



An
Bord
Pleanála

Inspector's Report ABP 302883-18

Development	Demolition of 2 houses and construction of 4 no. 4 bedroom 3 storey semi-detached houses.
Location	Malin & Finistere, Ballygihen Avenue, Sandycove, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D18A/0774.
Applicants	Finisterre Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellants	Finisterre Ltd.
Observers	<ol style="list-style-type: none">1. Enda Cunnigham.2. Gowan Maintenance Management Company CLG.3. Joe Joyce.4. Cepta & Brendan McLoughlin.

5. Donal & Mary Roche.
6. Kieran & Margaret Daly.
7. Lasairiona Mullingan, Fergus Gaughran, Emer Gaughran, Kevin Houlihan & Katerine Houlihan.
8. Peter O'Brien.
9. Ursula O'Dwyer.
10. Anna Vella.
11. Christine Redmond.
12. Philip Ennis.
13. Tara Smith.
14. Melanie Greally.

Date of Site Inspection

16th January 2019.

Inspector

Dáire McDevitt.

1.0 Site Location and Description

- 1.1. The application site is located on the eastern side of Ballygihen Avenue, a residential street that slopes south to north between Sandycove Road and Marine Parade (R831 coast road) in the south Dublin seaside village of Sandycove.
- 1.2. The western side of Ballygihen Avenue is predominantly characterised by Victorian Terraced houses. As one moves northwards the styles change and there are a number of later two storey semi-detached properties with a variety of finishes and materials. Immediately adjoining the application site to the south is a five storey (four storey residential over ground floor garages) flat roofed brick apartment block, Gowran Hall, dating from the 1970s. To the north are Fastnet and Rockall, two storey on generous plots. The driveway and detached garage associated with Rockall runs along the northern boundary of the site. To the east (rear) is Ballygihen a 1960s residential development of two storey houses. Ballygihen Avenue bounds, but is not located within Sandycove Architectural Conservation Area (ACA)
- 1.3. The site, with a stated area of c.0.087 hectares consists of two detached single storey houses/chalets on individual plots, Malin and Finistere, set back from public road. The site gradually slopes south to north, bounded by a low stone wall along Ballygihen Avenue. At present each property has a vehicular access and driveway off the public road. There are a number of paid parking bays on the western side of Ballygihen Avenue, but for the most part there are double yellow lines along both sides. A footpath runs along the western side of the Avenue. There is no footpath to the front of the application site.

2.0 Proposed Development

- 2.1. Permission to demolish two houses (Malin & Finistere) and construct 4 no. 3 storey (including attic level) 4 bed semi-detached dwellings, with a gfa ranging from c.180 to 190sq.m
8 carparking spaces (4 double bays), removal of existing roadside boundary (granite wall), landscaping.

The application documentation includes:

- 3D Visualisations.
- Engineering Services report.
- Construction Management Plan.
- Appropriate Assessment Screening report.
- Shadow Analysis.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following **3** reasons:

- 1. Having regard to the design, layout and height of the proposed development with limited separation distances to site boundaries. It is considered that the proposed development would be overbearing on adjoining properties to the north and east. The proposed development would therefore fail to comply with the zoning objective 'A' – 'To protect and/or improve residential amenity' set out within the Dun Laoghaire Rathdown County Development Plan, 2016-2022. It is considered that the proposed development would seriously injure the amenities, or depreciate the value, of property in the vicinity and is therefore considered to be contrary to the proper planning and sustainable development of the area.*
- 2. It is considered that the proposed development, by reason of its design, scale, height and layout, would be visually prominent within the street and fails to provide for an appropriate and site specific design response. It is therefore considered that the proposed development would be contrary to the provision of Policy UD1: 'Urban Design Principles' in the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and would be visually discordant within the existing streetscape. The proposed development*

would set a poor precedent for future development in the area and would seriously harm the character of the area. It is considered that the proposed development would seriously injure the amenities, or depreciate the value, of property in the vicinity and is therefore considered to be contrary to the proper planning and sustainable development of the area.

3. *Having regard to the design and layout of the proposed vehicular access and on-site car parking arrangements, resulting in the removal of an existing granite boundary to provide for the parking of 8 cars side-by-side, it is considered that the proposed development would be visually incongruent with existing roadside boundaries along the eastern side of Ballygihen Avenue. Furthermore, each proposed vehicular access is in excess of 3.5m. The proposed development therefore fails to accord with the provisions of 8.2.4.9 'Vehicular Entrances and Hardstanding Areas' of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would set an undesirable precedent and is therefore considered to be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports (3rd October 2018)

The main issues raised are broadly reflected in the three reasons for refusal.

Points of note include:

- Density of 45 units per hectares is acceptable as the site is within 1km walking distance of a Dart station, where densities of 50 per hectare would normally be encouraged.
- The rear garden depths are considered limited for three storey houses (range from 9.11 to 10.6m, with increased setback for upper floors).
- Separation distance from the front elevation, includes a balcony, to the front elevation of the houses on the opposite side of Ballygihen Avenue is c. 20-21m.

- There are no opposing first floor windows, but house no. 4 is c.1.7m from the northern boundary of 'Rockall'. This is not considered sufficient due to the presence of a balcony that could result in overlooking of Rockall.
- The height (c.9.5m) and scale of the proposed houses is considered excessive given the limited garden depths setback from the northern boundary. Resulting in an overbearing development when viewed from adjoining properties.
- Concerns that the development may overshadow the rear private amenity space of each proposed house and that of the properties to the east.
- The design of the proposed dwellings fails to take account of the surrounding context and does not provide an appropriate site specific design as required under Policy UD1.
- 2 car parking spaces are proposed for each unit, concerns that there is not sufficient space to adequately manoeuvre the vehicles within the site and the removal of the granite would detract from the streetscape.
- There are no protected views listed in the County Development Plan towards the coast from adjoining properties or Ballygihen Avenue.

Appropriate Assessment Screening Report (2nd October 2018). This concluded that *the proposed developments located at a remove from the closest European site. There are no known direct hydrological links to this protected site – the site makes use of the public drainage system as per documentation submitted. It is clear from the location of the project that there will be no likely significant effects on a Natura 2000 site as there are no known direct pathways including hydrological/hydrogeological links from the proposed development to any of the Natura 2000 sites examined in the screening report.*

3.2.2. Other Technical Reports

Drainage Planning (5th September 2018). No objection subject to conditions.

Transportation Planning Division (19th September 2018). Further Information recommended relating to vehicular access arrangements, on-site parking and manoeuvrability.

Waste Management Section (5th September 2018). No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water (5th September 2018). No objection subject to notes.

3.4. Third Party Observations

The Planning Authority have stated that 12 submissions were received by the Planning Authority. The issues raised are broadly in line with the observations made on appeal and shall be dealt with in more details in the relevant section of this report.

4.0 Planning History

None as per planning register.

5.0 Policy & Context

5.1. Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is zoned under Land Use Objective 'A' with a stated objective '*to protect and/or improve residential amenity*'.

RES3: refers to the density requirements for the county. Higher densities at a minimum of 50 units per hectare will be encouraged where a site is located within a 1km pedestrian catchment of a rail station, Luas or priority QBC and/or 500 metres of a Bus Priority Route, and/or 1 km of a town or District Centre.

RES4 states that it is Council policy to improve and conserve 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.

General Development Management Standards

Of particular relevance is **Policy UD1** as this is referred to in the Planning Authority's first reason for refusal.

Section 8.1.1.1. Urban Design Policy UD1 sets out that all development is of high quality design that assists in promoting a 'sense of place'. The promotion of 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).

Section 8.2.3.4 (vii) refers to infill sites. Such proposals shall be considered in relation to a range of criteria including respecting the massing and height of existing residential units.

Section 8.2.3.1 refers to the objective of the Council to achieve high standards of design and layout and to foster and create high quality, secure and attractive places for living.

Section 8.2.3.5 refers to the general requirements for residential development including habitable room sizes.

Section 8.2.8.4 (i) sets out the private open space requirements for private houses. A figure of 75sq.m of may be acceptable for a 4 bed house in cases where good quality open space is provided. Narrow strips of space along the side of dwellings shall not be included in the calculation. There is provision for a relaxation of the standard where an innovative design response is provided on site.

Section 8.2.8.4 (ii) refers to separation distances and the standard garden depth of 11 metres and in certain circumstance 7 m depths may be acceptable for single storey dwellings.

Section 8.2.4.5 refers to the car parking standards and table 8.2.3 set out the requirement for residential lands use of 2 spaces per 3 bed unit +.

Section 8.2.4.9 (i) refers to the minimum width of 3m and maximum of 3.5m required for vehicular entrances.

5.2 Guidelines

Sustainable Urban Residential Development Guidelines (DoEHLG 2009) and its companion, the **Urban Design Manual - A Best Practice Guide (DoEHLG 2009)**. These include detailed advice on the role of Urban Design and planning for new sustainable neighbourhoods. In cities and larger towns, appropriate locations for increased densities, are identified, including outer suburban greenfield sites and public transport corridors.

Quality Housing for Sustainable Communities (DoEHLG 2007). These are intended to assist with the implementation of initiatives for better homes, better neighbourhoods and better urban spaces. Detailed space requirements are set out and room sizes for different types of dwellings.

5.3 Natural Heritage Designations

None of relevance in the immediate vicinity. The nearest European site is Dalkey Island SPA (site code 004172), c. 1.7km to the east of the site.

5.4 Environmental Impact Assessment Screening

Having regard to the nature and scale of the proposed development comprising the demolition of two dwellings and the construction of four dwellings in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal, in an attempt to address the Planning Authority's three reasons for refusal, includes revised proposals as follows:

- Omission of second floor balconies.
- Revised roof profile and ridge to height to c. 8.85m.
- Revised front curtilage with a more subtle boundary treatment proposed consisting of low railing and hedge.
- A 2m boundary fence proposed along the northern boundary to address the issue of overlooking from ground floor windows.

The appeal seeks to address the Planning Authority's three reasons for refusal and is summarised as follows:

6.1.1 Density

- The site has an area of c.0.88 hectares and the overall density proposed is c.45 units per hectare. A density of 50 per hectare would normally be encouraged on sites within 1km walking distance of a dart station.
- The rear gardens for each dwelling are 75sq.m with rear garden depths in excess of 9.1m to 10.6m. With greater distance from boundaries for the upper floors.
- There are no directly opposing first floor windows, therefore the separation distance of 22m between properties can be reduced.

6.1.2 Impact on Rockall:

- The proposed development is set back. c.1.8m from Rockall, this exceeds the standard required for residential developments (1.15m).
- Overlooking is not an issues. The single upper floor level window serves a bathroom and will have obscure glazing.
- The setback between the proposed development and Rockall is c. 23m and the shadow studies showed minimum shadowing of the Rockall driveway.

6.1.3 Design:

- The proposed dwellings are purposely designed three storey town house style, with accommodation in the roof level. The proposed houses are of a scale comparable to the row of period houses on the opposite side of Ballygihen Avenue.
- The contiguous elevation shows the buildings are appropriately designed for the location and provided a suitable transition between the cubic shape of the 4-storey Gowran Hall apartment block to the south, and the modulated shape of Rockall and Fastnet, houses to the north of the site.
- The eastern side of Ballygihen Avenue has a mixture of designs, scales and height. Unlike the western side which is characterised predominantly by Victorian Terraces.
- The existing chalet type houses on site (Malin and Finistere) are substandard in terms of residential amenity, insulation and are of no architectural merit.

6.1.4 Access/parking:

- The vehicular access arrangement and parking layout is akin to mews infill presentation that improves the public realm. Details of manoeuvring were requested by the Roads Section and these have been provided with the plans submitted with the Appeal for consideration by the Board.
- Reference to a development by the applicants that was granted permission by An Bord Pleanala in Kimmage for similar access arrangement off a public roadway. The same urban design principles should apply to the current proposal.
- Included with the appeal is a letter of support from Ronnie Kavanagh, Rockall, Ballygihen Avenue. This notes that the revised plans before the Board are considered acceptable.

6.1.5 Appeal Documentation Includes:

- Revised Plans and elevations.
- 3D Visualisations.
- Autotrack analysis.
- Shadow survey.

6.2. Planning Authority Response

Notwithstanding the modifications made with the submission appeal to the Board, the Planning Authority has no further comments to make.

It is considered that the grounds of appeal do not raise any new matters which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3 Observations

14 Observations have been received. There is significant overlap and reiteration of issues raised throughout the Observations. I therefore propose to summarise them by issue rather than individually. These are summarised as follows:

6.3.1 General

- The applicant has stated no substantial grounds of appeal, therefore does not constitute a valid appeal.
- Support and request that the three reasons for refusal by the Planning Authority be upheld by the Board.
- A number of the observers have stated their support for Mr J. Joyce's observation and the issues raised.
- The minor modifications proposed with the appeal do not address the Planning Authority's reasons for refusal.
- The changes proposed as part of the appeal are considered material and substantial and not appropriate for a first party appeal.

6.3.2 Policy

- Does not comply with land use zoning objective 'A'
- Does not comply with RES4 Existing housing stock and Densification.
- Does not comply with Section 8.2.3.4 (vii) infill development as it fails to respect prevailing height and massing of development in the area (excluding Gowran Hall apartments).

- Contrary to the 2009 Ministerial Guidelines for Sustainable Residential Development in Urban Areas as the proposal fails to make effective use of premium centrally located and contributes to a sense of place by strengthening the street pattern.
- Does not comply with the DLR Building Height Strategy. The site is 75m from the coastline in an area characterised by single and two storey units. The adjoining four storey apartment block should not be viewed as a precedent as this in itself is lacking architectural merit, visually obtrusive and a discordant feature along Ballygihen Avenue.
- Map 3 shows preserved views. The public view from Ballygihen Avenue to the Coast and from Sandycove Road to the coast would be severely impacted by the proposed development.
- Reference made to the Draft Urban Development and Building Height Guidelines.
- The proposal is contrary to policy UD1 Urban Design Principles which requires proposal to promote a sense of place and proper consideration of context, connectivity, inclusivity, variety, etc.

6.3.3 Design

- The enviable location of Sandycove needs special consideration when it comes to planning approval and should be protected from development that would injure many.
- The replacement of two single storey family homes with four three storey houses would constitute overdevelopment of the site. The proposal would be overbearing from adjoining properties and the public realm.
- No Visual Impact Assessment was submitted with the application

- Inappropriate design approach to sensitive street location. The proposed development has no appreciation of the Victorian architectural heritage of the street and would completely unbalance the urban composition.
- Inappropriate use of material, finishes and design elements that are not in keeping with the character of the area.
- The size and scale of the houses is not appropriate on these restricted infill sites. The proposal would form an incongruous dominant feature and detract from the streetscape and architectural grain of the area.
- The scale of the proposed houses would have a significant negative impact on the residential amenity of the surrounding areas. Public views of the sea from Ballygihen Avenue and Sandycove Road to the south would be lost (photographs submitted to illustrate the views)
- The protruding balconies and velux windows increase the size and scale of the proposed development and are not in keeping with the character of the area.
- Gowran Hall should not be seen as a precedent as its design and scale is not in keeping with the area.
- Agree with the Areas Planner's conclusions that the development would be visually prominent and incongruous with the existing streetscape. It would be visually obtrusive within the existing streetscape, would neither protect nor enhance the visual amenities of the area and would set a poor precedent for future development.

6.3.4 Residential Amenity

- The proposed development is too large in scale and height and is stepped much closer to the road than existing houses. This coupled with their three storey height will have a significant impact on the privacy of adjoining properties and those on the opposite side of Ballygihen Avenue.
- The gradual erosion of the character of the area by developer led projects is resulting in the erosion of the character and available sea views from the existing properties.
- Significant investment by owners in their properties to enhance their and maximise on their location will be eroded by the proposed development that would result in loss of the sea view.
- The proposal would result in the loss of sea views and light to adjoining properties, in particular apartments in Gowran Hall.
- Noise disturbance and overlooking from the balconies.
- Concern that the sites works and construction would could have an impact on the structural stability of adjoining properties. Reference made to reports that the construction of Gowran Hall resulted in subsidence to nearby dwellings.
- Demand for downsizing properties in the area, lower storey would be more suitable at this location.

6.3.5 Granite wall

- The removal of the roadside boundary result in the destruction of the historic wall associated with Gowran Hall, a substantial house that stood where the Gowran Hall apartments are located.

- The proposal to remove front boundaries does not fit in with the character of the area.

6.3.6 Parking & Access

- Serious concerns are noted regarding the proposed parking arrangements. The autotrack drawing provided by the applicant in the appeal only serves to prove that the proposed parking arrangements do not work and constitute a substantial hazard to pedestrians and motorists alike.
- Ballygihen Avenue is the subject of extensive traffic congestion and bottlenecks. Additional traffic will further exacerbate this situation.
- Vehicles travel at high speed along this road and to permit more entry points onto a road which is so narrow and lacking a footpath would expose the residents and users of Ballygihen Avenue to significant risk and would set an extremely undesirable precedent.
- Loss of parking along the front of the site if the boundaries are removed.
- Parking spaces to the front of the houses would be too small and result in cars protruding onto the road.
- The proposed parking arrangement are substandard.
- No footpaths proposed
- Reference to ABP Ref. No. 300983-18 (development at Kimmage) is irrelevant. The context of the two sites are completely difference.
- The double parking bays are too tight, cars will only be able to reverse out onto the road if the second space is not occupied.

- The Construction Management Plan refers to onsite staff parking. This is disputed as the site is too small.

6.3.7 Plans:

- The scales of the contiguous drawings submitted are inaccurate and misleading.
- Reference to the Victorian houses as 3 storey is also misleading and wrong.
- Letter of support submitted with the appeal does not refer to an adjoining property. The adjoining property is 'Fastnet' not 'Rockall'.
- Devaluation of adjoining properties.

7.0 Assessment

7.0.1 In an attempt to address the Planning Authority's reasons for refusal the applicants have submitted revisions to the original scheme in the documentation that accompanied the appeal. I note that the scope of the modifications proposed reduces the overall scale and height of the development and I am satisfied would not require re-advertisement. This Report, therefore, is dealing with the plans and particulars lodged with the appeal. The modifications submitted include the omission of the second floor balconies, alterations to roof profile and height, boundary treatment. I note that the residents of Gowran Hall, the adjoining apartment scheme, and other residents of Ballygihen Avenue, have submitted observations on the revised proposals before the Board.

7.0.2 The main issues in this appeal are those raised in the grounds of appeal which seek to address the Planning Authority's reasons for refusal. Arising from the modifications submitted to the Board, the issue of residential amenity also needs to be considered. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development,

- Design
- Residential Amenity.
- Parking and removal of roadside boundary
- Appropriate Assessment.

7.1 Principle of Development

- 7.1.1 The site is currently occupied by two detached single storey properties, Malin and Finistere, on separate individual plots. The proposal includes the demolition of these two properties (gfa c.270 sq.m) and the construction of 4 no. three storey houses (total gfa c.750 sq.m) with double parking bays accessed off Ballygihen Avenue on a site within an overall area of c. 0.087hectares.
- 7.1.2 The applicants refute the Planning Authority's conclusion that the development fails to adequately protect and/or improve adjoining residential amenities as required under Land Use zoning Objective 'A' due to its height and layout. The applicant ascertains that the proposed scheme of four houses on a site with an overall area of c. 0.087 hectares, is appropriate for this location and complies with the requirements of the County Development Plan.
- 7.1.3 The Dun Laoghaire Rathdown County Development does not prescribe plot ratio or site coverage. The Planning Authority refers to densities and the relevant design and development management standards when assessing the level of development permissible on the site.
- 7.1.4 RES3 of the County Development Plan sets out the Council's policy relating to residential density. It notes that a minimum net density of 50 dwellings per hectare should be applied within public transport corridors, which are defined as including sites within a 1 km pedestrian catchment of a rail station. They also infer that higher densities should be encouraged on sites that exceed 0.5 hectares in area.

- 7.1.5 A density of 45 units per hectare (4 houses) is proposed. Observers raised concerns that the density is excessive for the area and would result in the overdevelopment of the site.
- 7.1.6 Ballygihen Avenue is characterised by a varied pattern of development, ranging from Victorian Terraced houses, two storey semi-detached houses, detached houses on generous plots to apartments. Bounding the site to the south is the Gowran Hall apartment block, a five storey building dating from the 1970s.
- 7.1.7 I consider, given the location of the site on lands zoned under land use objective 'A' and its proximity to the Sandycove dart station, that the proposed density of 45 units per hectare is acceptable subject to compliance with the development management standards for residential developments and the protection of the residential amenities of adjoining properties.
- 7.1.8 The Planning Authority raised concerns that the cumulative impact of the overall height and layout of the proposed houses would not adequately protect the residential amenities of adjoining properties and be out of character with the surrounding area. I note that the site is bounded to the south by the Gowran Hall apartment block, a five storey structure. To the north is the driveway and garden associated with 'Rockall' and to the north of this is 'Fastnet'. Opposite the site is a Victorian Terrace and to the east are two storey houses. In my view, the proposed development would generally reflect the massing, bulk and height of the structures in the immediate vicinity. I am satisfied that the proposed houses can be accommodated on the site and that the cumulative impact of the four units would not constitute over development of the site.
- 7.1.9 Section 8.2.3.4 (vii) and 8.2.8.4 of the County Development Plan sets out the design and development management standards for infill developments and residential development. This includes reference to private amenity space, separation distances, etc. I consider the proposed scheme broadly complies with the standards as set out in the Development Plan for a development of this scale.

7.2 Design

- 7.2.1 The planning authority refused permission on the grounds that the proposed development to be overbearing when viewed from the adjoining properties to the north (Rockall) and east (Ballygihen estate) in particular. I note that the distance from the eastern elevation of the houses and the closest dwelling to the east range between be c.17.8m (groundfloor) and 19m (upper floors). The distance from the northern elevation (gable) of house no.4 to the north would range between be c.27m. The rear gardens have depth of ranging from 9.1 to 10.6m. I am of the view that taking into account the proposed height and setback of the upper floors, the proposed private amenity space separating the proposed houses from the houses at Ballygihen would reasonably serve to ensure the proposed development would not have an overbearing impact from the adjoining properties.
- 7.2.2 In my view, the proposed houses with a height ranging of c. 8.8m, with the upper floors recessed are not tall buildings. The surrounding area is dominated by a mix of buildings of varying heights and designs. While I accept that the proposed development would add three storey units along the eastern side of Ballygihen Avenue, I do not consider that the proposal, with a maximum height of c.8.8m, would have an overbearing impact along Balygihen Road, given the existing architectural grain and context of the area. I consider that the height, design and form of the development is appropriate in the context of current Development Plan policy and standards, including the relationship of the proposed building to the public realm and adjoining lands.
- 7.2.3 Furthermore the use of different design elements and materials reduces the overall form and scale of the proposed dwelling. I consider the modified proposal submitted with the appeal, in terms of design, form and height would not have an overbearing impact on neighbouring properties or from the adjoining public road. The set back of the upper floor from the site boundaries is, in my view, sufficient to address the concerns raised by the planning

authority and the observers in relation to the overbearing impact on the adjoining properties, in particular, to the north and east.

7.2.4 The Planning Authority also raised concerns regard the proximity of the proposed houses to the site boundaries, in particular the adjoining property to the north. The layout provides for a 1.4 to 1.7m separation between proposed the gable of house no. 4 the northern side boundary. The rear elevation of the nearest house to the north (Fastnet) is setback c. 25m from this boundary. The northeastern corner of house No. 4 is set back, at an angle, c. 13.4m from the nearest property to the northeast. I am satisfied that the scale of the development and its set back from its boundaries would not result in an overbearing structure which would detract from the residential amenities of the adjoining property.

7.2.5 The applicants have sought to overcome the Planning Authority's reasons for refusal by addressing the sensitivities and constraints of the site through the use of a design solution that takes inspiration from the Victorian Terraces along Ballygihen Avenue. There is a clear distinction between the terraces which forms the western side of Ballygihen Avenue, the traditional two storey semi-detached houses to the north of the terrace, The 1970s style flat roofed red brick apartment block. The eastern side of the Avenue has an eclectic mix of form, designs and styles, when viewed from the junction of Ballygihen Avenue and Marine Parade the proposed development would only be partially visible and would integrate with the existing pattern of development along the eastern side of the road, assisted by Gowran Hall as a backdrop. I have examined the Current County Development Plan and I note that there are no protected views along Ballygihen Avenue towards either the Sandycove Road or Maine Parade. It is my view that the visual impact of the new houses on site would enhance rather than detract from the character of the area. I am satisfied that the modified proposal submitted with the appeal would not have a detrimental impact on the character of the streetscape along Ballygihen Avenue and that the current proposal before the Board has addressed the Planning Authority's first two reasons for refusal.

7.2.6 I consider that the proposed dwellings would be of an appropriate design idiom and scale, and would enhance rather than detract from the amenities of the area. In my view, the proposal would be a sustainable use of a serviced suburban site and would enhance rather than detract from the amenities of the area. I am satisfied that the overall scale, massing, form, height and design of the dwellings is satisfactory in terms of protecting the character of Ballygihen Avenue.

7.3 Residential Amenities

7.3.1 The observers raised concerns that the proposed development would detract from the residential amenities of adjoining properties due to overlooking and loss of light/overshadowing.

7.3.2 Section 8.2.8.4 (ii) set out the requirement of 22m for separation distances between upper floor opposing windows which would normally result in rear garden depths of 11m for back to back housing. There are no first floor opposing windows to the east. There would be limited overlooking of adjoining private amenity space which is commonplace in suburban areas, I do not consider that it would be to such an extent that it would detract from the residential amenities of adjoining properties.

7.3.3 Windows proposed to the upper floor to the southern gable of House No. 1 and the northern gable of house No. 4 serve bathrooms. The use of opaque glazing can be required by condition if the Board consider granting permission. overlooking is not an issue.

7.3.4 It is commonly understood that overlooking between properties does not usually occur at ground floor level. This is because in most urban cases a two metre solid boundary from the front building line back, either a wall or fence, is erected to screen views and in rural areas landscaping along site boundaries is conditioned to screen sites. There is no standard in relation to separation distances which concern ground floor windows and new development. In my opinion the boundary treatment proposed addresses this issue. I am satisfied

the extent of site works would not have a detrimental impact on the amenities of the adjoining properties.

- 7.3.5 The observers raised concerns that the use of the balconies would result in noise disturbance and overlooking and detract from the residential amenities of adjoining property owners. These balconies have been omitted in the revised proposal submitted with the appeal.
- 7.3.6 The modified proposal includes the omission of the second floor balconies and changes to the overall roof profile and height. The modified design is less bulky than the original proposal. Notwithstanding I have some reservations regarding the gable facing Gowran Hall and the finishes proposed. I consider a brick finish with detail to break up the mass would be more appropriate. In my view, the modifications proposed to the four dwellings, would enhance its overall design and would not detract from the visual or residential amenities of the area or that of adjoining properties.
- 7.3.7 The observers also referred to loss of light arising from the height, bulk and siting of proposed dwellings.
- 7.3.8 The Shadow Analysis submitted with the application is incomplete. Notwithstanding, I consider having regard to the height of the development, the set back from the boundaries and the relationship with adjoining properties that no significant reduction in sunlight amenity can be expected for any of the neighbouring gardens.
- 7.3.9 I am of the view that while there is a degree of overshadowing it is not of an extent that would detract from the residential amenities of adjoining properties and warrant a reason for refusal. The orientation and layout of the development would not lead to excessive overshadowing within the scheme or of adjoining properties. Consequently, I do not consider that the proposed development would lead to excessive overshadowing of the private amenity space serving the proposed dwellings or neighbouring properties.
- 7.3.10 I consider that the development is acceptable in the context of the amenities of adjoining properties. Its overall design and scale has adequate regard to the existing pattern of development and the residential amenities of existing

properties and such would not result in an overbearing impact or an unacceptable loss of privacy or light levels. The site in its current state, overgrown with Malin and Finistere, in need of work, adds nothing to the character and amenities of the area. The proposal would be an appropriate use of a serviced suburban site, zoned for the residential development.

7.4 Parking and removal of roadside boundary.

7.4.1 Section 8.2.4.9 (i) of the County Development Plan sets out the requirements for entrances and hard standing areas. Section 8.2.4.5 refers to the car parking standards and table 8.2.3 set out the requirement for residential lands use of 2 spaces per 3 bed unit+. The site is within 1km walking distance of a Dart Station and the area is served by good public transport links, therefore, a relaxation on the requirement for 2 spaces per unit may be open for consideration where parking cannot be accommodated on site.

7.4.2 The Planning Authority refused permission on the grounds that having regard to the design and layout of the proposed vehicular access and on-site car parking arrangements, resulting in the removal of an existing granite boundary to provide for the parking of 8 cars side-by-side, it was considered that the proposed development would be visually incongruent with existing roadside boundaries along the eastern side of Ballygihen Avenue. Traffic safety concerns were not included in the reason for refusal which related the visual impact of the removal of the roadside boundary.

7.4.3 At present there are two separate vehicular access to the site, serving Malin and Finistere respectively. The proposal before the Board seeks to remove a granite wall for the entirety of the site's road frontage (c.30m) and provide 4 no. double parking bays (8 carparking spaces) to serve the four houses. While the existing roadside boundary is part of the established streetscape, it not a protected structure or located within an Architectural Conservation Area. Given the condition of the wall and the variety of boundary treatment along the eastern side of Ballygihen Avenue I do not considered that its removal warrants

a reason for refusal. The site cannot accommodate the retention of the existing boundary and comply with the requisite parking requirements. The provision of parking bays accessed directly off Ballygihen Avenue would not be visually incongruent as the eastern side of Ballygihen Avenue does not have a uniform streetscape.

7.4.4 In terms of access and manoeuvrability. I note that the parking arrangements are akin to that found in most suburban housing where there is no room to turn within the site. The proposed development can accommodate two parking spaces for each unit on site as per Section 8.2.4.5 of the current County Development Plan.

7.4.5 The observers have referred to the limited parking spaces along Ballygihen Avenue and that this would be exacerbated by additional traffic and the layout of the proposed parking bays on this narrow road. The area in front of the site is not a designated parking area, it is marked out with double yellow lines. There are parking bays marked out and road markings along this western side of Ballygihen Avenue at this point. As such under existing and proposed conditions the use of the street for parking may be haphazard from time to time. The proposed development would not result in the loss of designated car parking spaces.

7.5 Appropriate Assessment

7.5.1 The site is a serviced urban site, which neither lies in or near a Natura 2000 site. The nearest such sites are at a considerable distance and there are no direct connections between them and the development site. Having regard to nature and scale of the proposed development, the nature of the receiving environment and the distance to the nearest European sites, no Appropriate Assessment issues arise and it is not considered that the proposed

development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that permission should be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the nature, height and design of the proposed development and the provision of the Dun Laoghaire Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area, would not detract from the character or setting of Ballygihen Avenue would adequately protect the residential amenity of adjacent properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

1.

The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted to the An Bord Pleanála on the 30th day of October, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Prior to the commencement of development the developer shall submit for the written agreement of the planning authority:
 - a) Revised details and specifications to include the revised proposal for the southern elevation, extending the use of the brick to form a feature gable.
 - b) Details including samples of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of protecting the character of the area.

3. Access and parking arrangements shall comply with the detailed standards for Planning Authorities for such works.

Reason: In the interest of amenity and traffic safety.

4. 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.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity

6.
 - (i) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and dust management measures and off-site disposal of construction/demolition waste.
 - (ii) Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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.
 - (iii) All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

7. Proposals for building names and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all building signs, shall be provided in accordance with the agreed scheme. No advertisements/marketing signs relating to the name of the development shall be erected until the developer has obtained the Planning Authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

8. No dwelling units within the proposed development shall be sold separately, independent from the associated car parking provision. All the proposed car parking spaces shall be for occupants of the residential units

and shall be sold off with the units and not sold separately or let independently from the residential development.

Reason: In the interest of orderly development.

9. 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.

Dáire McDevitt
Planning Inspector

5th February 2019