



An
Bord
Pleanála

Inspector's Report ABP 303964-19

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| Development | Construction of a three bedroom house to the rear of 'The Laurels'. |
| Location | Rear of 'The Laurels' (a protected structure ref.no.1599), Torquay Road, Foxrock, Co. Dublin. |
| Planning Authority | Dun Laoghaire Rathdown County Council. |
| Planning Authority Reg. Ref. | D18A/1234. |
| Applicant | Eileen & Donal O'Malley. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse permission. |
| Type of Appeal | First Party |
| Appellants | Eileen & Donal O'Malley |
| Observers | 1. Eugene & Lynette O'Sullivan. 2. Daragh & Darragh Kilbride. |
| Date of Site Inspection | 13 th June 2019. |
| Inspector | Dáire McDevitt |

1.0 Site Location and Description

- 1.1 'The Laurels', a protected structure, is located on the eastern side of Torquay Road. The area is a mature suburb in south county Dublin c.600m north of Foxrock village, consisting of a mixture of house types of varying architectural periods. The site is located within Foxrock Architectural Conservation Area.
- 1.2 The Laurels is one of six houses built in the mid-nineteenth century towards the northern end of Torquay Road. They form a distinctive group of six detached houses by William Bentley. They are relatively large two-storey houses, with projecting bay, have painted and rendered walls with decorative plaster window surrounds and natural slate roof coverings. The majority of the group retain their original random rubble granite walls with crenelated granite tops and mature hedge behind and square profile rendered granite piers with wrought iron gates.
- 1.3 The Laurels has been the subject of past site subdivision with two houses (one on either side) 'Ashton' (identified as on the site layout plan as 'Laurel Lodge') and 'Pinehaven' built within the original curtilage of The Laurels in the c.1980s. 'Ashton' at present is gutted and is undergoing extensive reconstruction works and alterations.
- 1.4 The site with a stated area of c. 0.078 hectares is the former tennis courts of The Laurels and is separated from the main house by a mature trees and vegetation. It is bounded by 'The Laurels' to the west, the rear garden of 'Ashton' to the north, the rear garden of 'Pinehaven' to the south, the amenity area of a house to the east with Foxrock Golf Club further to the east. At present the site is accessed via The Laurels as it forms part of the rear amenity spaces of this house.
- 1.5 The entrance to The Laurels is off Torquay Road, the current application proposes to share this means of access. The proposed access to the site, along the southern side of The Laurels, would require the demolition of a stone wall which due to its relationship with The Laurels is protected.

2.0 Proposed Development

2.1. Permission is sought for a two storey house to the rear of The Laurels, a protected structure.

The house has a gfa of c.232.sq.m. A brick and stucco finish and slated roof in a similar style and design of The Laurels and the adjoining 5 protected structures.

- Works to the existing granite front boundary to form a new access.
- Vehicular and pedestrian entrances are proposed off Torquay Road via the existing entrance serving The Laurels.
- A new garden wall (boundary) to separate the site from The Laurels.

The applicants are seeking permission for a house to the rear of their house with a view to downsizing and relocating to a more manageable house.

The application includes the following documentation:

- Conservation Report, Method Statement and Impact Assessment for alterations to The Laurels.
- BRE Digest 365 Report.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reasons:

1. The proposed development is not considered to be of sufficiently high density, as envisaged by the County Development Plan and Ministerial Guidelines in an area that is within around 1km of the Luas line and notwithstanding its location within the Foxrock ACA and the setting/curtilage of The Laurels (a protected structure). The proposals represent an inefficient and unsustainable use of serviced, metropolitan lands, contrary to Policy RES3 'Residential Density' of the Dun Laoghaire *Rathdown County Development Plan 2016-2022 and Section 5.8 of the Sustainable*

- Residential Development in Urban Areas (DHPLG 2009) and therefore contrary to the proper planning and sustainable development of the area.*
2. *The proposed sub-division of the extant plot associated with The Laurels into two similarly sized plots, and the proposed design and scale of the backland dwelling to the rear of The Laurels would further sever this protected structure from its curtilage/setting and erode the special character of the ACA as described in section 9 of the Foxrock ACA Character Appraisal and would set an undesirable precedent for insensitive development, contrary Policies AR1 and AR12 and sections 8.2.11.2 and 8.2.11.3 and 13.5.2 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the proposals are therefore contrary to the proper planning and sustainable development of the area.*
 3. The proposed development would constitute the piecemeal development of a site that may be suitable for amalgamation with adjoining backlands, including backlands outside the Foxrock ACA. The proposals may thereby inhibit future prospects for the sensitive, infill development of under-utilised lands in a metropolitan area that is well served by public transport at a sustainable residential density. The proposal are contrary to Section 8.2.3.4 Additional Accommodation in Existing Built-Up Areas (vi) Backland Development of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and Objective 38 of the National Planning Framework and therefore contrary to the proper planning and sustainable development of the area.

3.2 Planning Authority Report (18th February 2019)

This formed the basis of the Planning Authority's decision and draws heavily on the Conservation Divisions Report. The main concerns are reflected in the 3 reasons for refusal.

Points of note include:

- The development is considered that, notwithstanding its location within the curtilage of a protected structure and within an Architectural Conservation Area that the proposed density of c.12.7 units/hectares is too low for the location of the site within 1km pedestrian catchment of important transport links where densities of 50 units/hectare are encouraged.
- Another large dwelling within the curtilage of an existing large dwelling would not contribute to unit mix as required under policy RES7 of the current County Development Plan.
- The proposed density is not considered an efficient use of serviced and zoned lands within the metropolitan area, well served by public transport and close to an area of local employment (Sandyford).
- While the case planner acknowledged the sensitivities of the site in terms of built heritage designations which constrain its development potential, the proposed density was still considered too low.
- Leaving aside the location of the site within the curtilage of a protected structure and the ACA designations attached to the site. The development complies with section 8.2.3.4 (vi) in terms of the scale of the house, private amenity space and setback from adjoining properties. The proposal would not have a detrimental impact on the residential amenities of adjoining properties by way of overlooking, loss of privacy or an overbearing effect on outlook.
- Notwithstanding compliance with many of the provision on backland development the case officer concluded that the site may be suitable for amalgamation with adjoining backlands, including the large well-wooded residential plot to the rear of the site and outside the ACA and where there is potential to provide backland development at more than one site/property in a particular area the planning authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. If the proposed development was to proceed it may inhibit site assembly and sensitive infill development.

- The Laurels site has been subdivided in the past and two infill houses built within its original curtilage which have already compromised the character and setting of the protected structure. The current proposal would further erode the character of The Laurels. The scale and design are not considered appropriate. The site may accommodate a smaller mews type development however the case officer concluded that site assembly and sensitive infill development would be the best option for developing this area.
- No concerns were noted in relation to transport or drainage issues.
- There is no reference to flooding in the planners report.
- There is no Appropriate Assessment Screening report on file.

3.1.1. Other Technical Reports

Transportation Planning Section (4th February 2019). No objection subject to conditions.

Drainage Division (31st January 2019). No objection subject to conditions.

Conservation Officer (20th September 2018).

The main points are summarised as follows:

- The development is not appropriate in the context of the site and fails to comply with the conservation policies set out on the County Development Plan.
- The curtilage/setting of the protected structure has been previously compromised with the development of adjoining sites. Severing the curtilage further would not be in the interest of the protected structure and would not be considered to enhance the setting and amenity of same. It serves only to erode the curtilage and setting of The Laurels and the Conservation Division cannot support the development of the site as currently proposed.
- Furthermore the scale and design of the proposed dwelling is not appropriate in the context of the site. The group of six protected structures along Torquay Road is one of great importance to the

character of Foxrock ACA. These are the earliest houses in Torquay Road, constructed mid nineteenth century and are a distinctive groups, which are considered amongst the finest architecturally in the ACA and have been attributed to William Bentley. The development would have a detrimental impact on the established character of this group.

- The incremental encroachment and loss of the curtilage of The Laurels is a concern and would set a poor precedent. The site may accommodate a smaller mews like development, one that minimises impact on the curtilage of the protected structure by reducing the site coverage and significant loss of curtilage.
- Recommend permission be refused. The development does not accord with AR1, AR12, section 8.2.11.2, section 8.2.11.3, section 13.5.2 and section 13.5.3 of the AHPGs and section 9 of the Foxrock ACA Character Appraisal.

EHO (24th January 2019). No objection subject to notes.

3.2. Prescribed Bodies

Irish Water (1st February 2019). No objection.

3.3. Third Party Observations

Three submission were recorded by the planning authority. These included submission from both observers. The issues generally reflect the grounds of appeal and shall be dealt with in more detail in the relevant section of this report.

Points of note included:

- Concerns relating to flooding.
- Architectural conservation
- Undesirable precedent for backland infill development.

4.0 Planning History

PA Reference. No. V/184/18 refers to a Certificate of Exemption under Part V of the Planning and Development Act 2000 (as amended).

Pinehaven and Ashton were built c.1980s in the curtilage of The Laurels.

The Dun Laoghaire planning register does not include the historical applications that predate its formation.

Ashton:

PA Reference. No. 1244/80 (An Bord Pleanála reference PL.06.5.50310) refers to a 1980 grant of permission for a house.

PA Reference No. D18A/0740 refers to a 2018 grant of permission for development consisting of substantial alterations and extensions to Ashton.

PA Reference No. D17A/0197 refers to a 2017 recommendation to refuse permission for alterations, extensions and remodeling of Ashton on the grounds that the design was pastiche, would undermine the architectural interest, significance and appreciation of the adjacent protected structures and would be injurious to the architectural integrity of the ACA.

Pinehaven:

PA Ref. No. 591/84 refers to a 1984 grant of permission for a house.

Foxrock Golf Club:

PA Reference No. D18A/0114 (ABP Reference No. 302465-19) Permission for car park extension, provision of a new bottle and waste compound, retention of an existing concrete post and fence and erection of a new post and fence,

provision of a new water drainage and foul sewage draining system and erection of new bollard lighting with the carpark.

Other Applications of Note

PA Reference No. D19A/0190 (An Bord Pleanála Reference No. ABP 304644-19) refers to a development consisting of the demolition of a house and the construction of 20 residential units in a three storey apartment block with basement car parking at the corner of Torquay Road and Golf Lane to the south of the site. (Current Appeal).

PA Reference No. D18A/0846 (An Bord Pleanála Reference No. ABP 3037968-19) refers to a development of 52 units, mixture of 2/3 and 5 storey over basement, at Brighton Road, Foxrock.

PA Reference No. D17A/044 (An Bord Pleanála Reference No. PL.06D.249002) refers to a 2017 grant of permission for a house at 'Cloragh' to the southwest of the site.

PA Reference No. D11A/0478 (An Bord Pleanála Reference No. PL.06D.240072) refers to a 2012 grant of permission for a house at 'Lis-Na-Carrig, Brighton Road, Foxrock.

5.0 Policy & Context

5.1 Dun Laoghaire-Rathdown County Development Plan 2016-2022

- Land Use Zoning Objective 'A' *To protect 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, a priority QBC and/or 500 metres of a Bus Priority Route, and/or 1 km of a town or District

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

Built Heritage

Section 6.1.4 Architectural Conservation Areas (ACA) refers to development within Architectural Conservation Areas. **Policy AR12** refers to the criteria for appropriate development within the ACA, and that proposals shall be considered in relation to a range of criteria, including seeking a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.

Appendix 4 includes the Record of Protected Structures & Architectural Conservation Areas. The Record of Protected Structures does not define the curtilage for the Protected Structures at The Laurels.

The structures of most relevance in this instance are those immediately adjoining the application site:

- The Laurels (RPS No.1599)

The site is located within the **Foxrock Architectural Conservation Area**.

Development Management Standards:

Section 8.2.11.2 (iii) refers to development management standards for **development within proximity to a Protected Structure** and the requirement to protect its setting and amenity.

Section 8.2.11.3 (i) refers to development management standards for **new development within Architectural Conservation Areas** which should take account of their context without imitating earlier styles and where appropriate, contemporary design is encouraged that is complementary and sympathetic to the surrounding context and scale.

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

- The boundary of the ACA is informed with reference to the historical development of the area as a Garden Suburb in the late 19th century.
- The development of the suburb commenced in 1859 with the construction of a number of villa residences and large dwellings, many designed by prominent architects.
- With regard to Torquay Road, it notes that the most distinctive houses comprise a group of 6 detached dwellings located towards the northern end.

The report goes on to note:

“As with the other roads in the area, the mid twentieth century has seen a number of infill developments along Torquay Road resulting in a discordant mix of architectural styles and boundary treatments.”

With regard to landscape character, the report states that the overall visual character of the area is sylvan with well defined road edges enclosed by mature planting.

The report provides specific guidance regarding infill development and subdivision of existing sites and notes that the Planning Authority will have regard to the following:

- *The extent to which new proposals respect the special character of the ACA.*
- *The extent to which new structures are subsidiary to the main dwelling and do not diminish or relegate its status within the site.*
- *The extent to which proposals have regard to the scale, massing, height and design of existing structures, both on the application site and on adjoining lands.*
- *The extent to which existing boundary treatments, hedgerows and trees are retained and existing access points used.*
- *The extent to which new structures are set back from site boundaries and reflect the existing pattern of development in the area.*

- *The extent to which hedgerows, suitable trees and soft landscaping elements inform internal boundaries in favour of walls or other hard landscaping features*

With regard to new buildings, it is stated:

“New Buildings: The development of new buildings within the ACA should be a stimulus to imaginative, high quality design, and seen as an opportunity to enhance the area. What is important is not that new buildings should directly imitate earlier styles, rather that they should be designed with respect to their context, as part of a larger whole, which has a well established character and appearance of its own.

- i. New developments must not adversely affect the character of the streetscape.*
- ii. New developments must respect the existing pattern of development in the area with regard to setting and should be appropriately set back from the public road.*
- iii. The scale massing and height of proposed developments must be generally consistent with neighbouring dwellings. The emphasis must be on a high quality design solution, which would preserve or enhance the special character of the area. The Planning Authority will seek to encourage high quality contemporary design solutions, which reflect the age in which we live.”*

The Character Appraisal also notes that the essence of what is Foxrock is to a great degree derived from its mature trees, shrubs and hedgerows. In this regard, it is advised that future developments within the area must include provisions to protect and maintain the sylvan character of the area and the sense of enclosure.

General Development Management Standards

Section 8.2.3.4 (vi) refers to **Backland Development**. Such proposals shall be considered in relation to a range of criteria including height, access, private amenity requirements and the potential to encourage the amalgamation of

adjoining properties/sites in order to provide for a more comprehensive backland development. Piecemeal backland development with multiple vehicular access points will not be encouraged.

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 8.2.8.4 (i) sets out the private open space requirements for private houses.

Section 8.2.8.4 (ii) refers to separation distances and the standard garden depth of 11 metres.

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

Appendix 13 Strategic Flood Risk Assessment

Map 6.

The site is located c.200m northeast of an identified 'flooding hotspot' (surface water)

Pluvial Flooding - Usually associated with convective summer thunderstorms or high intensity rainfall cells within longer duration events, pluvial flooding is a result of rainfall-generated overland flows which arise before run-off enters any watercourse or sewer. The intensity of rainfall can be such that the run-off totally overwhelms surface water and underground drainage systems.

Section 3.3.4 noted that for development within or near these areas, particular attention to surface water risk is required and Drainage Impact Assessments should be required for all development proposals.

Section 4.4 Drainage Impact Assessment

All proposed development, including that in Flood Zone C, must consider the impact of surface water flood risks on drainage design. In this regard, all the other development scenarios must pass through this stage before completing

the planning and development process, and should be accompanied by an appropriately detailed flood risk assessment, or drainage impact assessment.

Section 4.7.1.2 Existing developed areas

Small scale infill housing, extensions or changes of use, subject to site specific flood risk assessment, can generally be considered appropriate provided they constitute a continuation of the existing level of development. Of prime importance are the requirement to manage risk to the development site and not to increase flood risk elsewhere.

5.2 Guidelines

Architectural Heritage Protection Guidelines 2011 (DAHG)

These provide guidance on architectural heritage protection.

This document, sets out comprehensive guidance regarding development in Conservation Areas. Section 3.10.1 addresses new development in ACA's and states:

“When it is proposed to erect a new building in an ACA, the design of the structure will be of paramount importance. Generally, it is preferable to minimise the visual impact of the proposed structure on its setting. The greater the degree of uniformity in the setting, the greater the presumption in favour of a harmonious design. However, replacement in replica should only be contemplated if necessary, for example, to restore the character of a unified terrace and should be appropriately detailed. Where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged. The scale of new structures should be appropriate to the general scale of the area and not its biggest buildings. The palette of materials and typical details for façades and other surfaces should generally reinforce the area’s character.”

Project Ireland 2040 - National Planning Framework 2018 (DHPLG)

The recently published National Planning Framework includes a specific Chapter, No. 6, entitled ‘People Homes and Communities’. It includes 12 objectives 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.

Objective 57 seeks to ensure that flood risk management informs place-making by avoiding inappropriate development in areas at risk of flooding in accordance with the Flood Risk Management Guidelines for Planning Authorities. And integrating sustainable water management solutions, such as Sustainable Urban Drainage (SUDs), non-porous surfacing and green roofs, to create safe places.

The Planning System and Flood Risk Management. Guidelines for Planning Authorities 2009 (OPW).

5.3 Natural Heritage Designations

The nearest Natura 2000 sites are the Dalkey Islands SPA and the Rockbill to Dalkey Island SAC which are located c.6.5km to the east of the site and the South Dublin Bay and River Tolka SPA and South Dublin Bay SAC located c. 3.5km to the north.

5.4 Environmental Impact Assessment Screening

Having regard to the nature and scale of the development which consists of a new dwelling in a built up suburban area there is no 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

A first party appeal was lodged.

6.1 Grounds of Appeal

The grounds of appeal seek to address the planning authority's reasons for refusal. The applicant has included with the grounds of appeal a sketch for modifications to the proposed development consisting of reduction to the overall height and bulk and a reduction in the overall floor area by c.15%. The appeal does not include a full set of drawings.

The grounds of appeal are summarised as follows:

Reason No. 1 Density

- The applicant has no desire to provide a high density mews style development to the rear of their property and are of the view that a high density development at this location would not be welcomed by their neighbours.
- The proposal is for a matching family home in a similar style to The Laurels and other properties in the area which would be fitting and appropriate for the site.

Reason No. 2. Architectural Heritage

- The house would not be visible from the public domain, therefore would not have a detrimental impact on the ACA.
- The setting of The Laurels would remain the same as the disused tennis courts area already isolated from the house and do not contribute to its setting.
- The applicants have no objection to reducing the scale and height of the proposed house along with a c.15% reduction in the overall floor area and enclosed a sketch.
- Reference to precedent, it is noted that a new house (granted under PA Ref. No. D15A/0388) is under construction at 'Mazermore' and a new house (PA Ref. No.D15A/0333) has been granted permission to the rear of 'Journey's End'. A house was also constructed years ago to the site of 'Glenshee'.

- The design and finishes reflect the existing built environment. The siting of the house screens it from the public domain.

Reason No. 3, Piecemeal Development:

- There is no desire to amalgamate and develop the backlands. The area is characterised by large site with individual houses.
- Notwithstanding that the Council wish to encourage the development of the rear of these properties, the applicants are of the view that there is no impetus from locals to significantly development the area.
- The proposal complies with the requirements set out in Chapter 8 of the County Development Plan for a new house.
- The house would be for the applicants whom wish to downsize.

6.2 Planning Authority Response

- The grounds of the first party appeal are noted. The planning authority's position as set out in its planning report and decision remain unchanged.
- The proposed reduction in the floorspace of 15% and ridge height does not overcome the concerns expressed by the conservation officer.
- In relation to the comments on site assemble, the planning authority draws the Boards attention to a recent application for the development of 52 no. infill/backland units on a site on Brighton Road, Foxrock that comprises part of 3 adjoining rear gardens (D18A/0436). This represents a recent example of the assembly of parts of rear gardens to form a larger infill development site, albeit outside the ACA.

6.3 Observations

Two observations have been received:

1. Daragh Walsh & Darragh Kilbride, Ashton, Torquay Road, Foxrock (adjoining property to the north).
2. Eugene & Lynette O'Sullivan, Pinehaven, Torquay Road, Foxrock (adjoining property to the south)

There is an overlap and reiteration of issues throughout the observations. I, therefore propose to summarise them by issue rather than individually.

6.3.1 Architectural Conservation

- The proposal would set an undesirable precedent for the development of the backlands/rear gardens and have a negative impact on the character and setting of six important houses (protected structures) along Torquay Road.
- Foxrock ACA need to be preserved and its character and setting protected.

6.3.2 Flooding

- The houses along the western side of Torquay Road are prone to flooding from the runoff from Foxrock Golf Club to the rear. The houses are the subject of persistent flooding during periods of persistent rainfall.
- Drainage has not been adequately addressed in the planners report.
- The site is in an area identified as a 'flooding hotspot' in the DLRCC Flood Zone Map 6.
- A new house would exacerbate the situation and additional runoff from roofs, paving etc would increase the runoff.
- The Flood risk report and proposal submitted with the application is flawed as it is a requirement of the Building Control Act/Building Regulations that the ground water level never reach the bottom of the soakaway. An extract from Part H of the Building Regulations is included.
- The failure to adequately dispose of the rainwater by way of a soakaway/soakpit or otherwise means that the risk of flooding of adjoining properties is increased.

6.3.3 Residential Amenities

- Overlooking and loss of privacy.
- Screening along the northern boundary cannot be relied upon as this is within the curtilage of Ashton and the owners have indicated their intention to significantly scale back and possibly remove these trees.

6.3.4 Documentation submitted include:

- Engineers Report on Surface Water/Flooding Risk.
- Photographs of flooding events.

6.5 Prescribed Bodies.

The appeal was referred to the **Department of Culture, Heritage and The Gaeltacht**. No response received.

7.0 Assessment

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 which refers to residential density, architectural conservation and piecemeal development. The issue of appropriate assessment also needs to be addressed

It is also considered that, although not included by the Planning Authority in the reasons for refusal or raised by the first party in the appeal, other substantive issues arise. I advise the Board that as these are new issues, if the Board agrees with the assessment and recommendation set out hereunder, they may wish to recirculate to the parties for comment prior to the decision as per the requirements set out under section 137 of the Planning and Development Act 2000, as amended.

- Residential Density.
- Design & Architectural Heritage
- Piecemeal Development.
- Flooding (New Issue).
- Other.
- Appropriate Assessment.

7.1 Residential Density

- 7.1.1 The Planning Authority's first reason for refusal was on the premise that the proposed development was not considered to be of sufficiently high density, as it is in area that is within around 1km of the Luas line and notwithstanding its location within the Foxrock ACA and the setting/curtilage of The Laurels (a protected structure) it was considered that the proposals represented an inefficient and unsustainable use of serviced, metropolitan lands contrary to local and national policy.
- 7.1.2 The site is currently occupied by tennis courts associated with The Laurels a detached two storey structure, which is set central within mature gardens. The original curtilage and setting of The Laurels, A protected structure, has to date been compromised and diminished following the construction of two infill houses at either side of The Laurels in the 1980s. The proposal includes construction of two storey house, in the style of The Laurels with a proposed gfa of c. 232 sq.m on a site within an overall area of c. 0.075 hectares.
- 7.1.3 The applicants refute the Planning Authority's conclusion that the development constitutes under development by proposing a single urban house, which when considered with The Laurels and the size of the overall landholding results in a proposed density of c.12.7 units per hectare.
- 7.1.4 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.
- 7.1.5 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 luas line. They also infer that higher densities should be encouraged on sites that exceed 0.5 hectares in area.

- 7.1.6 A density of c.12.7 units per hectare (1 house plus the existing house) is proposed. The planning authority concluded that the density was too low taking into consideration the location of the site within 1km pedestrian catchment of a Luas line, 500m of a proposed QBC (Leopardstown Road) and its proximity to Sandyford would result in the under development of the site. The Area Planner concluded that, notwithstanding that the site was within the curtilage of a protected structure and within a designated ACA that the constraints on densities referred to in RES3 should not be considered taking into account the proximity to the adjoining transport links and area of intense employment (Sandyford).
- 7.1.7 In my view, the constraints on density referred to under RES3 apply to the current scenario as The Laurels is a Protected Structure and is located within Foxrock ACA. Torquay Road is characterised by a varied pattern of development, ranging from large detached houses, smaller infill developments to residential schemes. The immediate vicinity is characterised by single houses on individual plots of varying styles and sizes. The application site is within the curtilage of The Laurels, one of six houses dating from the early 19th century and one of the first to be built along Torquay Road, therefore are of significant importance to the character of the area. In my view a the provision of a house to the rear of a protected structure is considered acceptable in principle, subject to site specific criteria and compliance with the relevant local and national policies.
- 7.1.8 I consider, given the location of the site on lands zoned under land use objective 'A' and its location within the curtilage of a protected structure and a designated ACA that there is discretion in this instance for densities less than 50 units per hectare.
- 7.1.9 The Planning Authority raised concerns that the proposal represented an inefficient and unsustainable use of serviced, metropolitan lands contrary to local and national policy.

7.1.10 Section 8.2.11.2, 8.2.11.3 of the County Development Plan sets out the design and development management standards for new development within the curtilage of a protected structure and within an ACA respectively. Section 8.2.3.4(vi) sets out the criteria for backland development. This includes reference to open space provision, 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. The issue of piecemeal development as referenced in the planning authority's third reason for refusal is addressed in section 7.3 of this report.

7.2 Design & Architectural Heritage

7.2.1 The planning authority's second reason for refusal sets out that the proposed sub-division of the extant plot associated with The Laurels into two similarly sized plots, and the design of the backland dwelling to the rear of The Laurels would further sever this protected structure from its curtilage/setting and erode the special character of Foxrock ACA.

7.2.2 Policy guidance at both a national and local level sets out guidance regarding new development in Architectural Conservation Areas (ACAs). In general, a sensitive design approach is required. New developments 'of their time', with an emphasis on contemporary design is encouraged. The Foxrock ACA Character Appraisal Report also sets out specific guidance regarding infill and new buildings in the ACA. This places a particular emphasis on criteria such as the need to respect the scale, massing, height and design of adjacent development; the extent of boundary treatment to be retained; the need to respect the existing pattern of development and high quality design.

7.2.3 The application site is within the curtilage of a Protected Structure (The Laurels, RPS Ref. No 1599), occupying its rear garden/tennis courts. The site also adjoins the rear amenity space of 'Ashton' and 'Pinehaven' two infill developments in the curtilage of The Laurels dating from the 1980s. The proposed development includes works to the original boundary wall of the Laurels. The Council's Conservation Officer raised concerns that the proposed

development would further erode the character of the Laurels and ultimately the special built character of Foxrock ACA would be denuded entirely with the subdivision of larger plots. In my opinion the original curtilage of The Laurels has been compromised by the construction of two houses in the 1980s on either side and visible from Torquay Road. The current proposal is located on the disused tennis courts to the rear of The Laurels, separated from same by mature boundaries and not visible from Torquay Road.

7.2.4 The bulk of the application site is physically separated from The Laurels by mature boundaries. Access at present is via The Laurels. In my view the siting of the proposed house on the former tennis courts and the retention of mature screening, where possible, will not detract from the character and setting of the protected structure. Having regard to the nature of the site and its current relationship with The Laurels I am satisfied that the principle of developing this site is acceptable subject to compliance with development management standards and creates an acceptable relationship between the new dwelling and The Laurels.

7.2.5 The appropriateness of the design must also be considered in the context of other precedent decisions by the Planning Authority and An Bord Pleanála. A number of examples are set out in the applicant's appeal submission. It is evident that the Planning Authority and the Board have permitted a variety of different house types along Torquay Road, many of which include stylistic references to past architectural periods. Contemporary design has not therefore been a prerequisite for permission. Under Appeal Reference PL06D.240072, permission was granted for a significant dwelling with a clear Arts and Crafts style. And more recently permission was granted on the western side of Torquay Road under ABP 249002 for a dwelling at 'Cloragh' in making their decision, the Board had particular regard to the well screened nature of the sites.

7.2.6 The rear gardens of The Laurels are enclosed and screened from the public domain by stone walls and mature vegetation, resulting in no views into the site from outside this boundary at ground level. At the time of inspection I noted that

there were limited intermittent views of The Laurels due to boundary treatment, extensive tree converge within the curtilage of The Laurels and the relationship of the structures to each other. In my view, the proposed development in terms of siting, design and overall form would not detract from the architectural composition of The Laurels or adjoining structures, in particular the appellant's houses, Pinehaven and Ashton (neither of which are protected structures).

7.2.7 It is my considered opinion that the proposed dwelling would be of an appropriate design idiom and scale. While I acknowledged that it is inspired by The Laurels and the original William Bentley design. I do not consider it a pastiche imitation. It offers a contemporary slant to the original design and would not detract from the amenities of the area. I note that sketches were submitted with the appeal which shows a reduction in the overall bulk and scale of the house. I am satisfied that the proposed dwelling (as amended in the grounds of appeal), notwithstanding its design, will not detract or undermine the special character or value of the Foxrock ACA. It is considered that the proposed development will sit well within its existing context. The existing sylvan character of the site is retained and the development, located to the rear of The Laurels, will be well screened from the public domain. I am of the view that the development is satisfactory in terms of protecting the character and setting and amenities of the adjoining protected structures and the ACA.

7.3 Piecemeal Development

7.3.1 The third reason for refusal was on the grounds that the proposed development would constitute the piecemeal development of a site that may be suitable for amalgamation with adjoining backlands, including backlands outside the Foxrock ACA. The proposals may thereby inhibit future prospects for the sensitive, infill development of under-utilised lands in a metropolitan area that is well served by public transport at a sustainable residential density.

7.3.2 The principle of infill developments and the development of the side gardens of existing houses is common practice in urban areas and subject to suitable sites are considered a sustainable use of serviced urban lands. The development of

rear gardens presents a more complicated scenario as it can lead to haphazard piecemeal development of backlands. Added to this, in this instance, is the proximity of The Laurels, a protected structure and adjoining protected structures and the precedent the development of the rear amenity spaces for a single house would present.

7.3.3 The subject site is centrally located amongst the group of six William Bentley houses and would originally had the widest plot, which has been subsequently subdivide to accommodate 'Ashton' and 'Pinehaven' at either side. The Development Plan supports backland development and generally encourages use of underutilised sites in existing residential areas. I consider that this site could fall into such a category. However Section 8.2.3.4 (vi) in the Development Plan states:

Where there is potential to provide backland development at more than one site/property in a particular area, the planning authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. Piecemeal development with multiple vehicular access points will not be encouraged.

7.3.4 I am of the opinion that this proposal will not result in development being carried out in a planned and coordinated manner. I am of the view that the development of a house to the rear of The Laurels would constitute haphazard and piecemeal development in its current form. A coordinated approach should be taken having regard to the significant quantity of land potentially available. I fully accept that the applicant is unlikely to be in a position to develop any other site, but the development as proposed does not include any level of analysis or other supporting information to demonstrate that it would not prohibit other future development, or that it can be coordinated in terms of layout and design with other potential future development.

7.3.5 I am therefore of the opinion that the proposal is uncoordinated piecemeal development and is not in accordance with Section 8.2.3.4(vi) of the current County Development Plan.

7.4 Flooding (New Issue)

- 7.4.1 The National Planning Framework is clear on the issue of flooding and states that inappropriate development in areas at risk of flooding should be avoided and new developments that increase flood risk elsewhere, including that which may arise from surface run off, should also be avoided. National Policy Objective 57 states that *inter alia* inappropriate development in areas at risk of planning should be avoided in accordance with the 'The Planning System and Flood Risk Management Guidelines for Planning Authorities'.
- 7.4.2 The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) are also unambiguous in relation to flooding and also state that inappropriate development should be avoided. It is further stated that where flood risk may be an issue for any proposed development, a more detailed flood risk assessment should be carried out appropriate to the scale and nature of the development and the risks arising. The detailed site-specific Flood Risk Assessment should quantify the risks and the effects of any necessary mitigation, together with the measures needed or proposed to manage residual risks.
- 7.4.3 Both of the observers have raised the issue of flooding in the area, and have cited previous flooding events and submitted images of same. It is stated that the issue of flooding has not been adequately considered in the application documents and that the development of the site may exacerbate the flooding of adjoining properties due to increased runoff from impermeable surfaces.
- 7.4.4 The main source of surface runoff is stated to be the golf course to the east. I note that under ABP Reference No. ABP 302465-19 permission was granted for works at the golf course which include the provision of a new surface water drainage system.
- 7.4.5 The site is located c.200m northeast of an identified flooding hot spot arising from pluvial flooding. Site investigations were carried out by the applicants to assess the suitability of the proposed soakpits to address the issue. The observers have disputed the findings and recommendations, and have submitted a flood risk report as part of their observations which contradict the appellants.

- 7.4.6 The observers have raised serious concerns that not only is the application site prone to flooding but that adjoining properties are also flooded on a regular basis. I note that this issue was not addressed in the planners report. The Council's Drainage Section noted no objection subject to conditions.
- 7.4.7 The current application before the Board has a serious deficiency in information relating to the potential flooding of the site. There is no assessment of the potential flood risk the development presents or the potential dispersal impact on adjoining lands.
- 7.4.8 Given the flooding history of the site and adjoining area I would have expected the application to have been accompanied by the Site Specific Flood Risk Assessment, that would consider *inter alia* sources of flooding, all known previous flood events, site specific factors exacerbating or otherwise flood risk as well as pathways of floodwaters, a consideration of receptors at risk, as well as a detailed analysis of any mitigation measures proposed. Therefore I am not satisfied, given the information on file, that the proposed dwelling house will not be at risk of flooding, nor am I satisfied that the proposal will not increase the risk of flooding of surrounding lands.
- 7.4.9 If the Board wish to pursue this application it may wish to request that the applicant address this issue in a comprehensive manner and require a site specific flood risk assessment or a drainage risk assessment to be carried out.

7.5 Other

- 7.5.1 The observers raised concerns that the proposal would result in overlooking, overshadowing and have an overbearing impact on adjacent properties, in particular Ashton and Pinehaven.
- 7.5.2 Section 8.2.8.4 (ii) of the County Development Plan refers to the usual requirements for a minimum separation distances of 22 metres between opposing rear first floor windows. The separation distance as set out in the Plan refers to opposing first floor windows which is not an issue in relation to The Laurels, Ashton and Pinehaven, the closest dwellings to the west, north and south respectively.

7.5.3 I am also satisfied that direct overlooking of the private amenity space of adjoining properties, in particular The Laurels, Ashton and Pinehaven, is not a significant issue due to existing boundary treatment, the layout and orientation of the properties and their relationship to the proposed dwelling. I am, therefore, satisfied that the proposal will not result in overlooking of The Laurels, Ashton and Pinehaven and would not seriously injure the residential amenities of these properties.

7.5.4 The Proposal complies with the standards for private open space as set out in Section 8.2.8.4 of the Development Plan. Ample private amenity space is retained by The Laurels. I am of the view that the overall quality and quantity of private open amenity, which is provided for future residents of this dwelling and that retained by The Laurels would be acceptable and not out of context given the grain of development in the area.

7.5.5 Notwithstanding, I refer the Board back to my conclusion of section 7.3 above. I consider that backland development is acceptable and supported by policies in the Development Plan subject to development being carried out in a planned and coordinated manner. No information has been provided to confirm that this is the case in this instance and therefore in my opinion this proposal cannot be deemed to be planned or coordinated as required by Development Plan Section 8.2.3.4(vi).

7.6 Appropriate Assessment

Having regard to nature and small scale of the development and the location of the site in a fully serviced built up area, 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 be refused for the reasons and consideration set out below

9.0 Reasons and Considerations

1. The proposed development would represent piecemeal backland development of a large rear garden (tennis courts). The development as proposed does not include any level of site analysis or other supporting information to demonstrate that it can be carried out in a planned and coordinated manner. This is contrary to section 8.2.3.4 (vi) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 which is considered reasonable. The proposed development would represent an unsustainable use of zoned serviced lands and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the provisions of Objective 57 of the National Planning Framework, and having regard to guidance as set out in 'The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)', in relation to development proposals in areas at risk of flooding, it is considered that, in the absence of adequate information relating to the risk of flooding, analysis of such risk, and appropriate mitigating measures to address any risk, the proposed development would be contrary to the proper planning and sustainable development of the area.

*Reason No. 2 refers to a new issue.

Dáire McDevitt
Planning Inspector

20th June 2019