Nos. 1-7, 8 & 15.
- The positioning of the rear boundary to House Nos. 1-7 could impact on the size of their rear garden areas. Furthermore, House Nos. 9/10, 11/12 & 13/14 would each appear to share a rear garden as the dimensions are unclear from the submitted plans.
- The proposed development will compromise the view from Burmah Road (Burton Road) across Dublin Bay and will remove the prospect towards Howth. Moreover, the importance of this area has been recognised in the Development Plan wherein it is an objective to *'prepare a Special Amenity Area Oder for Killiney Hill / Dalkey Hill / Rocheshill'* whilst Dalkey Hill is also a proposed Natural Heritage Area.
- There are concerns that the overall design and height of proposed development could dominate the views at its boundary with Killiney Hill Park in that it will present an overbearing aspect onto the park.
- Having regard to the transitional nature of the application site relative to the adjacent parkland, it is considered necessary to avoid development which would be detrimental to the amenity of the more environmentally sensitive lands. Therefore, attention must be paid to the scale and density of any development proposal adjacent to Killiney Park in order to protect its natural amenities. It is considered that the proposed construction of three-storey terraces adjacent to an area of outstanding natural beauty and recreational

value would be both inappropriate and in contravention of the Development Plan.

- The proposed access arrangements could give rise to a further traffic hazard along Ardbrugh Road.
- No justification has been provided for the demolition of the former nursing home. Furthermore, the type of housing proposed would not be suitable for use by elderly persons and should not be considered a substitute for the nursing home.

6.3.2. Ann Hegarty:

- Endorses the decision of the Planning Authority to refuse permission, with particular reference to the assertion that the proposal would be contrary to Policy RES7 of the Development Plan.

6.3.3. Brett Becker & Catherine Mooney:

- The overall design, scale and height of the proposed housing is not in keeping with the surrounding neighbourhood / pattern of development, including the historic 'miners cottages'.
- The proposed development would have a negative impact on natural and cultural recreational amenities in the area (i.e. 'The Metals,', 'The Flags', the miners' cottages, Killiney Hill Park, and Dalkey Quarry).
- The retention of the original house and its landscaped gardens with the construction of some additional detached dwellings would be more in keeping with the character of the area.
- There is a serious lack of public open space within the proposed development.
- The suggestion that the proposal will provide an 'attractive urban edge' to Killiney Hill Park is rejected. When compared to the existing nursing home, it is considered that the proposed development would be particularly incongruous in appearance.
- The Parks and Landscape Services Department of the Local Authority should review the application given the apparent proposal to remove a significant

number of trees / hedges which form the boundary with Killiney Hill Park. In addition, the application indicates that 17 No. mature trees will be removed.

- Views of Dublin Bay and Howth from the public park will be lost as a result of the proposed development.
- The additional traffic consequent on the proposed development will increase the risk to traffic / public safety along Ardbrough Road.
- It is not acceptable that the access previously used for emergency purposes is to serve as the main entrance to the development.
- The proposal does not provide for adequate on site car parking facilities.
- There are numerous inconsistencies / disparities between the information provided with the application and the situation in reality.
- There are serious concerns as regards the raising and lowering of ground levels on site given that the existing levels have been misrepresented in the application documentation.
- The proposed housing (with particular reference to House No. 1) will overlook the observers' property with a consequential loss of amenity.
- The vehicular entrance to House No. 1 opposite the access to the observers' property poses a serious traffic risk, particularly when taken in conjunction with the new entrance proposed onto the roadway.
- The proposal will obstruct those views to the west and northwest from the observers' property towards Killiney Hill Park and the mountains beyond.
- The proposed development will block a significant amount of natural light from the front and side garden areas of the observers' property.
- The existing nursing home should be retained as there is a shortage of beds locally.
- There are already serious flooding issues along Ardbrough Road and the proposed development is a cause for concern.
- The proposal has shown no understanding of this well-established village community which borders natural amenities and historical areas.

6.3.4. Debbie & Stephen O'Flaherty:

- The existing nursing home should be retained as there is a demand for such facilities in the area.
- The proposed development will have a significant impact on the surrounding community.
- Adequate open space should be provided within the confines of the development. Furthermore, the proposal to provide an access into Killiney Park through the scheme would serve to increase parking / congestion along Ardbrough Road.
- There are concerns for pedestrian and traffic safety in the locality consequent on the proposed development.
- The opening of a new access roadway will result in local residents experiencing difficulties in accessing / egressing their properties.
- The existing sewer network in the area is in a poor state of repair.

6.3.5. Niamh Coleman:

- The assertion that a nursing home on the subject site is not economically viable is rejected.
- The suggestion that a nursing home must have 90+ beds in order to be viable is refuted given that nine of the eleven operational nursing homes referenced in the grounds of appeal have fewer bed spaces. A larger facility may also be more viable and, therefore, if the approved extension were to proceed it would position Dalkey Lodge amongst the larger nursing homes in the area.
- The losses experienced by the former nursing home likely include many factors outside of normal business and thus are unrepresentative of a typical nursing home's accounts (e.g. the high cost of excavating the site when the plan was to extend the facility).
- No evidence has been provided to support the case that other operators declined to purchase Dalkey Lodge on the basis that it was not commercially viable.

- There are no other sites available closer to Dalkey village which could accommodate a nursing home.
- Not all residents of a nursing home on the subject site would be able to walk into Dalkey village centre (due to the nature of their condition, physical ability etc.) and, therefore, the previously permitted proposal to provide a circular walking route within the confines of the site would seem to have been a reasonable solution.
- Having regard to the age profile of the surrounding area, and the benefits in siting a nursing home at this location, it is submitted that the subject site offers excellent potential for (the retention) of such a facility.
- The grounds of appeal have failed to respond to a significant number of the issues raised in the initial objections lodged against the application.
- The applicant's reliance on the grant of permission issued for PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566 is misplaced.
- The subject proposal is higher than that previously permitted under PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566 and will impact on the amenity of neighbouring properties by reason of overlooking and an overbearing appearance.
- The overall design and scale of the development is not appropriate to this heritage town and will block views of Howth and Dublin Bay from the adjacent parkland (as well as views of Killiney Hill and Dalkey Quarry from the roads below).
- The proposed development will have a detrimental impact on the residential amenity of surrounding properties by reason of overlooking, overshadowing, and its overbearing appearance / visual intrusiveness.
- The location of the northern site boundary as shown on the submitted drawings is disputed.
- Given the extent of new housing permitted and / or 'for sale' with the wider area, the appropriateness of the proposed development is questionable.

6.3.6. The Concerned Residents of Ardbrough Road and Dalkey Avenue:

- In the interests of conciseness, and in order to avoid unnecessary repetition, the Board is requested to take cognisance of the contents of the observer's initial objection to the proposed development.
- The use of the subject lands as a nursing home should be retained given the demand for such services in the Dalkey / Killiney area.
- The Dalkey Lodge Nursing Home is an established use with permission having been granted for several extensions over the years. It is well positioned to continue to serve the surrounding community.
- There is a need to recognise how residential demand and an increased willingness to permit higher residential densities is pushing communities out of the Dalkey / Killiney area.
- The applicant has failed to carry out a 'Social Needs Assessment' and in this respect it is submitted that Dalkey Lodge provides a much-needed nursing home facility which would, following the implementation of PA Ref. Nos. D14A/0547 & D16A/0921, provide a sustainable and viable business.
- The recent planning history of the application site serves to demonstrate that its use as a nursing home use was considered sustainable until the current economic upturn renewed interest in redeveloping the property for residential purposes.
- The retention of the existing use of the site as a nursing home finds support in the National Spatial Strategy and the '*Regional Planning Guidelines for the Greater Dublin Area, 2010-2022*'.
- The decision to refuse permission for the proposed development is consistent with the wider provisions of Policy RES7: '*Overall Housing Mix*' as set out in the County Development Plan which aim to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided (including nursing homes and other forms of accommodation suitable for the elderly) within the County in accordance with the provisions of the Interim Housing Strategy.

- Policy RES9: *'Housing for All'* of the Development Plan supports the retention of the existing nursing home in this residential area which is well served by social infrastructure and amenities.
- The emphasis placed by the applicant on the grant of permission issued for PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566 is misguided considering the changes in the prevailing circumstances and the adoption of a new Development Plan.
- The decision to refuse permission ensures that the original dwelling on site (Dalkey Lodge) is retained in line with the provisions of Section 8.2.3.4(xiv): *'Demolition and Replacement Dwellings'* of the Development Plan.
- With regard to the reasons given for the demolition of the existing building as set out in the *'Planning Report'* submitted with the subject application:
 - The building in question is a nursing home and not a residential property. It is a distinctive use in an area with an aging demographic.
 - The nursing home is not operational due to the fact that the subject application has been lodged. Previous planning applications up until 2016 served to confirm that the nursing home use was sustainable.
 - Permission for the construction of a residential development on site was allowed to lapse and there is no reason why such a scheme should be permitted again.
 - The embodied energy in the existing building should not be lost by way of demolition given how it was operational in March, 2018.
- Inadequate justification has been provided for the demolition of the existing nursing home given that all indicators would suggest that a 58-bedroom facility, as approved in 2014 and 2016, would be financially viable and constitute a good investment on the site.
- There is no basis to the applicant's assertion that the property cannot reopen as a nursing home. For example, permission was granted under PA Ref. No. D16A/0921 for an extended nursing home that was compliant with the Health Information and Quality Authority's *'National Quality Standards for Residential Care Settings for Older People in Ireland'* (2009).

- The claim that the continued use of the property as a nursing home would not be viable or sustainable is rejected.
- The suggestion that a nursing home must have 90+ beds in order to be viable is refuted, particularly as nine of the eleven operational nursing homes referenced in the grounds of appeal have fewer bed spaces.
- A demographic analysis of the surrounding area, including the fact that there is a higher than normal proportion of the population within the immediate catchment of the Dalkey Lodge Nursing Home in the 65+ age category, supports the retention of the existing use on site.
- The Board is referred to *'Housing and Ireland's Older Population' (2016)* as published by the Economic and Social Research Institute which supports the message that there is a need for more choice in housing types for older people, but also, that there is a requirement for more specialist housing within existing communities for older people.
- There is presently an acknowledged need (supported by various information sources and research) for more nursing homes and nursing home bed spaces both nationally and locally.
- Contrary to the suggestion that the subject site is located on the periphery of Dalkey village:
 - The site is located within a 3-minute drive and a 12-minute walk of Dalkey Dart Station and the village centre with its community infrastructure and amenities.
 - There are excellent footpath links between the site and Dalkey village with multiple walking routes available.
 - The site is within an established residential neighbourhood.
 - The site is located alongside Killiney Hill which provides visual and physical amenity opportunities.
- The level of local employment offered by an extension of the existing nursing home would justify the retention of the site usage.

- The inadequate open space provision is contrary to Section 8.2.8.2 and Policy UD1: '*Urban Design Principles*' of the Development Plan, is indicative of an overdevelopment of the site, and would set an undesirable precedent for future development in the area.
- The proposal fails to comply with the open space requirements set out in the Development Plan and the applicant's attempt to justify same by reference to PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566 is misplaced.
- With regard to the applicant's reference to the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' and the 'relaxation in standards' permitted in certain circumstances, it is clear that any such relaxation could not amount to the complete absence of any public open space for future residents of a housing scheme.
- There is no provision in the Development Plan which would permit the absence of any open space within a housing development due to its proximity to a park or village.
- The proposal to provide an access through the site to Killiney Hill Park has simply been included in order to convince the Board to overlook the lack of public open space within the development as proposed.
- The inclusion of the accessway through the site to Killiney Hill Park would constitute a material change to the planning application and would be likely to garner significant local opposition.
- It is unlikely that future residents of the proposed housing would be amenable to a public entrance to the adjacent park through their estate.
- There is no indication that there has been any consultation / agreement with the Parks and Landscape Services Dept. of the Local Authority as regards the proposal to provide an access through the site to Killiney Hill Park.
- The proposal to omit visitor parking in order to facilitate a 'pocket park' would further reduce the inadequate car parking provision on site and result in overflow parking along Ardbrugh Road.
- The grounds of appeal have failed to address all of the concerns raised by consultees to the proposal, including Irish Water, the Parks and Landscape

Services Department, the Drainage Division, and the Transportation Department. In addition, the case planner referenced a number of other difficulties with the application which have not to been resolved by the applicant.

- The observers are not satisfied that the boundaries of their properties have been accurately shown on the submitted drawings.
- The proposed development will have a detrimental impact on the residential amenity of the adjacent property to the immediate north by reason of overshadowing.

6.4. Further Responses

None.

7.0 Assessment

7.1.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout
- Private and public open space provision
- Impact on residential amenity
- Traffic implications
- Flooding implications
- Appropriate assessment
- Environmental impact assessment
- Other issues

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

- 7.2.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is located in an area zoned as 'A' in the Dún Laoghaire Rathdown County Development Plan, 2016-2022 with the stated land use zoning objective '*To protect and-or improve residential amenity*'. It should also be noted that the subject site is located within an existing built-up area and that the immediate site surrounds (with the exception of Killiney / Dalkey Hill) are primarily residential in character with the prevailing pattern of development comprising a variety of vernacular housing types and more contemporary / conventional construction. In this respect I would suggest that the proposed development site can be considered to comprise a potential infill site situated within an established residential area where public services are available, including public transport links i.e. the DART rail network, and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' acknowledge the potential for infill development within established residential areas provided that a balance is 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.
- 7.2.2. Further support is lent to the proposal by reference to Policy RES4: '*Existing Housing Stock and Densification*' of the Development Plan, which aims to increase housing densities within existing built-up areas having due regard to the amenities of established residential communities, wherein it is stated that the Planning Authority will actively promote and facilitate the development of infill accommodation which is in harmony with existing buildings. This is similarly reflected in Policy RES3: '*Residential Density*' which seeks to promote higher residential densities, subject to ensuring a suitable balance between the reasonable protection of existing residential amenities, the established character of areas, and the need for sustainable residential development. These policy provisions are further supplemented by the guidance set out in Section 8.2.3.4: '*Additional Accommodation in Existing Built-up*

Areas' of the Plan which details the criteria to be used in the assessment of proposals which involve infill development.

- 7.2.3. It is also of relevance to note that the subject proposal involves the demolition of an existing (vacant) nursing home, which falls within the definition of a '*residential institution*' provided in Section 8.3.12: '*Definition of Use Classes*' of the Development Plan, and that the construction of housing on lands with an established residential use which are zoned for such purposes would normally be acceptable in principle.
- 7.2.4. In addition, it is apparent from a review of the planning history that permission was previously granted on site pursuant to PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566 for a comparable level of residential development, although I would acknowledge that said grant of permission has since lapsed and that there have been notable changes in both local and national planning policy in the intervening period.
- 7.2.5. Therefore, in light of the foregoing, including the established use of the site as residential accommodation, and noting the infill nature of the site itself, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.
- 7.2.6. With regard to the assertion that the established use of the site as a nursing home should be retained (and perhaps developed further), and that the loss of such a facility would be to the detriment of the local area and contrary to the intent of Policy Nos. RES7: '*Overall Housing Mix*' & RES9: '*Housing for All*', which aims to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the county, with particular reference to the provision of accommodation for the elderly, whilst I would acknowledge the rationale for adopting such a position given the demographics and age profile of the county, in my opinion, the interpretation of the foregoing policies as a mechanism by which to prohibit the redevelopment of the subject site for alternative housing purposes (which would actually provide for a mix of housing types in accordance with the relevant objectives) is both flawed and unduly restrictive.

- 7.2.7. Notwithstanding the preference of certain parties that the existing use of the site be retained, or whether its continued operation as a nursing home facility is or is not commercially viable, I am inclined that to suggest that such considerations are not entirely relevant in this instance. The proposed development accords with the applicable land use zoning and in this regard it would seem entirely reasonable that any proposal which seeks to redevelop the lands for an alternative format of residential usage would at least have some prospect of success.
- 7.2.8. It is my opinion that Policy Nos. RES7 & RES9 are intended to be positively interpreted in the promotion of development rather than being attributed a negative connotation whereby developmental restrictions are imposed.

7.3. **Overall Design and Layout:**

- 7.3.1. The proposed development site occupies an elevated position at the foot of Killiney Hill Park, however, given its location within a built-up area, it is considered that the subject proposal will not be overtly prominent in distant views of the site. Similarly, in light of the separation distances involved, the orientation of the site relative to those views and prospects listed for preservation in the Development Plan, the prevailing topography, and the wider site context, it is my opinion that the proposed development will not have an adverse impact on the appreciation of those views designated for protection, including those prospects towards Dalkey Hill from vantage points to the northwest such as at Ulverton Road and East Pier. Whilst I would acknowledge that the development may be visible in part along the ascent of Dalkey Avenue and will also be apparent on the approach from the northwest along Ardbrough Road, it is not considered that this visibility would have a significant adverse impact on the character or visual amenities of the area.
- 7.3.2. With regard to those views of the development available from within Killiney Hill Park, in my opinion, it is clear that the proposal will be more readily visible on ascending the park from its entrance onto Dalkey Avenue to the northwest (please refer to the photomontages contained in the Design Report submitted with the initial planning application). Whilst I note the concerns raised by a number of parties to this appeal as regards the creation of a distinct 'urban edge' at this location given the transition between the surrounding built-up area and adjacent parkland, having regard to the wider site context, including the 'brownfield' / infill nature of the subject

site, I would suggest that the limited extent of this visual impact is within acceptable limits and can be mitigated somewhat through the implementation of an appropriate scheme of landscaping.

- 7.3.3. In relation to the overall design and layout of the proposed development, I note that comparisons may be drawn between it and the residential scheme previously permitted under PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566, although I would caution that the overall scale, height and massing of subject proposal differs markedly from that earlier design. However, having regard to the surrounding pattern of development, which is characterised by a variety of housing styles, including a number of period properties, conventional housing types and several notable examples of more contemporary design / construction, and noting that the Board has recently approved a contemporary, three-storey, infill development on lands further east along Ardrugh Road under ABP Ref. No. ABP-300245-17, I am satisfied that the submitted design would not be out of character with the area.
- 7.3.4. In an effort to reduce the overall scale and massing of the scheme, the proposed construction will be cut into the site and in this regard I would draw the Board's attention to the elevational & sectional drawings which draw a comparison between the subject proposal and the development previously approved under ABP Ref. No. PL06D.219566. Whilst I acknowledge that there would appear to be differences in the levels utilised for each of the applications (presumably attributable to differing benchmarks), and although assertions have been made as regards the accuracy of the submitted ground / floor levels etc., in my opinion, the direct comparison of the respective developments shown on the aforementioned drawings provides for a fair representation and thus it is reasonable to draw inferences from the details shown on same. In this respect I note that the overall height of Terrace 'A' is broadly similar to that previously approved on site whilst the ridge line of Terrace 'B' has been lowered as a result of a lower finished floor level. The bulk and massing of the proposal has been reduced through the use of staggered building lines and stepped ridge lines, and whilst I would accept that the stepping of the ridge line within Terrace 'A' is not as pronounced as that previously approved, the use of contrasting external finishes within the rear elevation of same serves to break-up its visual impact when viewed from vantage points to the northwest.

7.3.5. Therefore, in light of the foregoing, and having reviewed the available information, it is my opinion that the overall design of the proposed development will not have an undue adverse impact on the visual amenities of the wider area and is compatible with the surrounding pattern of development.

7.3.6. By way of further comment, and in the interests of completeness, I would advise the Board that the detailed design of the proposed duplex units accords with the requirements of the *'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018'*.

7.4. **Private and Public Open Space Provision:**

7.4.1. **Public / Communal Open Space:**

7.4.2. In accordance with Section 8.2.8.2: *'Public/Communal Open Space – Quantity: (i) Residential / Housing Developments'* of the Development Plan, the proposed development (inclusive of both the houses and the duplex apartments) necessitates the provision of between 697.5m² and 930m² of public / communal open space based on an occupancy rate of 46.5 No. persons and the provision of 15-20m² of open space per person. However, it should be noted that the provision of open space at a rate of less than 20m² per person will only be considered acceptable in instances where exceptionally high quality open space is provided on site whilst it may also be necessary to pay a financial contribution in lieu of open space as set out in Section 8.2.8.2 (iii) of the Plan. Notably, an absolute default minimum of 10% of the overall site area is required to be reserved for use as public and/or communal open space for all residential development irrespective of the aforementioned occupancy parameters.

7.4.3. It is apparent from a review of the submitted site layout plan that the subject proposal makes no provision for any usable public and / or communal open space within the confines of the development. Indeed, the only identifiable area of 'public open space' within the scheme is that area adjacent to the visitor car parking which cannot be considered to constitute usable space and thus is of limited amenity value. Therefore, the applicant has sought to justify the shortfall in open space by referencing the fact that a comparable housing scheme was previously permitted on site under PA Ref. No. D06A/0701 / ABP Ref. No. PL06D.219566 with no provision for public open space. In that instance the reporting inspector was seemingly

satisfied that although the proposal did not include for any dedicated area of public open space, given the high quality of the public domain within the scheme, and in light of the proximity of the site to Killiney Park, a relaxation in the applicable open space standard was permissible pursuant to the provisions of the '*Residential Density Guidelines, 1999*' (since superseded). Moreover, the applicant has emphasised that the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' also recommend that planning authorities adopt '*a more flexible approach to quantitative open space standards*' and state that a relaxation of the relevant standard can be considered where residential development is in proximity to a public park or, alternatively, a financial contribution towards public open space or recreational facilities in the wider area may be sought in lieu of public open space within the development.

- 7.4.4. By way of support for the foregoing, the grounds of appeal have been accompanied by an amended proposal (Drg. No. DRH-RAU-ZZ-00-DR-A-1151 Rev. P01: '*Site Plan – Option 1*') which provides for a direct pedestrian access from the site into Killiney Park thereby benefitting both the future residents of the proposed scheme and the wider community.
- 7.4.5. In the event that the Board is not satisfied to permit the proposed development in the complete absence of any on site public open space, the applicant has requested that consideration be given to a further revised site layout provided with the grounds of appeal (Drg. No. DRH-RAU-ZZ-00-DR-A-1151 Rev. P01: '*Site Plan – Option 2*') which details the replacement of the proposed visitor parking spaces with a small pocket park that would equate to c. 5% of the site area. Moreover, notwithstanding that national guidance allows for a relaxation of public open space standards in certain circumstances, it has been submitted that were the Board to nevertheless require 10% of the site area as open space (i.e. the default minimum standard set out in the Development Plan), this could be achieved by amending the design of Unit No. 1 through the omission of the rear vehicular access, car port and secondary living room, with the allocation of the space released by same as additional communal open space (*N.B.* On-curtilage car parking for this Unit No.1 would instead be sited to the front of the property).
- 7.4.6. Given the restricted nature of this infill site, it is clear that difficulties will arise in providing sufficient open space on site to comply with the requirements of the

Development Plan whilst simultaneously achieving a suitable balance between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of the established character of the surrounding area, and the need to provide residential infill. For example, although it would be possible to increase open space provision on site through the omission of some housing units, the associated lowering of the density would likely give rise to concerns as regards the inefficient use of zoned and serviced lands. Similarly, any proposal to compensate for the foregoing by seeking to increase the housing density through the provision of additional floors of accommodation may encounter difficulties both in terms of its impact on the character of the area and the need to protect the residential amenity of neighbouring properties.

7.4.7. In its assessment of the subject application, the Planning Authority has strictly adhered to the policy provisions set out in Section 8.2.8.2 of the Plan to the effect that the failure to provide an absolute minimum of 10% of the site area as public open space negates any possibility for the payment of a development contribution in lieu of the shortfall (derived from the occupancy-based open space requirement), notwithstanding the proximity of the site to Killiney Hill Park. However, I am inclined to suggest that such a rigid adherence to the open space standards set out in the Development Plan is not entirely appropriate in this instance given the site constraints.

7.4.8. On balance, I am satisfied that the application of a more flexible approach to quantitative open space standards in accordance with the provisions of Section 4.21 of the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* is appropriate given the site location relative to Killiney Hill Park. In my opinion, it is also only reasonable to have regard to the planning history of the site and the Board's determination of ABP Ref. No. PL06D.219566 whereby it granted permission for a comparable level of residential development with broadly similar (limited) public open space arrangements (seemingly on the basis of the proximity of the adjacent parklands). Therefore, I am amenable to the proposed development as initially submitted to the Planning Authority, although the Board may wish to give further consideration to the alternative layout options provided with the grounds of appeal.

7.4.9. Private Open Space:

The Proposed Dwelling Houses:

The proposed development includes for the construction of 9 No. three-bedroom dwelling houses and in this respect I would advise the Board that Section 8.2.8.4: '*Private Open Space – Quantity*' of the Development Plan requires all types of 3-bedroom dwelling houses to be provided with a minimum of 60m² of private open space located behind the front building (*N.B.* Any provision of open space to the side of dwellings will only be considered as part of the overall private open space calculation where it comprises useable, good quality space. Narrow strips of open space to the side of dwellings will not be included within the calculation).

From a review of the submitted plans and particulars, it can be confirmed that each of the proposed dwelling houses has been provided with sufficient private open space as to comply with the requirements of the Development Plan and the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*'.

The Proposed Duplex Apartments:

It is a policy requirement of the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*' that adequate private amenity space be provided in the form of gardens or patios / terraces for ground floor apartments and balconies at upper levels. In this respect I would advise the Board that two-bedroom (3 No. persons) & two-bedroom (4 No. persons) apartments are to be provided with 6m² and 7m² of private amenity space respectively. Three-bedroom apartments require a minimum of 9m² of private amenity space. Consideration must also be given to certain qualitative criteria including the privacy and security of the space in question in addition to the need to optimise solar orientation and to minimise the potential for overshadowing and overlooking.

In my opinion, the subject proposal satisfactorily accords with the aforementioned requirements through its provision of a combination of private balconies, terraces and garden areas.

7.5. **Impact on Residential Amenity:**

- 7.5.1. Having regard to the site context, concerns have been raised that the proposed development may have a detrimental impact on the residential amenity of neighbouring properties by reason of overlooking, overshadowing, and / or an overbearing visual impact. In this respect, I would suggest that particular consideration needs to be given to the overall design, orientation and positioning of the proposed development relative to the adjacent housing to the immediate southeast and northwest of the application site.
- 7.5.2. With regard to Terrace 'A' and its relationship with the neighbouring residences to the northwest, I note that a separation distance of c. 20.7m has been achieved between the closest second-storey (upper ground floor) window within the rear elevation of Unit No. 1 and the adjacent single storey bungalow known as 'Drumbarra' (*N.B.* In this respect it should be noted that there are no directly opposing first floor windows). The separation distance between the remainder of Terrace 'A' and those dwelling houses to the northwest subsequently increases on travelling through the development whilst it is of further relevance to note that the upper storeys of the proposed accommodation have been recessed behind the ground level building line. In this regard I note that there is a separation distance in excess of 30m between the first and second floor levels of Terrace 'A' and the rear elevation of those two-storey dwellings to the northwest. Whilst I would concede that the change in topography between the subject site and the neighbouring properties alongside Dalkey Avenue is a relevant factor in assessing the impact of the proposed development on the amenity of those residences, and although the subject proposal includes for a bedroom window within the rear elevation of its uppermost floor (unlike the scheme approved under ABP Ref. No. PL06D.219566 which utilised a staggered roof arrangement), in my opinion, the separation distances available are sufficient so as to avoid an unacceptable degree of overlooking.
- 7.5.3. In relation to Terrace 'B', the absence of any gable end windows avoids any overlooking of the existing dwelling house to the northeast of same. However, I would have reservations as regards the proposal to include a rear balcony area on the uppermost floor of the proposed duplex units given the potential for overlooking of the adjacent lands to the immediate southeast of the site. Indeed, I note that these lands would appear to form part of the rear private garden area of an adjacent

residence whilst they are also zoned. Accordingly, I would recommend the omission of these balconies in the interests of preserving the residential amenity and any development potential of the adjacent property (*N.B.* Each of the affected duplex units will continue to benefit from adequate private open space due to the inclusion of a second front-facing balcony area).

- 7.5.4. In terms of the potential for overshadowing, given the relationship of the proposed development with surrounding properties, and noting the Board's previous assessment of ABP Ref. No. PL06D.219566, I would suggest that particular regard should be had to the possible impact of Unit No. 8 on the adjacent property to the immediate northeast. In this respect I note that the Board previously required the omission of Dwelling No. 9 (which broadly corresponds with the location of Unit No. 8 in the subject scheme) and its replacement with a two-storey extension to an adjacent unit in its determination of ABP Ref. No. PL06D.219566 in order to address overshadowing concerns (Condition No. 2). In my opinion, the design of the subject proposal has taken cognisance of these concerns by setting back the three-storey element of Unit No. 8 from the north-eastern site boundary to a position generally comparable to the three-storey gable end of Dwelling House No. 10 as approved under ABP Ref. No. PL06D.219566. Similarly, the inclusion of a two-storey annex to the side of Unit No. 8 is reflective of the requirements of Condition No. 2 of ABP Ref. No. PL06D.219566 as regards the provision of a two-storey extension to the then proposed Dwelling No. 10. Accordingly, I am satisfied that the proposal as submitted will not give rise to any undue overshadowing of adjacent property, however, in the event the Board has reservations in this regard, consideration should be given to the omission of the two-storey element of Unit No. 8 (or the substitution of House Type 'D1' with House Type 'D2').

Finally, in respect of the concerns raised as regards the potential overbearing appearance and visual intrusiveness of the proposed development when viewed from neighbouring residences, I am inclined to concur with the conclusions of the previous reporting inspector in their assessment of ABP Ref. No. PL06D.219566 that although the scheme would change views or aspects from adjoining residential properties, the site is already developed and currently has a relatively built up appearance. Furthermore, the length of the proposed rear garden areas, particularly

when taken in combination with suitable landscaping proposals, would aid in mitigating any such impacts.

7.6. **Traffic Implications:**

7.6.1. **The Proposed Access Arrangements:**

With the exception of Unit No. 1, the proposed development (i.e. Unit Nos. 2-15) will be accessed via a new entrance arrangement broadly similar to that previously approved by the Board in its determination of ABP Ref. No. PL06D.219566, although it will be necessary to set back the roadside boundary wall to the northwest of this entrance in order to improve the available sight distance and to facilitate the construction of a pedestrian footpath alongside Ardrugh Road (*N.B.* The reconstructed wall should utilise the stone of the existing boundary wall). In addition to the foregoing, and in keeping with the requirements of Condition No. 3 of ABP Ref. No. PL06D.219566, the relevant section of the front boundary wall at the junction of the proposed main entrance with the adjacent cul-de-sac to the southeast should be lowered to a height of 1m in order to increase visibility at this corner. Accordingly, subject to the aforementioned revisions, I am satisfied that the overall layout of the main entrance arrangement is acceptable and will not result in an undue traffic hazard.

With regard to Unit No. 1, it is proposed to modify the existing entrance serving the site in order to provide for a private vehicular access to the rear of this dwelling (and its on-curtilage car parking). Whilst I note the reservations expressed by the Transportation Dept. of the Local Authority as regards this proposal, I am not overtly opposed to same given that the access in question seemingly previously accommodated the greater traffic volumes / movements associated with the operation of the former nursing home. Furthermore, I would suggest that the recessing of the roadside boundary wall along Ardrugh Road (as outlined above) would serve to increase the sightlines available from this entrance thereby improving traffic safety. However, in the event that the Board is not amenable to the retention of the existing entrance and would prefer the entirety of the development to be served by a single access arrangement, consideration should be given to a revised site layout comparable to that detailed in the amended proposals (Option No. 2) provided with the grounds of appeal.

By way of further comment, and in response to concerns raised by a number of interested parties, it is my opinion that the surrounding road network has sufficient capacity to accommodate the additional traffic volumes consequent on the proposed development.

7.6.2. Car Parking Provision:

In accordance with Table 8.2.3: 'Residential Land Use - Car Parking Standards' of the Development Plan, car parking for the proposed development should be provided at the following rates (depending on design and location):

Residential Dwelling:

- 2 spaces per 3-bed unit+

Apartments:

- 1.5 spaces per 2-bed unit
- 2 spaces per 3-bed unit+

N.B. The car parking standards set out for residential land uses in Table 8.2.3 are generally to be regarded as 'standard' parking provision and include for both residents and visitors parking (although there should be a clear distinction between the two types of parking).

The proposed dwelling houses will be provided with 2 No. car parking spaces within their respective curtilages whilst each of the proposed apartments will have access to a single parking bay positioned to the front of same with an additional 5 No. dedicated visitor parking spaces located adjacent to the site entrance. This is sufficient to satisfy the requirements of the Development Plan.

7.7. Flooding Implications:

- 7.7.1. Concerns have been raised that excavation works previously undertaken on site may have contributed to instances of flooding / ponding within the rear garden area of an adjacent property to the immediate north and that the proposed development could serve to exacerbate such events. However, it is regrettable that no clear evidence has been submitted which would lend support to the foregoing assertions. Indeed, the 'Flood Report – Desktop Study' contained in Appendix 'D' of the Site Services

Report provided with the application has concluded that *'there will be negligible flood risk associated with the proposed development'*.

7.7.2. From a review of the available information, including the historical '*National Flood Hazard Mapping*' available from the Office of Public Works, the '*Preliminary Flood Risk Assessment*' prepared by the OPW in 2011 as part of the National CFRAM Programme, the most up-to-date flood mapping prepared by the Office of Public Works as part of its CFRAM programme (www.floodinfo.ie) which serves to inform the development of Flood Risk Management Plans for specific areas in addition to the proposed measures to be implemented, the Strategic Flood Risk Assessment appended to the Development Plan, and the flood report submitted with the application, it would appear that the proposed development site is not located within any area identified as being at risk of flooding.

7.7.3. Accordingly, it is my opinion that the subject proposal satisfies the requirements of the '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*'.

7.8. **Appropriate Assessment:**

7.8.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, there are a number of Natura 2000 sites within the wider area with the most proximate of same including the Dalkey Islands Special Protection Area (Site Code: 004172) approximately 1.2km to the northeast, the Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000) approximately 1.3km to the east, the South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) approximately 3.7km to the northwest, and the South Dublin Bay Special Area of Conservation (Site Code: 000210) approximately 3.6km to the northwest. In this respect it is of relevance to note that it is the policy of the Planning Authority, as set out in Chapter 4: '*Green County Strategy*' of the Dún Laoghaire Rathdown County Development Plan, 2016-2022, to ensure the protection of natural heritage and biodiversity, including European sites that form part of the Natura 2000 network, in accordance with relevant EU Environmental Directives and applicable National Legislation, Policies, Plans and Guidelines.

- 7.8.2. In effect, it is apparent from the foregoing provisions that any development likely to have a serious adverse effect on a Natura 2000 site will not normally be permitted and that any development proposal in the vicinity of, or affecting in any way, the designated site should be accompanied by such sufficient information as to show how the proposal will impact on the designated site. Therefore, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.
- 7.8.3. Having reviewed the available information, including the screening exercises undertaken by the applicant (as appended to the grounds of appeal) and the Planning Authority, and following consideration of the 'source-pathway-receptor' model, it is my opinion, given the nature, design and scale of the proposed development, the site location outside of any Natura 2000 designation, the limited ecological value of the lands in question, the separation distances involved between the site and nearby designations, and the availability of public services, that the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of the aforementioned Natura 2000 sites (*N.B.* Whilst the Planning Authority has raised concerns that construction works on site could potentially disturb protected bird species en route to coastal Natura 2000 sites which may utilise the nearby parkland for feeding / landing opportunities, given the wider site context, with particular reference to its location in a built-up urban area and the recreational use of the parkland, I am not satisfied as regards the likelihood of any such impact). Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of the foregoing Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.
- 7.8.4. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site, in particular, specific Site Code: 004172, in view of the relevant conservation objectives and that a

Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

7.9. **Environmental Impact Assessment (Screening):**

7.9.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the prevailing topography and the absence of any pathways between the application site and the Dalkey Coastal Zone and Killiney Hill Proposed Natural Heritage Area (Site Code: 001206) located c. 25m to the southeast, and the availability of public services, 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.

7.10. **Other Issues:**

7.10.1. **Alleged Encroachment of Adjacent Lands / Disputed Boundary Line:**

Concerns have been raised by a number of observers as regards the accuracy of the site boundary delineated on the submitted plans and the potential for the encroachment of adjacent lands. In this regard particular reference has been made to the possible infringement of the north-western site boundary.

Having reviewed the available information, I am satisfied that the applicant has established sufficient interest in the proposed development site to lodge the subject application. Moreover, it is my opinion that any alleged encroachment or interference with the boundary in question is essentially a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

7.10.2. **Loss of Private Views:**

Whilst I would acknowledge that there may be some concerns that the proposed development will have a detrimental impact on the residential amenity of nearby dwelling houses by reason of the obstruction (in part) of views over Killiney Hill Park

that may presently be available from those properties, it is of the utmost relevance to note that any such views are not of public interest. They are essentially views enjoyed by a private individual from private property. A private individual does not have a right to a view and whilst a particular view from a property is desirable, it is not definitive nor is it a legal entitlement and, therefore, I am of the opinion that the proposed development would not seriously injure the amenities of property in the vicinity simply by interfering with their views of the surrounding area.

8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

9.0 Reasons and Considerations

9.1.1. Having regard to the pattern of development in the area, the provisions of the current Dún Laoghaire-Rathdown Development Plan, the character and setting of the wider area, the topography of the site and its context, and the diversity of housing styles and mix of scales, the Board considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual amenities of the area, would not be out of character with the prevailing pattern of development and would not seriously injure the residential amenities of properties of the area. 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, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior

to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- a) The second floor balcony areas located to the rear of the duplex apartment units (House Type B) shall be omitted and the space vacated incorporated into the internal floor area of the respective units.
- b) The roadside boundary wall onto Ardbrough Road shall be set back and reconstructed a distance of 1m from its current position to provide for widening of the adjacent footpath. The proposed new set back stone boundary wall to the street frontage shall be constructed using the stone of the existing boundary wall. The reconstructed wall shall match the existing in terms of construction. In this regard stone cladding shall not be acceptable.
- c) A section of the boundary wall to the southeast of the main site entrance shall be reduced to one metre in height in order to increase visibility at the corner.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

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

Reason: In the interest of public health

4. 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 interests of visual and residential amenity.

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

Reason: In the interest of visual amenity.

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

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

7. The parking spaces at the entrance of the site shall be clearly marked for use by visitors only.

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

8. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

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

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

10. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, shall be submitted to, and agreed in writing

with, the planning authority prior to commencement of development.

Thereafter, the waste shall be managed in accordance with the agreed plan.

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

11. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- a) A plan to scale of not less than 1:500 showing –
 - i. The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder,
 - ii. Details of screen planting which shall not include cupressocyparis x leylandii,
 - iii. Details of roadside/street planting which shall not include prunus species,
 - iv. Hard landscaping works, specifying surfacing materials, furniture and finished levels.
- b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- c) A timescale for implementation.

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

Reason: In the interest of residential and visual amenity.

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management

company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

16. The method of rock excavation shall be limited to rock splitting.

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

17. 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 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

18. 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, open space 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 of the development.

19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or

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

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

Robert Speer
Planning Inspector

15th April, 2019