



An  
Bord  
Pleanála

## Inspector's Report ABP 303725-19

### Development

Demolition of dwelling and construction of a residential scheme consisting of 13 houses and 23 apartments, gym and associated site works within the curtilage of a Protected Structure.

### Location

Dalkey Manor, Barnhill Road, Dalkey, Co. Dublin.

### Planning Authority

Dun Laoghaire Rathdown County Council.

### Planning Authority Reg. Ref.

D18A/0418.

### Applicant(s)

Melmousa Devco Limited.

### Type of Application

Permission.

### Planning Authority Decision

Grant permission subject to conditions.

### Type of Appeal

Third Party.

### Appellants

1. Thomas & Pauline Pitt, Charles Smith & Elizabeth Hogan, Brendan & Nuala Toal, David & Kathy

O'Keeffe, Conor & Ruth Mc Glynn,  
Kevin & Cora Hurley, Stephanie  
Saunders and Malcolm & Mariette  
Brambell.

2. Peter M. Faulkner.

3. Trevor & Alison Williams.

**Observers**

1. Joan O'Donnell.

2. Jennifer, Theresa & Anne-Marie  
Derham.

3. Niala Reynolds.

4. Brian Reynolds.

**Date of Site Inspection**

22<sup>nd</sup> May 2019 & 10<sup>th</sup> July 2019.

**Inspector**

Dáire McDevitt.

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## **1.0 Site Location and Description**

**1.1.** The site is located on Barnhill Road, c. 0.5 km from the centre of Dalkey in south county Dublin. It is c. 50m west of the Dart line and the associated pedestrian / cycle route The Metals, which is a candidate Architectural Conservation Area (ACA). Glenageary Dart station is located c. 1 km to the north west and Dalkey station c. 0.5 km to the east. Barnhill Road is a regional route R119, linking Dalkey to Sallynoggin and Glenageary to the west. There is a footpath along the road frontage of the site and a pedestrian crossing at the nearby bridge over the Dart line. The prevailing pattern of development in the area is low density 2 storey suburban housing.

**1.2.** The site has a stated area of 0.935ha. It comprises an existing 1970s 2 storey house, known as Dalkey Manor, and associated lands, which contain a substantial amount of mature trees and vegetation. The site is a large part of the original grounds of Dalkey Lodge, a 17<sup>th</sup> / 18<sup>th</sup> century house with associated outbuildings, which is a protected structure. Dalkey Lodge and its garden are now separated from the site by a temporary metal fence. There is a drainage ditch, which is currently dry, running in a north / south direction across the site, traversing the boundary with Dalkey Lodge. Aside from the frontage to Barnhill Road, which is a high granite wall, the east, west and south site boundaries are modern walls / fences to the rear of existing housing. Ground levels rise by c. 12 m across the site from Barnhill Road to the rear (south) boundary shared with housing in Hillside. The immediate surroundings are as follows:

- Single storey detached houses within The Rise to the west of the site.
- 2 storey semi-detached houses within Hillside to the south.
- Single storey/dormer detached houses within Old Quarry to the east.

## **2.0 Proposed Development**

**2.1.** Permission is sought to demolish Dalkey Manor and to construct 13 houses and 23 apartments, which are laid out in a series of terraces and one large block around a central spine and public open space.

The breakdown is as follows:

13 no. houses with private gardens comprising:

- 2 no. 2 bedroom detached single storey.
- 2 no. 3 bedroom end of terrace two storey.
- 9 no. 3 bedroom two and a half storey terrace.

23 no. apartments in a 3 storey over basement building comprised of:

- 9 no. 1 bedroom.
- 10 no. 2 bedroom (including 1 no. private terrace area).
- 4 no. 3 bedroom with private terrace
- Basement level: 29 no. carparking spaces, 42 no. bicycle parking spaces, refuse storage, gym and associated courtyard, plant area and additional apartment storage units.

Other works:

- 15 no. car parking spaces and 24 no. bicycle parking spaces at surface level.
- Upgrade of existing vehicular entrance on Barnhall Road with provision of internal footpaths, shared surfaces and street lighting.
- Provision of public open space including courtyard with landscaping works to include tree planting and provision of green areas and treatments to site boundaries.
- Surface water and foul drainage, water connections and alterations to site levels.
- Demolition of existing two storey dwelling known as 'Dalkey Manor'(273sq.m), entrance gates, piers and splay walls and ancillary single storey outbuilding.
- All other site works necessary to facilitate the development on a site of c. 0.935 hectares.
- The proposed development is adjacent to 'Dalkey Lodge', a protected structure.

The development has a contemporary design with the apartment block and individual houses are to be finished in a mix of finishes including plaster, stone, brick and a mix of cladding materials. The granite wall along the frontage to Barnhill Road is to be reconstructed, with an upgraded vehicular access at the same location as existing. The layout includes 15 no. car parking spaces and 24 no. bicycle spaces at surface level with 29 no. car spaces and 42 no. bicycle spaces at basement level under the apartment block. The development is to connect to existing site services.

### **2.3 Documentation included with the application**

- Planning Report.
- Architectural Statement and drawings.
- Visual Impact Assessment.
- Landscape Report and drawings.
- Engineering Report and drawings.
- Flood Risk Assessment.
- Street Lighting Plan.
- Sustainability Report.
- Daylight and Sunlight Report.
- Photomontages.
- Arborist Report and drawings.
- Conservation Architect Report.
- Historical Landscape Assessment.
- Ecological Impact Assessment.
- Appropriate Assessment Screening.
- Traffic and Transportation Report.

## **2.4 Further Information (23<sup>rd</sup> October 2018)**

This dealt with Planning, Transportation, Drainage, Heritage and Landscaping issues.

Documentation included:

- Planning Report.
- Revised public notices.
- Construction Management Plan.
- Noise & Vibration Assessment.
- Legal Interest letter.
- Revised architectural drawings.
- Revised architectural statement.
- Revised landscaping particulars.
- Revised engineering particulars.
- Revised Daylight and Sunlight Report.
- Invasive Species Management Plan.
- Archaeological desktop study report.
- Traffic and Transportation Report.

## **2.5 Clarification of Further Information (18<sup>th</sup> December 2018)**

A detailed submission addressing outstanding drainage, housing, built heritage and landscaping issues.

Documentation included:

- Planning Report.
- Revised Landscaping particulars.
- Revised Engineering particulars.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1.** The planning authority granted permission subject to **39** conditions on the 23<sup>rd</sup> January 2019.

### **3.2. Planning Authority Reports**

#### **Planning Report 26<sup>th</sup> June 2018**

(page 10 of report dated 26/06/18 not on file, available on the Planning Authority website).

Points of note include:

- The development has increased from 29 (27 on appeal) to 36 units.
- Carparking has decreased from 61 to 44.
- 13 houses have been omitted and a 3 storey over basement 23 unit apartment block proposed in their place.
- Density of 38.5 units per hectare is appropriate given the context of the site notwithstanding its proximity to Dalkey Dart Station (within c.300m).
- The introduction of an apartment element to the scheme has contributed significantly to the overall housing mix, size and type provided for on site. Therefore complies with RES7.
- Quantum of public open space exceeds the requirements set out in the County Development Plan. The Parks and Landscape Services, however raised concerns relating to what constituted usable open space within the scheme.
- The area planner noted that the fundamental issue raised by An Bord Pleanála under PL.06D.248433 was that of visual intrusion on adjoining properties, particularly from proposed terraces B and D. To address this the current proposal includes revised designs for each terrace block by omitting a floor and providing for a 2.5 storey dwelling rather than a full 3 storey one. The area planner concluded that this significantly reduced the bulk and massing of the terraced blocks and in turn reduced the visual impact of the



proposed development on adjoining properties located within Old Quarry to the east and The Rise to the west. However, visual impact assessment submitted did not address this and should be explored further.

- A three storey apartment block with plant/lift shaft pop ups along the southern boundary. Site levels would be reduced to accommodate the height and a gabion type retaining wall provided along the southern boundary.
- Concern that the grounds works may require blasting/breaking or splitting due to the underlying rock type.
- Inadequate parking.

A detailed further information was recommended.

**Appropriate Assessment Screening Report (20<sup>th</sup> June 2018).** Concluded that the development is inland and removed from the closest European Site. There are no known hydrological links to this protected site and, based upon details submitted by the applicant, it is unlikely that either the construction or operational phase of the development would have any likely significant impacts on the conservation objectives of a Natura 2000 site.

**Report 14<sup>th</sup> November 2018.**

Responses to the Further Information requested noted, on foot of recommendations from the Conservation Division, Drainage Section, Housing Section clarification of further information was requested.

**Report 23<sup>rd</sup> January 2019.**

The Area planner concluded that the location of the proposed site, along Barnhill Road, on the approach to Dalkey village. And having regard to its proximity to existing amenities, services and public transport facilities, it was considered that the site has an important role to play in terms of consolidating growth within the Dublin Metropolitan Area.

Regard should be had to the emerging National policy, in particular the NPF, the Design Standards for New Apartments, 2018 and the Building Heights Guidelines, which all provide for increased densities on these types of sites.

The development will provide an infill residential scheme of 36 units in a varied mix of housing and apartments. In this regard it is considered that the development is compatible with the zoning objective for the site and the development has been laid out to minimise the potential adverse impact on the amenities of the adjoining sites and the adjoining protected structure, Dalkey Lodge.

Following a detailed Further Information request and subsequent Clarification of Further Information Request. The Area Planner was satisfied that the applicants had adequately addressed outstanding concerns and a recommendation to grant permission subject to 39 conditions was made.

### **3.3 Other Technical Reports**

#### **3.3.1 Transportation Planning**

**Report 22<sup>nd</sup> June 2018** Requests further information including:

- A Speed survey to be carried out by a company approved by the planning authority and during a timeframe approved by the planning authority.
- Letter of consent from DLRCC relating to the proposed new 'round top' ramp on Barnhill Road.
- A detailed Quality Audit.
- Details on internal access road to demonstrate compliance with DLRCC TIC requirements.
- Details for relocation of ESB poles.
- Details of tactile paving.
- Warning signage (children at play).
- No tree planting within 2m from the back of the proposed internal road/footpath to maintain adequate sightlines.
- Details of driveways and parking bays.
- Breakdown and revised drawings of the required 53 car parking spaces.
- Revised development traffic generation assessment for the required car parking spaces.

- Details of visitor bicycle spaces.

**Report 12<sup>th</sup> November 2019.** No objection subject to conditions.

### **3.3.2 Conservation Division**

**Report 8<sup>th</sup> June 2018):** The following main points are noted:

- The application site originally formed part of the original grounds of Dalkey Lodge and is now separated from it by temporary metal fencing.
- Dalkey Lodge is a mid17<sup>th</sup> century house set within a mature landscaped setting. The site has other features of heritage interest including outbuildings and substantial mature trees, all of which contribute to the character and setting of the protected structure.
- The Architectural Heritage Assessment includes a Historical and Site Analysis which reveals that Dalkey Lodge was intentionally orientated due north.
- A Historic Landscape Assessment includes a historic map analysis which reveals that the lands to the south served as an orchard and possibly fruit and vegetable gardens. Remnants of historic planting remain including the orchard and watercourse as shown on the 1888 OS Map. These features would be completely eroded with the proposed development. The consultant report suggests consideration be given to exposing part of the water course and granite bank as a feature within the site.
- The proposed scheme maintains the sylvan character around Dalkey Lodge and there are proposals to strengthen the boundary planting. While it was acknowledged that the current proposal afforded a more acceptable 'breathing space' between the protected structure and the proposed development. It would result in the complete loss of surviving historic landscape features identified in Historic Landscape Assessment Report. The applicant should be requested to investigate ways of retaining surviving historic landscape features which may necessitate revisions to the site layout and landscaping plan.

Recommends a further information request for historic garden and landscape assessment, possible revised site layout, visual impact assessment of the development to and from Dalkey Lodge.

**Report 5<sup>th</sup> November 2018:**

Response to the FI noted. It did not sufficiently address the integration of the water course and granite bank into the scheme and the proposed boundary treatment with Dalkey Lodge is not acceptable. These issues need to be addressed further.

**Report not dated:**

Revision relating to the boundary wall and treatment of the water course are considered acceptable.

**3.3.3 Parks and Landscape Services**

**Report 21<sup>st</sup> June 2018:**

The following points are noted:

- The development proposals are not acceptable in their current form and layout. The development has not addressed the previous reasons for refusal under D17A/0117. Inadequate quantum (c. 53.5% of the requisite minimum quantum required) and quality of communal open space provided.
- The proposed quantum is spatially constrained poor quality and un-usable (in terms of passive, active recreation and play opportunities) courtyard type place, comprised of two spaces of 564 and 132.4 sq.m. The maximum width of the courtyard's greenspace (c.14m) does not accord with optimal best practice design in terms of adequately meeting the needs of residents and their visitors for passive and active recreation. In addition the visual and physical intrusion on incongruous elements (excessive hard landscaping – excessive seating, access roads, refuse collection, ESB pillar) would deleterious impact on the visual amenity and aesthetic quality of open space.
- The site layout and landscaping proposal do not comply with section 8.2.8.5 relating to play opportunities for children.

- The access roadside corridor (c.724.25sq.m) is useful for providing space for screen planting and a degree of visual amenity, but it is backland and not suitable for recreational open space . Neither does the other backland open space (c.409sq.m), separated by the basement ramp, at the eastern end of the apartment block qualify as public or communal open space.
- The amount and extent of spatial tree loss arising from the development is substantially and locally significant. In terms of degree of arboricultural impact, this represents a rare and extreme proposal in the county.
- Recommendation that permission be refused for the above mentioned deficiencies and lack of compliance with the Development Plan and planning guidance in respect of the provision of open space and the preservation of trees.

**Report 14<sup>th</sup> February 2019.** No objection subject to conditions.

#### **3.3.4 Drainage Planning,**

**Report 6<sup>th</sup> June 2018.** Requires further information in relation to land drain, surface water drainage, attenuation, green roofs.

**Report 9<sup>th</sup> November 2019.** Clarification of Further Information recommended in relation to surface water discharge, land drain, green roof for apartment building.

**Report 9<sup>th</sup> January 2019.** No objection subject to conditions.

#### **3.3.5 Waste Section:**

Report 1<sup>st</sup> June 2018. Recommend conditions.

Report 12<sup>th</sup> November 2019. Recommend conditions.

#### **3.3.6 Housing Department**

**Report 15<sup>th</sup> May 2018.** Additional information on indicative costs in order to first assess the viability of provide units on site which is the Council's preferred option.

**Comments 13<sup>th</sup> November 2018.** Additional information regarding land costs and valuation required.

**Report 31<sup>st</sup> December 2018.** No objection subject to a condition requiring a Part V agreement prior to the commencement of development.

**Public Lighting** (18<sup>th</sup> June 2018). No objection.

**Biodiversity Officer** (20<sup>th</sup> June 2018). No objection subject to mitigation measures set out in the Scott Cawley Reports in addition to requiring that an Invasive Species Management Plan and actions be conditioned. A CEMP should also be conditioned and include biodiversity protocols.

### **3.4 Prescribed Bodies**

#### **3.4.1 Department of Culture, Heritage and the Gaeltacht. Development Applications Unit**

##### **Report (7<sup>th</sup> June 2018)**

Archaeology:

- The development is large scale in extent and close to the zone of archaeological potential established around the town of Dalkey, Recorded Monument DU023-023, which is subject to statutory protection in the Record of Monuments and Places, established under section 12 of the National Monuments (Amendment) Act 1994. The Department recommends that an Archaeological Impact Assessment be prepared to assess any potential impact on archaeological remains, to be submitted as further information.

Nature Conservation:

- Permission should be subject to conditions relating to tree removal outside of the main nesting season; trees with bat roosting potential to be felled subject to licence; spring amphibian survey of the ditch within the site; removal of Japanese Knotweed.

##### **Report 6<sup>th</sup> November 2018.**

The Archaeological desktop study was noted and examined. No objection subject to conditions.

#### **3.4.2 Irish Water**

**Report 7<sup>th</sup> June 2018.** No objection.

**Report 8<sup>th</sup> November 2018.** No objection.

### **3.5 Submissions**

There were a number of third party submissions on the application. Issues raised are similar to those in the grounds of appeal and in the observations made with respect to the third party appeal summarised in section 6 of this report.

## **4.0 Planning History**

**D17A/0117 (PL06D.248433)** refers to a 2017 decision to refuse permission to Melmoussa Devco Limited for the demolition of Dalkey Manor and construction of 29 no. dwellings, parking, vehicular entrance, landscaping and associated site works adjacent to Protected Structure. Reasons for refusal:

- 1. Notwithstanding the principle of development being acceptable at this location, it is considered that the overall design approach did not have sufficient regard to the landscape and setting and site constraints and considered that the development as proposed would seriously injure the residential amenities of the area by reason of visual obtrusion and overshadowing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed low density development, which is predominantly characterised by family type homes and is located in a low density suburban area overwhelmingly characterised by detached and semi-detached houses on large plots, would contravene development plan policy RES7: Overall Housing Mix, which is 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. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

3. *It is considered that, by reason of its design and location in close proximity to the footprint of Dalkey Lodge and to the proposed removal of mature trees and other vegetation within the original grounds of Dalkey Lodge, the proposed development would materially and adversely affect the character and setting of the Protected Structure and would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.*

#### **D15A/0051**

Permission sought to demolish Dalkey Manor and to construct a specialised 'later living' development consisting of 57 no. accommodation units in a 5 storey above basement block, communal facilities, guest accommodation units, 74 no car parking spaces, 57 no. bicycle parking spaces, garden terrace and public open space, roads, vehicular access from Barnhill Road and ancillary site development works. The application was withdrawn on 24<sup>th</sup> March 2015.

#### **Dalkey Lodge (Protected Structure)**

#### **D02A/0029**

Permission granted to James J. Murphy to erect a free standing conservatory in the rear yard of Dalkey Lodge. The red line site boundary included a substantial part of the subject site.

#### **D16A/0581**

Permission sought by Elizabeth Murphy of Dalkey Lodge to erect a 1.8m high fence, together with a planted hedge on either side to rear boundary and all ancillary works necessary to facilitate the development of the remainder of the site. The planning authority sought the following further information in relation to the following:

- Rationale and justification for the proposed new boundary, having regard to section 13.5.3 of the *Architectural Heritage Protection Guidelines for Planning Authorities* and development plan section 8.2.11.2.
- Comprehensive Tree Report, comprising of a detailed Tree Survey and Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement.



- Revised landscape design and maintenance proposals.

The applicant did not respond to the further information request and the application was deemed withdrawn.

## 5.0 Policy Context

### 5.1 Project Ireland 2040 - National Planning Framework

The recently published National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives (Objectives 26 to 37) among which **Objective 27** seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. **Objective 33** seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. **Objective 35** seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

### 5.2 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'*.

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

**Section 2.1.3.4 Existing Housing Stock Densification:** "Encourage densification of the existing suburbs in order to help retain population levels - by 'infill

housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc. In older residential suburbs, infill will be encouraged while still protecting the character of these areas.”

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

Where a site is located within 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities of 50 units per hectare will be encouraged.

As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning objectives ‘GB’, ‘G’ and ‘B’) shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to greenfield sites of larger ‘A’ zoned areas.

In some cases it is noted that densities may be constrained by ACA, cACA designations, Protected Structures and other heritage designations.

Some parts of Dalkey, characterised by low densities, have been identified as a ‘0/0 zone’. The site is not within this zone.

**RES7** refers to overall housing mix (type and tenure) within the county.

**RES5** refers to institutional lands and their redevelopment.

**RES 8** refers to the provision of social housing.

### **Architectural Heritage**

Dalkey Manor is not included in the Record of Protected Structures. However it is within the curtilage of Dalkey Lodge (**RPS Ref. No.1483**)

**Section 6.1.3.5. Policy AR5** refers to buildings of heritage interest. This relates to buildings and structures that whilst not strictly meeting the criteria for inclusion in the Record of Protected Structures, may make a positive contribution to the historic built environment of the area. Where this occurs, their retention and reuse should be encouraged.

As the site is within the curtilage of Dalkey Lodge, a protected structure, **Section 8.2.11.2 (iii)** is of note and refers development within proximity to a Protected Structure.

Landscape policy **LHB32: Historic Demesnes and Gardens**. Open Space policies set out in section 4.2.2.

There is a specific development plan objective relating to lands to the north of the site, at 'The Metals' pedestrian and cycle route, ref. **Objective 93:**

*"To promote the development of the S2S Promenade and Cycleway as a component part of the National East Coast Trail Cycle Route."*

### **Relevant Development Management Standards**

**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 8.2.3.2** sets out the relevant guidance on quantitative and qualitative, and development management criteria for **residential developments**.

Of particular relevance is **Section 8.2.3.2 Quantitative Standards (i)** as this is referred to in the Planning Authority's third reason for refusal and relates to the need for a mix of dwelling types and sizes within **residential developments**.

**Section 8.2.3.3** refers to **apartment developments** and standards required in relation to (i) design, (ii) dual aspect, (iii) mix of units, (iv) separation between blocks), (v) internal storage, (vi) penthouse development, (vii) minimum floor

areas, (viii) public, private and communal open space standards and (ix) play facilities.

**Section 8.2.3.3 (iii)** refers to unit mix within schemes. Where more than 30 units are proposed, a scheme should generally comprise of no more than 20% 1 bed units, and a minimum of 20% of units over 80 sq.m.

## **Section 8.2.4 Sustainable Travel and Transport**

### **Section 8.2.8 Open Space and Recreation**

**Section 8.2.8.4** sets out standards for Private Open Space.

**Section 8.2.8.5** refers to play facilities for apartments.

## **Appendix 9. Building Height Strategy**

**Section 2.1.1** densities are referred when assessing the level of development permissible on site as this is expressed in terms of plot ratio, site coverage, number of units, footprint and compactness of the development amongst other criteria.

## **Chapter 3**

Proposals for infill sites should focus on whether the proposal would result in a desirable alteration to the prevailing character of the area and/or can be satisfactorily absorbed into the local context.

## **Chapter 4**

Refers to the accommodation of 3 to 4 storey apartment buildings adjacent to important public transport nodes, subject to the considerations of downward and upward modifiers.

### **Section 4.8.1 Upward Modifiers**

In particular (e) and (f):

- (e) The site should be within 500m of a DART station. ***The site is within 500m of Dalkey DART Station.***

- (f) The site should have an area of 0.5 hectares or higher and height should be sited away from residential boundaries. ***The site has an area of 0.935 hectares.***

#### **Section 4.8.2 Downward Modifiers**

In particular item no. 1

- (1) Where a proposal would adversely affect residential living conditions through overlooking, overshadowing or excessive bulk and scale.

### **5.3 Guidelines**

**Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities. (DHPLG 2018).** These provide recommended minimum standards for floor areas for different types of apartments; storage spaces; sizes of apartment balconies/patios and room dimensions for certain rooms.

**Sustainable Urban Housing: Design Standards for New Apartments Guidelines. (DECLG 2015).** These provide recommend minimum standards for floor areas for different types of apartments; storage spaces; sizes of apartment balconies/patios and room dimensions for certain rooms.

**Sustainable Urban Residential Development Guidelines (DoEHLG 2009)** and 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.

## **Architectural Heritage Protection Guidelines 2011 (DAHG)**

These provide guidance on architectural heritage protection.

### **5.3 Natural Heritage Designations**

There are 18 Natura 2000 sites are located within 15 km of the development site. The site does not lie within a designated site. The closest designated sites are:

- Roackbill to Dalkey Island cSAC (003000) is c. 1.4km east of the site.
- South Dublin Bay cSAC (000210) c. 3.4km to the northwest.

### **5.5 EIAR Screening**

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

## **6.0 The Appeal**

Multiple Third party appeals have been received:

1. Appeal on behalf of a number of residents of The Rise:
  - Thomas & Pauline Pitt, 6 The Rise, Barnhill Road, Dalkey.
  - Charles Smith & Elizabeth Hogan, 11 The Rise, Barnhill Road, Dalkey.
  - Brendan & Nuala Toal, 5 The Rise, Barnhill Road, Dalkey.
  - David & Kathy O'Keeffe, 4 The Rise, Barnhill Road, Dalkey.
  - Conor & Ruth Mc Glynn, 3 The Rise, Barnhill Road, Dalkey.
  - Kevin & Cora Hurley, 2 The Rise, Barnhill Road, Dalkey.
  - Stephanie Saunders, 8 The Rise, Barnhill Road, Dalkey.
  - Malcolm & Mariette Brambell. 9 The Rise, Barnhill Road, Dalkey.

1. Peter M. Faulkner, 5 Old Quarry, Dalkey.
2. Trevor & Alison Williams, 4 Old Quarry, Dalkey.

There is an overlap and reiteration of issues throughout the appeals. Therefore I propose to summarise the issues raised by theme rather than each appeal individually.

## **6.1 Grounds of Appeal**

### **6.1.1 Impact on adjoining properties**

- Detrimental impact on the residential amenities of adjoining properties due to the height and scale of the proposed development which results in overlooking, loss of privacy and overshadowing.
- The laneway running along the rear of The Rise should not be permitted as it would likely lead to anti-social behaviour.
- Hedging along boundaries is rooted in the application site and there are concerns that if the development is permitted the boundary aspect with properties along Old Quarry would be altered in a negative way, including the loss of the evergreen vegetation.
- The development would have an overbearing impact when viewed from adjoining properties.

### **6.1.2 Design & Architectural Heritage**

- The development would be out of sync with the protection of the special heritage nature of Dalkey village and surrounding neighbourhood.
- The proposal would have a detrimental impact on Dalkey Lodge. The need to safeguard this protected structure and its curtilage merit a specific condition to be attached to any grant of permission.
- The applicants failed to address the issues raised through further information and clarification of further information fully. The visual impact and drawings submitted are disputed as the grounds levels are not correct.

### **6.1.3 Nuisance during construction phase.**

- Use of explosives to clear the site and carry out grounds works due to the underlying geology (granite) raises concerns relating to nuisance (noise & vibrations) and structural damage to properties.
- Nuisance during the construction phase. Permitted hours of work are excessive.
- Noise from cranes and other machinery during construction phase.
- Vermin disturbance during site clearance.

### **6.1.4 Other**

- Road safety concerns arising from additional traffic on a busy dangerous road with numerous bends.
- No public consultation.

## **6.2 Planning Authority Response**

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

## **6.3 Observations**

Four observations have been submitted by local residents:

1. Joan O'Donnell, 106 Hillside, Dalkey.
2. Jennifer, Theresa & Anne-Marie Derham, 'Breenagh', Barnhill Road, Dalkey.
3. Niala Reynolds, 1 Old Quarry, Dalkey.
4. Brian Reynolds, 1A Old Quarry, Dalkey.

There is an overlap and reiteration of issues throughout the Observations. Therefore I proposed to summarise the issues raised by theme rather than each observation individually. The following is a summary of the main points raised:

### **6.3.1 Legal Interest in Land:**



A strip of land referred to as 'the dyke' has been used by the residents of Hillside for over 40 years as a site for compost making and growing herbs. The boundaries are not clear on the land registry maps and the inclusion of these lands within the application site is disputed due to uncertainty pertaining to ownership.

### **6.3.2 Residential amenities.**

Overlooking of the properties backing onto the application site from the balconies and upper floor windows to houses.

### **6.3.3 Nuisance:**

Noise and vibrations from the construction of the apartment block and basement car park due to the requirement to remove granite.

### **6.3.4 Design:**

- The development is unsuited to the site and its proximity to Dalkey Lodge.
- The design and scale of the proposed development is out of character with the area and would detract from the local architectural heritage and Dalkey Lodge in particular.

### **6.3.5 Traffic:**

- Traffic associated with the development would exacerbate the existing traffic problems and congestion along Barnhill Road.
- Concerns for pedestrian and traffic safety due to the bends and blind corners along Barnhill road.
- There is not enough parking provided within the site to cater for the size of the development.

### **6.3.6 Overdevelopment of Barnhill Road.**

There are a number of applications for residential developments along Barnhill Road, the combined effect of which would have a detrimental impact on road safety and residential amenities of existing houses in the area.

### **6.3.7 Housing Need**

Need for affordable housing in the area and question if the proposal includes affordable houses.

## **6.4 Further Responses**

### **6.4.1 First Party Response to the Third Party Appeals.**

This is mainly in the form of a rebuttal. Points of note include:

- The development does not give rise to an undue overlooking of adjoining properties. Separation distances comply with Development Plan requirements.
- Given the relationship with adjoining properties and the orientation of the development the proposal would not cast undue shadow on these properties.
- The proposal has been designed to sit into the landscape and to protect the residential amenities of adjoining properties.
- A construction noise and vibration management assessment was prepared and a series of construction noise and vibration control measures set out. Issues relating to noise and vibration management were addressed to the satisfaction of the Planning authority and conditioned accordingly.
- Issues relating to the setting up of a Management Company are also addressed by condition.
- The development will not have an adverse impact on traffic levels in the area.
- Issues relating to boundary treatment were addressed to the satisfaction of the Planning authority and conditioned accordingly.
- The Planning authority concerns in relation to architectural heritage and the impact of the proposed development on Dalkey Lodge was addressed to the satisfaction of the Planning authority and conditioned accordingly.
- Security gates will be installed to the rear access lane.

- The submitted construction management plan deals with all aspects of site clearance.
- Rock splitter and chemicals will be used to complete the rock excavation and breaking without causing undue disturbance to neighbouring properties.

#### **6.4.2 Peter Faulkner response to the First Party response.**

This is mainly in the form of a rebuttal and reiteration of issues raised previously. Points of note include:

- The size of the rooflights in units B1 to B5 are excessive for light/ventilation for storage areas/en-suite and a condition should be attached excluding future attic conversion and glazing to the rooflights should be obscure.
- Particulars submitted are misleading. The service lane does not bounded the rear of his property and there is no trees at the boundary for screening as noted in the applicant's response.
- There is extensive evergreen ivy vegetation with the roots in the application site which would be damaged and have a negative impact on the appellants views and rear aspect.
- There is no guarantee that the visual uniformity of the rear boundary on the appellant's side will be retained as part is bounded by the application site and the remainder by Dalkey Lodge.
- No details of finishes and a materials have been submitted.

#### **6.4.3 Trevor & Alison Williams response to the First party response.**

This is mainly in the form of a rebuttal and reiteration of issues raised previously. Points of note include:

- The Planning Authority failed to address the objections in their assessment of the application.
- The development would have a detrimental visual impact on their property.

- Serious concerns that their property could be damaged from vibrations during site clearance and construction.
- The proposal does not comply with land use zoning objective A which seeks to protect and improve residential amenities.
- The development will overlook their property due to the height, fenestration of the houses and the difference in ground levels.
- Roof lights to 'storage' areas should be omitted as there is no need for them.
- Contextual drawings and photomontages submitted have serious limitations.
- Independent surveys of their property should be carried out before and after any work to the application site to determine the structural impact from the vibrations.

#### **6.4.4 Thomas Pitt & Others response to the First party response.**

This is mainly in the form of a rebuttal and reiteration of issues raised previously. Points of note include:

- An Bord Pleanala refused permission for the development of the site in 2017 for 3 reasons. The first reason related to the impact on residential amenities by reason of visual obtrusion and overlooking. The current application does not address this and appears to concern its self with addressing solely the Boards second reason for refusal (density).
- A three storey block crammed into the site is visually obtrusive and results in overlooking of adjoining properties.
- The use of an electric gate to restrict access to the laneway does not address the safety concerns of adjoining residents.
- Dispute the traffic and transportation reports and the conclusion that the development would not have an impact on the existing road network.
- Impact on 'Dalkey Cabin' that predates Dalkey Lodge and at present is blocked up and covered in ivy. The status of this structure and its

location within the curtilage of Dalkey Lodge should be clarified and protected.

#### **6.4.5 Planning Authority Response to the First Party response to the Third Party Appeal.**

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

### **7.0 Assessment**

7.0.1 Permission was refused in 2017 under PL.06D.248433 for a residential development comprised of 29 units, a similar development in terms of layout to that currently before the Board. The reasons for refusal related to 1) inappropriate design approach that was injurious to the residential amenities of the area by reason of visual obtrusion and overshadowing, 2) contrary to policy RES7 (housing mix) and 3) the design of the scheme, its location and removal of mature trees and vegetation would have an adverse impact on the character and setting of Dalkey Lodge (protected structure).

7.0.2 The current proposal in an attempt to overcome the second reason for refusal includes revised unit mix (13 houses and 23 apartments). The Planning Authority was satisfied that the current proposal overcame the reasons for refusal set out under PL.06D.248433 and recommended that permission be granted.

7.0.3 The main issues in this appeal are those raised in the grounds of appeal by the various third parties. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Impact on adjoining properties
- Design & Architectural Heritage.
- Other Issues

- Appropriate Assessment.

## **7.1 Principle of Development**

- 7.1.1 The subject development comprises an infill residential scheme of 36 dwellings. The subject site is zoned objective A: *To Protect and/or Improve Residential Amenity*. Having regard to the zoning objective pertaining to the site and national guidance which promotes the consolidation of well serviced urban land, the principle of the development is acceptable at this location.
- 7.1.2 Policy RES 3 states that for new residential development, densities shall be 35 units per hectare. It notes however, that such density may not be appropriate in all instances but will serve as a general rule. It further details that within 500m of a Dart Station, higher densities at a minimum of 50 units per hectare will be encouraged.
- 7.1.3 In considering the appropriateness of this density for the subject site, it is considered that regard must be had to the general character and prevailing pattern of development in the vicinity of the site. The site is well served by public transport and is within 500m of the nearest Dart station. Adjacent development comprises low density suburban housing. The Sustainable Residential Design in Urban Areas Guidelines note that in relation to suburban and infill sites in residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.
- 7.1.4 I note that the density targets set out under RES 3 are not explicit or rigid and it is clearly detailed that they will not be appropriate in all instances. Each application must be considered on its merits and on a case by case basis. I am satisfied that in this instance due to the context of the subject site and the character of adjacent development which is typically two storey dwellings, that the density of development is appropriate and will not undermine the policy objectives of the Development Plan. The design and layout of the development is considered to respond to the sites context, and whilst a higher density may be achievable, it would likely compromise the amenities of adjacent properties.

7.1.5 Policy RES3 sets out general recommendations and guidance regarding appropriate densities for different types of sites. The policy however, is not prescriptive in nature and specifically notes that such densities will be encouraged and may not be appropriate in all instances. The policy is aspirational and must be considered on a case by case basis, dependent on the circumstances and character of each site

7.1.6 I note that the proposal for 36 units results in a density of 38.5 units per hectare represents a slight increase in density from that refused in 2017. A density of 35 units per hectares is a minimum default density for the county. Densities of 50 units per hectares are encouraged on sites within 1km pedestrian catchment of DART stations. The application site is within 500m of Dalkey Dart station. However, the subject site has a number of constraints, notably the presence of very low density housing bounding the site to the south, east and west and the location of the site within the original curtilage of Dalkey Lodge, a protected structure. I, therefore, consider the proposed density acceptable.

7.1.7 The proposal would entail the replacement of a dwelling (two storey) with 36 residential units consisting of 13 houses (2 no. 2 bed, 2 no. 3 bed terrace and 9 no.3 bed) and 23 apartments (9 no. 1 bed, 10 no. 2 bed and 4 no. 3 bed) I consider that the mix that would be achieved by this proposal would be acceptable and compliant with RES7.

## **7.2 Impact on adjoining properties**

7.2.1 The site is currently occupied by 'Dalkey Manor' a detached two storey unoccupied house in a state of significant disrepair. There are outbuildings on site which are also in a state of significant disrepair. The proposal includes the demolition of Dalkey Manor and ancillary outbuildings and the construction of 36 residential units (detached, terraced and apartments) with 15 surface parking spaces and 29 basement parking spaces and public open space on a site with an overall area of c.0.935hectares.

7.2.2 The current proposal is an attempt to overcome the previous reason for refusal under Planning Authority Reference No. D17A/0117 (An Bord Pleanala Reference No. PL. 06D.248433). The main difference between the current

proposal and that refused in 2017 is that the scheme has increased from 29 residential units to 36. The 13 houses proposed under the current application mirror those submitted previously in terms of siting, the main change is they have gone from 3 storey to 2.5. The current application includes a three storey apartment block (23 apartments) in place of 13 houses along the southern portion of the site. The overall height, bulk and mass of 13 houses proposed is similar those that previously refused on grounds of visual obtrusiveness. The apartment block is higher than the houses previously proposed at the same location.

- 7.2.3 The appellants raised concerns that, the current proposal before the Board has not addressed the previous reasons for refusal and the insertion of an apartment block to increase the housing mix and density has resulted in a development that would detract from the residential amenities of adjoining properties due to overbearing impact, overlooking and loss of light/overshadowing.
- 7.2.4 At the outset I consider it appropriate to acknowledge that the development would give rise to a change in the character of the area particularly when viewed from the rear of existing dwelling houses. The introduction of buildings constitutes a significant landscape and visual impact. The matter for the Board to determine is whether that impact would fall within the parameters set by the development plan and other standards.
- 7.2.5 The development as proposed locates a large three storey apartment block to the rear (southern portion) of the site. A central area of public open space and a large hard landscaped parking area are proposed with access from Barnhill Road. The location of the two terraces of houses along the eastern and western portions of the site respectively mirror those submitted under the 2017 application and was a reason for refusal at the time.
- 7.2.6 The scheme is laid out along a central spine route from the Barnhill Road access. There are single storey houses adjacent to the access on the western side. The main area of the scheme is laid out around a central open space. There are two rows of 2.5 storey houses that replace 3 storey proposed in 2017 and one large 3 storey apartment block. Surface and basement parking is



provided. Roads within the scheme are laid out as shared surfaces, with street trees at intervals.

- 7.2.7 Under PL06D.248433 the development included a terrace of 5 no 3 storey houses (terrace B) to the rear of the existing 1 storey / dormer houses in Old Quarry to the east of the site. Given the setback from the boundaries and the difference in levels, the Inspector at the time concluded that while acceptable distances were achieved, it was considered that the rear elevation of the 3 storey terrace B would be visually obtrusive from the rear of properties within Old Quarry, notwithstanding the relative drop in ground levels. The current proposal before the Board differs in that the houses are now 2.5 storey in height which I consider acceptable given the setback from the site boundaries and the properties in Old Quarry. The third parties also raised concerns about a proposed laneway to the rear of terraces, due to potential for anti-social behaviour. This matter could be addressed by way of a condition if the Board consider it appropriate.
- 7.2.8 The proposed 3 storey apartment block to the rear of Hillside is at a lower ground level. Overshadowing is not a concern due to its relative orientation. Overlooking has been addressed by privacy screens and opaque glazing where required. I consider given the set back of the block from the site boundaries that the proposed development at this location would be not be visually obtrusive and overbearing. I therefore consider that the development would not have undue adverse impacts on the residential amenity of adjacent properties within Hillside.
- 7.2.9 The proposal for the western portion of the site is largely inline that that proposed under PL06D.248433 and the same issues that were raised in 2017 occur. The 2.5 storey terrace (terrace D) (previously 3 storey) at the western side of the site achieves satisfactory distances to the rear of the adjacent bungalows within The Rise. Similar issues regarding visual obtrusion and a rear lane apply as at Old Quarry.
- 7.2.10 While I acknowledge that there is a degree of overshadowing of the properties to the west (The Rise) from existing trees and vegetation, this is not as extreme along the eastern boundaries with the rear gardens of Old Quarry, Given the

height and scale of the proposed development I do not consider that the proposal would result in an excessive increase in overshadowing of adjoining properties from that currently experienced.

7.2.11 The proposed apartment block would be sited to the south of Hillside. I acknowledge that the proposals would lead to some overshadowing but I consider that this would have a minimal impact on the shadow environment of these adjoining properties. I consider that while it is inevitable that the new development would result in areas of new shadow, the impact of the proposed development on sunlight and daylight access is predicted to be consistent with emerging trends for development in the area.

7.2.12 In my view, the design of the elevations of the apartment block, wherein balconies are recessed into the buildings, the form of the terraced houses, the relationship of the buildings to the site boundaries and the separation distance from the nearest adjacent residential properties serve to mitigate the potential for overlooking. Privacy would be further enhanced with proposals for screening along the boundaries to reduce the impact on adjoining properties.

7.2.13 On balance, I consider given the setback from site boundaries, the ground levels and the relationship of the proposed development with the existing built environment, the development would not have an adverse impact on the residential amenities of adjacent properties within Old Quarry, Hillside or The Rise by way of visual obtrusion, overlooking or overshadowing.

### **7.3 Architectural Heritage**

7.3.1 The subject site forms a large part of the original grounds of Dalkey Lodge (RPS Ref. 1483). Aside from the protected structure status of Dalkey Lodge, there is no specific landscape designation relating to the subject site. There are no specific tree objectives relating to the development site.

7.3.2 I note that under PL. 06D.248433 the Boards' third reason for refusal related to the removal of trees and the negative impact on the character and setting of Dalkey Lodge. A common issue raised by third parties has been the issue of Architectural Heritage and the negative impact the proposal would have on the

character and setting of Dalkey Lodge. The Council's Conservation Officer noted that following further information and clarification of further information relating to exposing a water course and boundary treatment with Dalkey Lodge that no objection remained to the proposed development.

- 7.3.3 The existing site has a substantial amount of mature trees and other vegetation, which formed part of the original gardens of Dalkey Lodge. The arboricultural report submitted with the application states that the ground works necessary to facilitate the development, including changes in ground level and site services, along with the requirement to maintain minimum residential density at the site, preclude the retention of any of the existing tree population. Due to the overgrown nature of the site, many of the existing trees are substantially beyond any possibility of management and are of dubious protection merit.
- 7.3.4 I note the following comment in the DAU submission under D17A/0117 (PL.06D.248433) "*While some elements of this landscape are now outgrown and unmanaged this is not sufficient justification for removal of a historic garden landscape which was until recently the curtilage of a protected structure.*"
- 7.3.5 The Department of Culture, Heritage and the Gaeltacht did not raise objections to the current proposal on built heritage or historical landscape grounds. I consider the demolition of the structures, Dalkey Manor and its outbuildings which are not protected structures, is acceptable and I have no objection to the works to the existing roadside boundary to facilitate the development. The proposal for new boundary treatment between the site and Dalkey Lodge is acceptable.
- 7.3.6 An Historic Landscape Assessment was carried out as part of the current application before the Board, this was examined in detailed and I note that the Council's Conservation Division following further information and subsequent clarification of further information noted no objection to the proposal and considered it acceptable in terms of architectural heritage and the protection of the character and setting of Dalkey Lodge. Thus addressing the third reason for refusal under PL.06D.248433.

7.3.7 I consider that the fundamental issue raised under PL.06D.248433 related to site clearance and the impact this would have on the character and setting of Dalkey Lodge. The issue remains as to facilitate the development of the site, which forms part of the original curtilage of Dalkey Lodge, substantial site clearance is required. I have examined the historical landscape assessment report and the arborist report and I conclude that there is no doubt that any site clearance will have an irreversible impact on the setting of Dalkey Lodge. However, this has already been significantly compromised by the construction of Dalkey Manor, a pastiche red brick two storey house immediately adjacent to Dalkey Manor. There are no TPO for trees on site and no specific objective for their retention in the current County Development Plan. Given the context of the application site on zoned serviced lands I consider it suitable for development and appropriate use of a zoned serviced site.

7.3.8 It is my considered opinion that the proposed residential development would be of an appropriate design intervention for development at this location. I consider that the proposed development is satisfactory in terms of protecting the character and amenities of the adjoining protected structure, Dalkey Lodge. I am satisfied that the proposal complies with policy Section 8.2.11.2 (iii) of the Development Plan.

7.3.9 While the development would be visible from Barnhill Road, I am generally satisfied that the development would not have any significant adverse impact on The Metals candidate Architectural Conservation Area, or on the wider area including Dalkey Village.

7.3.10 In terms of nature conservation, this matter was addressed by the Department of Heritage, Culture and the Gaeltacht in their submission and appropriate conditions recommended.

## **7.4 Noise & Vibrations**

7.4.1 The appellants and observers have raised concerns that the amenities of local residents and the structural integrity of adjoining properties would be impacted by noise and vibrations during the construction phase of the proposed

development. I note that rock breaking and excavation works would be required. The applicant in their response to the appeal have set out that rock splitting and chemical would be employed. The method and timeframes to be employed could be dealt with by condition if the Board consider a grant of permission.

7.4.2 The Construction Management Plan would address how it is proposed to manage noise, vibration and other impacts arising at the construction phase to ensure the construction of the basement car park is undertaken in a controlled and appropriately engineered manner to minimise intrusion.

7.4.3 I note that the impacts associated with the construction works and construction traffic would be temporary and of a limited duration. I am satisfied that any outstanding issues could be required by condition if the Board is of a mind to grant permission.

## **7.5 Other**

### **7.5.1 Legal interest in land**

7.5.1.1 The observers have raised concerns that the application site includes a track of land known as 'the dykes' within the application site boundaries outlined in red. The ownership of this track of land is disputed and the observers have raised concerns that the applicants have included it within the application site boundaries without demonstrating that it is in their ownership. I note that this issue was addressed by the Board under PL.06D.248433.

7.5.1.2 The question of ownership of land is a legal matter and outside the scope of a planning permission. In this context, I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.

## **7.5.2 Traffic**

- 7.5.2.1 The Observers also highlighted concerns that the additional traffic associated with the proposed development would result in excessive traffic movements along a busy road which is already the subject of excessive congestion.
- 7.5.2.2 The site is located on lands zoned for residential use as set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022. The impact of the land uses zonings and permitted densities on public infrastructure is taken into consideration during the Development Plan process. I am satisfied the proposal would not constitute a traffic hazard due to increase traffic movements on the local road network.

## **7.6 Appropriate Assessment**

- 7.6.1 The nearest European sites are Dalkey Islands SPA (Site code No. 004172) and Rockabill to Dalkey Island cSAC (Site code No. 003000). There is a 1.4 km buffer of urban development and open water between the development site and the closest European site (Rockabill to Dalkey Island cSAC), and this will not be impacted by the development. I note the AA screening report submitted by the applicant, dated 23<sup>rd</sup> April 2018 which concludes that significant impacts can be ruled out and / or AA is not required. The Planning Authority Appropriate Assessment Screening report concluded that a stage 2 appropriate assessment was not required.
- 7.6.2 Given the urban location of the site, the lack of direct connections with regard to the source-pathway-receptor model and the nature of the development. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the Dalkey Islands SPA (Site code No. 004172), Rockabill to Dalkey Island cSAC (Site code No. 003000) or any other Natura 2000 site in the wider area. A Stage 2 Appropriate Assessment is, therefore, not required.

## 8.0 Recommendation

I recommend therefore that planning permission be granted subject to the conditions as set out below.

## 9.0 Reasons and Considerations

Having regard to the design, height, scale and massing of the proposed apartment scheme and the provisions of the Dun Laoghaire 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 adjoining protected structure (Dalkey Lodge) and would adequately protect the residential amenity of adjacent properties and of properties within the scheme. 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 on the 4<sup>th</sup> day of May 2018 as amended by plans and particulars lodged on the 23<sup>rd</sup> day of October 2018 and on the 18<sup>th</sup> day of December 2018 for 36 apartments, 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. This permission is for 13 houses and 23 apartments.

**Reason:** In the interest of clarity.

3. Prior to the commencement of development the applicant shall provide, for the written agreement of the planning authority, full details of the proposed external design / finishes in the form of samples and on site mock ups. These details shall include photomontages, colours, textures, specifications which shall be submitted prior to the commencement of development, for the written agreement of the planning authority. Details of the longevity of the materials proposed and the overall long term maintenance of same shall also be submitted and agreed in writing. Revised drawings, where required, 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 amenities. **Reason:** In the interest of protecting the character of the Area.

4. The site shall be landscaped in accordance with the recommendations from the Survey and Arborist Report and with the landscaping and planting plan and details received by the Planning Authority on the 4<sup>th</sup> day of May 2018 as amended by plans and particulars lodged on the 23<sup>rd</sup> day of October 2018 and on the 18<sup>th</sup> day of December 2018. All landscaping shall be carried out within the first planting season following substantial completion of external construction works.

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

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



5. 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. Any existing over ground cables shall be relocated underground as part of the site development works.

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

6. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling unit.

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

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenity of property in the vicinity and the visual amenity of the area.

8. 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.

9. A Final Site Specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least 5 weeks in advance of site clearance and site works commencing

**Reason:** To protect the environment during the construction phase and also to avoid impacts on water quality, sustainable drainage and flooding

10. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) Pedestrian crossing facilities shall be provided at all junctions;

(c) The materials used in any footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,

(d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site

(e) One car parking space per ten residential units shall have a functional Electric Vehicle Charging Point

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

11. (a) 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 and for the ongoing operation of these facilities for each apartment unit 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.

- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of Public Health.

- 12.
  - a) 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.
  - b) 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.
  - c) 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.
  - d) Prior to the commencement of development the developer shall submit for the written agreement of the Planning Authority details and methodology for the rock extraction and excavation works. This shall include timeframes and proposals to deal with vibration and noise.

**Reason:** To protect the amenities of the area.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

14. a) Prior to the commencement of development the developer shall carry out a detailed bat survey for the site and a spring amphibian survey of the ditch and submit results to the Planning Authority.

b) As necessary, detailed measures in relation to the protection of bat shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of wildlife protection.

15. Appropriate controls shall be put in place to ensure that the proposed works do not result in the spread of invasive alien species such as

Japanese Knotweed (*Fallopia japonica*). A detailed site Management Plan outlining a 3-5 year programme for the control and monitoring of Japanese Knotweed on the site shall be agreed with the Planning Authority prior to the commencement of development.

**Reason:** In the interest of controlling invasive species.

16. 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.

17. No residential 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.

18. 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.

19. 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 communal 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.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the 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.

21. 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.

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Dáire McDevitt,  
Planning Inspector,  
15<sup>th</sup> July 2019