



An  
Bord  
Pleanála

## Inspector's Report ABP-307639-20

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<b>Development</b>	Partial Demolition of existing commercial unit and conversion to one two-bed dwelling unit and construction of three five-bed dwellings.
<b>Location</b>	Lands at 34 Barnhill Road, Dalkey, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D19A/0914
<b>Applicant(s)</b>	Windsor Homes Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Split decision: Grant Permission for conversion to dwelling unit. Refuse Permission for construction 3 houses
<b>Type of Appeal</b>	First Party v. Refusal
<b>Appellant(s)</b>	Windsor Homes Ltd.
<b>Observer(s)</b>	Norman and Joan Kinsella
<b>Date of Site Inspection</b>	7 <sup>th</sup> April 2021
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. The site is similar to that in a case decided by the Board in February 2019. (302196 - file attached). While the characteristics of the site in terms of access and buildings remain the same, in this case the site has been reduced by the omission of the two storey residential premises – formerly a forge which is referred to in the drawings/site layout as being subject of exempted development works. Accordingly the site is reduced in area to 0.1495 ha.
- 1.2. As previously described the site contains a number of buildings including a single storey building fronting Barnhill Road that was in use as a car service garage (formerly a school) and some outbuildings to the rear of the site, some of which appear to have been demolished since the previous application.
- 1.3. There is a small forecourt/parking area located along the Barnhill Road frontage and vehicular access to the rear of the site is via a gate to the west of the single storey garage building. The western boundary comprises a block wall between the site to the west which has been redeveloped with two storey housing and is almost complete. The eastern boundary remains as before and is a mix of fencing and vegetation. The house to the east, no.36 and that of the observing party, consists of a double fronted bungalow set back from Barnhill Road which has been extended to the rear with a single storey extension that incorporates a large picture window facing the boundary with the subject site. The garden is shorter than the subject site.
- 1.4. The site slopes down from the road to the rear where it is bound to the north by the railway line (DART service).
- 1.5. The area is characterised by low density and fairly low-rise housing comprising a mix of cottage style, dormer and two storey housing.

## 2.0 Proposed Development

- 2.1. The proposed development comprises:

<b>Previous proposal site 1.7ha</b>	<b>Current Proposal 1.495ha</b>
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Demolition of entire commercial premises.	Demolition of part of premises to rear and ancillary flat roof structure retention of single store premises to front + conversion to one two bed unit.
Retention of forge building /convert to two town houses	[Retention of forge building /convert to two town houses – excluded from the site outlined in red]
Construction of 7 units <ul style="list-style-type: none"> <li>➤ 2 no. single storey 2 bed apartments.</li> <li>➤ 2 no. 2 storey 3 bed townhouses.</li> <li>➤ 3 no. 3 bed duplex apartment units.</li> </ul>	Construction of 3 units – <ul style="list-style-type: none"> <li>➤ five bed two storey houses – 2.2m from the eastern boundary 1m from the western boundary</li> </ul>
13 car park spaces	9 car park spaces – electric charging, bike parking
Total of 9 units on site	Total of 4 units on application site. (Total of 6 units on previous site area.)

2.2. Other elements of the proposal include:

- Upgrade of existing vehicular access from Barnhill Road and the provision of 13 surface car parking spaces and bicycle parking, internal road, footpaths, shared surfaces and street lighting. Details include a sweep analysis for utility trucks.
- Landscaping works, tree planting and boundary treatments (to be agreed with adjacent owner) , alterations to site levels, SuDS, refuse store, foul and water connections and all ancillary site works.
- External to site: Refurbishment and conversion of existing forge building to provide 2 no. 2 storey townhouses is indicated in plans but this area is excluded from the application site. These works are indicated as being exempted development.

2.3. Supplementary document submitted as part of further information includes:

- Outline construction management plan
- Daylight analysis and overshadowing report
- Car Parking and site attenuation details.

## 2.4. Revised Plans

- The applicant submitted a modified house design and layout which was classed as significant further information and was readvertised. The design incorporated an increased set back and modified elevations to include blinkered windows. An alternative house design to this revised design has been submitted with the grounds of appeal as an option to consider. It includes an updated daylight analysis. The revised house design omits the pitched roof .

## 3.0 Planning Authority Decision

### 3.1. Decision - Split

3.1.1. To **grant permission** for refurbishment of premises to front to provide a two bedroom dwelling with ancillary space and 3 car park spaces, upgrading of vehicular access, landscaping, boundary treatment and ancillary works.

3.1.2. To **refuse permission** for the three dwellings to the rear of the site for the stated reasons :

- The three dwellings proposed in the northern portion of the site by reason of their scale, form and relative position to boundaries of the subject site and to existing adjacent properties would be visually overbearing when viewed from 36 Barnhill Road and would result in the overshadowing of private amenity space serving same. The proposed development would not accord with the provisions of section 8.2.3.4 of the Dun Laoghaire development plan 2016-2022 in relation to Additional Accommodation in Existing Built-up areas. The proposed development would seriously injure residential amenities of property in the vicinity of the subject site and would thus be contrary to the proper planning and sustainable development of the area .

### 3.2. Planning Authority Reports

3.2.1. **Planning Report (19/06/20)**

- The principle of **infill housing is acceptable** having regard to national policies and standards that advocate densification and having regard to the provision of the development plan for infill housing.
- The internal areas comply with the development standards.
- The proposed 4 dwellings amount to a **density of 26.75 units /ha** which falls short of the 50/ha recommended for sites such as this which are in close proximity to public transport. It is also less than the density achieved on the adjacent site (4 units/.11ha) of 36 units/ha.
- The 5 bed houses fall moderately short of the **open space standard of 75sq.m.** and a reduction is not warranted having regard to the design but this could be addressed.
- While noting the revised site layout and increased set back of the house adjacent to the no. 36 and also the angled windows away from the boundary with no.36 and the absence of overlooking, the **separation distance between the proposed dwelling DH3 and no.36 is not considered adequate.** The proposed dormer facing this boundary in the revision would be visually obtrusive in the context of the extent of and height of the blank gable.
- The willingness to construct 2m high solid boundary wall in place of the fence is noted however it is also noted that there is no evidence of consent by the owner of no.36 and this needs to be addressed.
- While 7-11m garden depths are normally required for backland dwellings, the context of the **DART** line is noted.
- The requirements of the transport planning division and drainage division are accepted to have been substantially addressed and outstanding matters can be addressed by condition. Similarly public lighting can be addressed by condition. Storage of refuse containers has been adequately addressed.
- The requirements of Iarnród Éireann in the previous case are noted in respect of tree planting.
- The principle of a 25 sq.m. open space area in the site outlined in red for the purpose of amenity space for the forge townhouses outside the site is acceptable.

- Drawings are noted to be incomplete regarding house elevations and shed details.
- Third party concerns have been considered in the assessment.
- AA and EIA are not considered to be issues.

### 3.2.2. **Other Technical Reports**

**EHO: 22/6/20:** Notes the response to the FI regarding Construction Management Plan and details regarding dust and noise control measures and refuse storage. Conditions recommended.

**Municipal Services – (Drainage Planning):** Further information was recommended in report of **3/1/20**. In a subsequent report of **16/6/20** clarification of further information was recommended regarding surface water drainage and attenuation. It is recommended that design be amended to include provision of infiltration of surface water and interception /treatment for hardstanding, re-routing of foul sewer pipes not through attenuation area/system.

**Transportation Planning (undated report on further information):** Entrance details are acceptable regarding sightlines and footpath subject to conditions relating to revised entrance, Stop signage, electric charging of cars, footpath construction and construction stage. In relation to the Forge townhouses, (excluded from the site outlined in red but inside the blue delineation,) the applicant is requested to submit details of reservation of 3 car park spaces to the rear of the building.

**Conservation 9/1/20:** The proposal successfully overcomes built heritage issues previously raised. It is respectful of industrial heritage and is welcomed subject to a condition regarding materials and finishes.

### 3.3. **Prescribed Bodies**

- 3.3.1. **Department of Culture, Heritage and the Gaeltacht.** The report of 8/1/20 raises no objection and specifies archaeological conditions due to proximity to a 16<sup>th</sup>/17<sup>th</sup> century house.

3.3.2. Its report (02/10/2019) on the previous proposal is also informative on the heritage value of the site.

- The proposal to demolish the former national school and retain the forge building should be assessed by reference to the architectural heritage character that survives and the extent to which the single storey building retains an architectural heritage connection with the two storey former forge.
- The conservation report submitted with the application does not provide any detail on the elements of the building and overall rate of survival of fabric in determining that the character has been severely compromised by conversion to a garage. No photographic detail submitted. It is not clear if the interior of the forge building has been assessed for architectural heritage interest.
- It is suggested from the available information that the architectural heritage special interest resides largely in the streetscape value of the ensemble of buildings, positioned at the roadside on a secondary but ancient route to the historic village of Dalkey. As the single storey building has been gutted, potential layout options for its reuse and conversion back to a dwelling are not constrained by existing internal features of architectural heritage interest.
- The conversion of the two storey building to 2 houses is welcome in principle. Recommends that conditions are attached to ensure that the details of the design are revised to maintain such elements as contribute to the forge building and that construction works adheres to best conservation practice, with the involvement of a competent conservation professional throughout the construction phase.
- The question in architectural heritage terms is whether or not – should the Board consider it acceptable to demolish the former school – the visual impact is sufficiently mitigated to allow the former forge building to retain its character. The location and architectural design of the housing is acceptable, however, the associated car parking is not just prominent on the site but also results in very little curtilage or soft landscaping remaining to the forge building. A similar height development located behind the retained single storey building would be far less visually prominent.

- The Department agrees that Policy AR5 should influence any development on this site which would require retention, repair and adaption of the former schoolhouse as well as the forge building and would require the location, layout and design of new structures to take account of the character of this ensemble.

3.3.3. **Irish Water (16/1/20):** No objection subject to conditions.

3.3.4. **Iarnrod Eireann Infrastructure :** No report but in the previous case this body referred to a number of health and safety requirements in relation to works adjoining the railway line and agreements and consents that would be required in relation to certain works. Eg. A 2.4m solid block boundary wall is required on the applicant's land and no building should take place within 4m of this wall and that there must be no undermining of an existing retaining wall along the northern side of the rail line.

#### 3.4. **Third Party Observations**

3.4.1 A third party submission with appended photographs was made by the appellant party on both the original and amended designs and the issues are similar to those in the observations made with respect to impact on residential amenity by reason of overshadowing and overbearing nature of development.

3.4.1. Other third party submissions were made by residents in the area including those in no.32 Barnhill Road on the other side and to the north and issues relate to height and overlooking and drainage.

### 4.0 **Planning History**

#### 4.1. **The Site**

4.1.1. **An Bord Pleanála ref: 302196** refers to a refusal of permission (on an enlarged version of the subject site which includes the former forge) in Feb 2019 for demolition of existing commercial unit and construction of 7 new dwellings and refurbishment and conversion of existing former forge building to provide 2 new townhouses. The reasons for refusal were based on

- Demolition of structure of streetscape importance
- Overdevelopment /height and impact on no. 36 Barnhill Road.

In this cases duplexes were proposed up to a height of 10.8m 38.85m OD



The report of conservation division of the planning authority (**15.06.2018**) appraised the historic importance of the site and the following considerations were highlighted in the inspector's report:

- Consider that the schoolhouse should be retained in conjunction with the forge. Collectively it is the external composition and expression of the two co-joined buildings that strengthen the built heritage interest of this grouping. Whilst the schoolhouse has been altered, it remains legible and its historical footprint remains in situ. The buildings contribute positively to the built character and historical narrative of the area and provide a sense of place.
- In order to facilitate access to the site, the removal of the schoolhouse in its entirety is not required. Recommend that the applicant explore the retention in part of the schoolhouse so as the external expression and perceived relationship survives.
- The development does not contextually benefit or enhance the site. The opportunity to provide a high quality, architecturally stimulating development which complements the setting and context has not been taken. The development is considered contrary to Policy AR5 and AR11 of the County Development Plan 2016-2022.

4.1.2. **Planning Authority Ref. D17A/0751 refers to refusal of** Permission refused (October 2017) for demolition of existing motor service/sales garage and the provision of infill residential development comprising of the refurbishment of an existing terrace of 2 townhouses (including the retention of the old stone arch of a pre-existing forge) and the construction of a 1 bedroom apartment and terrace of 10 duplex residential units, including a new site entrance arrangement, car and bicycle parking, landscaped open spaces and enclosed refuse store. The reasons for refusal related to the scale, height and layout of the development, that it would be overbearing and would impact negatively on the amenities of adjoining residential properties due to overlooking and overshadowing and that the provision of open space within the proposed development is substandard in terms of the quantum and layout proposed and would fail to provide an adequate level of amenity value for future residents of the development.

4.1.3. **Planning Authority ref 85/19** refers to a section 5 declaration for exempted refurbishment works of the townhouses – former forge building as indicated in the site outlined in blue.

#### 4.2. **Adjacent Sites**

4.2.1. **An Bord Pleanala Ref 303944 (Killea to west)** refers to permission for demolition of the existing single storey dwelling and replacement with 4 no. new two storey three-bedroom dwellings. This has been substantially completed.

4.2.2. **Planning Authority Reference D18A/0404** refers to refusal of permission (June 2018) for the demolition of the existing single storey dwelling and its replacement with 4 new dwellings. The reasons for refusal related to the design and scale of the development which it was considered would be visually obtrusive, incongruous and overly dominant on the streetscape. It was also considered that the development would result in the overdevelopment of the site with consequent negative impacts to the residential and visual amenities of adjacent properties and would set an undesirable precedent. The second reason for refusal related to the substandard layout and area of private open space to serve the dwellings.

4.2.3. **Planning Authority Reference D16A/0039** refers to grant of Permission (January 2017) for the construction of 2 new dwellings with vehicular access from Barnhill Lawn. Site at the Barn, Atmospheric Road, Dalkey (north of the site)

## 5.0 **Policy Context**

### 5.1. **Dun Laoghaire Rathdown County Development Plan 2016 – 2022.**

5.1.1. The objective for the site and adjacent sites is “To protect and/or improve residential amenity.” (Zone A)

5.1.2. The site is identified in the Industrial Heritage Survey set out in Appendix 5 of the Plan as site no. 987 – Former Forge. There is a specific local objective (no. 93) located to the north of the site relating to the development of the S2S Promenade and Cycleway.

5.1.3. Relevant policies and objectives include:

**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.

**Section 8.2.3.2** of the Plan sets out quantitative standards for residential development. **Section 8.2.8.4** sets out standards for **Private Open Space**.

**Policy AR5: Buildings of Heritage Interest**

- i. Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of a streetscape in preference to their demolition and redevelopment and to preserve surviving shop and pub fronts of special historical or architectural interest including signage and associated features.

“Many of the older buildings and structures in the County, whilst not strictly meeting the criteria for inclusion in the Record of Protected Structures, are often modest buildings which make a positive contribution to the historic built environment of Dun Laoghaire-Rathdown. The retention and reuse of these buildings adds to the streetscape and sense of place and has a role in the sustainable development of the County.”

### **Policy AR11: Industrial Heritage**

It is Council policy to:

- i. Have regard to those items identified in the Industrial Heritage Survey listed in Appendix 5 when assessing any development proposals.

## **5.2 Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)**

5.2.1 These guidelines note the following key points regarding infill development:

“It is important to recognise the existing character, street patterns, streetscape and building lines of an area, particularly in the case of infill sites or where new dwellings will adjoin existing buildings.

In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.....The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities.”

## **5.3 Natural Heritage Designations**

5.3.1 The nearest Natura 2000 site is the Dalkey Islands SPA located c. 1.2 km to the east.

## **5.4 EIAR Screening**

5.4.1 Having regard to nature of the development comprising a small 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

### 6.1. Grounds of Appeal

- The proposal responds to the previous grounds of refusal. The proposal is appropriate to the infill nature of the site and national policy guidance for efficiency of land use in the provision of housing.
- There has been a significant reduction in the height, scale, form and massing in addition to a change in typology as compared to the previous case before the Board. In the context of the surrounding development and the previous decision and also the need for financial viability it is appropriate. It is argued that the parapet height has been lowered by 1.05m and this reduction together with absence of gable windows and separation from boundaries satisfactorily addresses relationship with adjacent properties. More positive direction from the planning authority would have been helpful in respect of the three dwellings.
- Overlooking has been specifically addressed with the blinkering and 45 degree angling of facade windows.
- Overshadowing: The shadow analysis clearly dispels any semblance of undue overshadowing by reference to the BRE Guidelines. It is submitted that the planning authority is being overly emotive.
- The proposal provides an appropriate response to the use of an infill development site which is of sufficient size to accommodate the 3 proposed dwellings. It is informed by the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and strikes a balance between protection of amenities and character of area and the need for infill. (section 5.9)
- The proposal ensures the increased efficiency of serviced land within urban Dublin in accordance with National Policy guidance. Specifically, infill development is supported by policy objectives 3a, 3b and 3c regarding targets for delivery of housing in built up areas and by re-using buildings also.

It is supported by the NPF, The National Development Plan 2018-2027, Urban Development and Building Height Guidelines for Planning Authorities

- A revised design for the 3 dwellings is provided if deemed necessary and drawings are included in the letter and a separate set of drawings is also attached. The level of sunlight in the adjacent garden is stated to be 92.2% of the garden area received sunlight for at least 2 hours. The omission of the dormer will remove the perception of overlooking.
- In overall terms it is a high-quality modest addition to the immediate area.

## **6.2. Planning Authority Response**

- 6.2.1. It is considered that the grounds of appeal do not raise any new matters which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development. There remains concerns about extent of overshadowing of the garden of no 36. Should the Board be minded to grant permission consideration should be given to density, quantum of private open space, landscaping of same and its relationship with the railway line, boundary treatment with no, 36 and lighting details. Detailed drainage conditions are also requested to be considered in full.

## **6.3. Observations**

- 6.3.1 Observations on the appeal were made Norman and Joan Kinsella who support the decision of the planning authority emphasise the negative impact of the proposed housing close to the boundary. The revised design in the appeal grounds and lowering of the roof height are considered to have little or no positive improvement in terms of overshadowing. The proposal, in all its forms, remains intrusive on the private amenity space of their home. This is supported by photographs.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. This appeal relates to a revised proposal on a modified site where permission was previously refused on grounds of building heritage and impact on residential amenity

of the adjacent dwelling. The heritage issues regarding the road side structures have been comprehensively addressed to the satisfaction of the planning authority and the DAU, however the layout and design of the remainder of the site remains at issue. Notwithstanding the scaling down of the proposal as compared to that previously refused, the planning authority remains concerned about the proximity of the proposed detached dwellings to the rear of the site to the boundary with the adjacent dwelling at no.36.

7.1.2. The residents of the no. 36, as expressed in their observations, support the decision of the planning authority. While the main issue relates to the impact on adjacent residential dwelling – principally no. 36, an analysis requires a comment on the context of the decision by reference to housing and heritage policies. The planning authority also raises issues such as density and detailed site development issues such as boundary details and private open space. The issues can be dealt with under the following headings:

- Architectural Heritage, Density, design and Layout
- Impact on Residential Amenity.
- Private Open Space.
- Boundary treatment.
- Appropriate Assessment.

## **7.1 Architectural Heritage, Layout and Density**

7.1.3. In the previous case significant concerns were raised by the Planning Authority, the Conservation Officer, An Taisce, the Department of Culture, Heritage and Gaeltacht and observers to the appeal regarding the demolition of the single storey garage/former schoolhouse building which is a building of Regional Importance. This is attributed to its architectural, technical and social interest and as referred to at length in the previous case. It is included in the Industrial Heritage Survey set out in the County Development Plan 2016-2022.

7.1.4. As compared to the previous proposal there have been significant changes to the overall site layout. A key element is that the garage (former school house) is to be retained in addition to the refurbishment of the old forge (this forge building is not part of the development site as its refurbishment is exempted development) and this

is welcomed by the DAU and the planning authority and clearly accords with the architectural heritage policies such as Policy AR5 regarding the role of historic buildings that are not protected, in placemaking and in defining the character of the streetscape and locality. I note that as part of the refurbishment of the garage premises, the facade and its openings are to be restored sympathetically to the original character and this aspect is a positive contribution to the visual amenities and sense of locality in the area.

- 7.1.5. In terms of interventions with original fabric, the most dramatic relates to the rear section of the building (also gabled). Having been considerably modified previously, this is to be gutted but its external walls are to be retained as a private space enclosure for the converted property and in this way is an appropriate contemporary adaptation which retains the footprint and the legibility of the building morphology while also meeting open space and amenity standards.
- 7.1.6. The site layout also makes provision for ancillary space for the town houses in the old forge which is to be refurbished. The overall layout which allows for this conservation and change of use and enhancement of the amenities for the Forge residences but also introduces 3 additional houses to the rear. The new buildings are broadly in line in form and layout with the recently constructed houses to the west. This layout is I consider well informed by the heritage and pattern of development in the area.
- 7.1.7. The height has been revised from up to three storeys to a two storey flat roofed houses as indicated in the drawings submitted with the appeal. In this way height is further minimised. This is also helped by the lower ground level to the rear of the site. Having regard to the varying house types from single to larger scaled two storey I do not consider the proposed new structures to be visually incongruous to the extent that it could be considered to detract from the streetscape. Moreover, in my judgement the combined development would contribute positively to the streetscape while retaining the historic identity at this location. The detailed design and interface with adjacent development is however subject to further appraisal.

#### Density

- 7.1.8. With respect to a density of 26.75/ha the planning authority notes that this level fails to meet the requirements for sites in close proximity to public transport which is



relevant given the proximity of the nearest DART station at less than 1km. The proximity to the village is another consideration. The applicant however makes the case that the commensurate density of 34.8/ha is achieved when taking account of the townhouses on the site as outlined in blue. The development in fact provides for ancillary space for the town houses and so should be included in a de facto calculation.

- 7.1.9. In this context and also having regard to the pattern and density recently permitted in the site to the west where a density of 35/ha is achieved I consider the approach of counterbalancing a very low density (single storey dwelling) with moderately higher density development to the back of the site in an manner than is consistent with the pattern of development is a reasonable approach to providing infill housing development on this site. Furthermore I consider the qualitative determinants in this case outweigh the quantitative parameters. I refer in particular to site constraints, the relationship with adjacent houses and the retention of historic structures in its capacity to protect the heritage and character of the area. Accordingly, I consider the density to be appropriate for the development site and to accord with the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) which states: “In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.”

## **7.2. Impact on residential amenity**

- 7.2.1. Impact on amenity of no.36 is the basis of the reason for refusal. The residents of this dwelling to the east are most concerned with the impact of any high building close to the shared boundary and due west which would result in overshadowing and overlooking of both the habitable room which has a large west facing window onto the boundary and the garden area.
- 7.2.2. Overshadowing:
- 7.2.3. It is submitted that the proposed height of development remains excessive and will cast a shadow over the garden area denying current hours of early evening use and enjoyment. This can be up to 8pm. The developer makes the case that the

detached dwelling has been scaled down as compared to the town houses previously proposed. The set back is also increased.

- 7.2.4. While there will be some overshadowing of the garden for example on 21st September at 1600hrs and on 21st June at 1800hrs, the west facing window in the extension of no.36 and intervening patio area are not subject of overshadowing at these times.
- 7.2.5. As part of the grounds of appeal the applicant has submitted revised designs which omits the pitched roof and while the shadow analysis demonstrates that there is limited change in shadowing at critical times, sky views from the extension of no.36 will be considerably enhanced by virtue of the reduced height and bulk. I note that the previously proposed townhouses were more forward and closer no. 36 and the forge and that building had a gable wall of c. 7.8 metres in height and 12.7 metres in length and set back from the shared boundary by 1.2 metres. That was considered to be overbearing in nature. Whereas in this case the modified proposals show a parapet height of 7m and a depth of 11.7m. Most significantly it is now set back at 2.15m from the shared boundary which is spacious enough to provide for planting along the boundary - subject to larnrod Eireann restrictions along the northern boundary. This will considerably soften the otherwise blank gable view.
- 7.2.6. I note that the large west facing picture window to the rear of no.36 is part of an extension to the rear of the original double fronted bungalow, the façade of which enjoys a relatively uninterrupted southerly aspect. I do not consider it reasonable to unduly restrict development in order to maintain full sunlight as exists to the extended rear of the house. It is inevitable there will be a degree of overshadowing - it is evident by virtue of the orientation and in the shadow analysis that any development higher than the site boundary with no.36 and in close proximity to it will give rise to a degree of shadowing in the garden. However the proposal will not be at a level that would result in substandard development and would be within acceptable limits. The siting of the houses as revised to the rear maximises the penetration of sunlight to the house and curtilage as compared to the alternative of for example of extending the town houses or building over the garage extension that is to be demolished as part of the development. I consider there is capacity for some latitude in accommodating development to the rear. I am satisfied that the

development will not have a materially adverse impact on the residential amenities of this dwelling by virtue of overshadowing and overbearing impacts.

#### Overlooking:

- 7.2.7. With respect to overlooking, the proposal has been modified by way of increased set back and by remodelling the façade to ensure windows are blinkered and angled away from the site. The Planning authority accepts this to address overlooking. I concur and I do not consider overlooking to constitute grounds for refusal. The layout is such that there is no directly opposing structure or windows directly west of the picture window in the extension that is highly valued by the residents. The first floor south facing windows in the proposed façade are at an oblique angle.

#### General

- 7.2.8. In terms of overall impact, consideration should also be given to the fact that this is a lower density of development than could potentially be permitted, however, to achieve a density approaching 50/ha while setting back from boundaries would be likely to result in a disproportionately higher scheme with potential for more overlooking and perhaps communal space adjacent to no.36.
- 7.2.9. Consideration should also be given to the overall positive impact on residential amenity by reason of the change of use from a commercial garage to a relatively low density development that is commensurate with the character of the area. On balance I consider the proposal to constitute a positive development for the area and to be consistent with the proper planning and sustainable development of the area.

#### **7.4 Private Open Space**

- 7.4.1 The proposed open spaces for the 3 houses at 75 sq.m. 73 sq.m and 72 sq.m. are considered by the planning authority to fail to comply with development plan standards. In the revised plans the omission of the attic level reduces the houses to 4 bedrooms. Aside from the constraints of facilitating the conservation and adaptation of the heritage building on site, I consider there are other factors that permit a relaxing of a moderate breach of quantitative limits on open space. Firstly all three houses back onto the railway line which is adjoined on its far side by a road and accordingly there is an open aspect to the rear. The house with 72 sq.m. to the

rear also has a front garden area that is has the potential to be semi-private due to its location and size and this provides attractive opportunities given its southerly orientation. Similarly the house with 75sq.m has a similar front garden but is more exposed. In overall terms I consider the open space provision to be adequate for this scale and density of development. A condition restricting exemption of extensions will help regulate the quality of the development and protect open space.

## **7.2 Boundary treatment and Landscaping**

- 7.2.10. The planning authority notes that the owners of no.36 are not in agreement with a 2m high wall. I note the fence at present is not a suitable long-term boundary and it is reasonable that the applicant construct a boundary wall in keeping with the development and which will have benefits to both parties. Issues of conflict in this regard are civil matters. A 2m boundary with no. 36 is a substantial boundary treatment and it should where publicly viewed be rendered and capped. This is fairly typical in housing developments. A condition of permission should however allow some adjustment as may be required between the neighbouring parties, subject to it not amounting to a material change such as a height exceeding 2m along the side boundaries and not exceeding 2.4m in height alongside the railway line.
- 7.2.11. I also recommend that conditions be attached that provide for agreement with Iarnrod Eireann regarding boundary treatment in relation to trees and structures that may potentially impact on the operation and safety of the railway. A restriction on extensions is also appropriate in this context.

## **7.3. Other matters**

- 7.5.1 By reference to the current Development Plan standards and the site location relative to public transport and local village facilities, I consider the car parking to be adequate. I note the report from the Transportation Planning Department following the submission of further information and that there are no objections subject to fairly standard conditions. These I consider should be attached. The planning authority has requested specific drainage conditions and similarly these should be attached.

## **7.6 Appropriate Assessment**

7.6.1 Having regard to the nature and scale of the proposed development, a modest infill residential development on serviced land within an established urban area, and the distance to the nearest European site, 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

8.1 I recommend that permission be granted for the proposed development based on the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the zoning objective for the site in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and to the provisions for protecting architectural heritage and providing for infill development it is considered that the proposal, 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 seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on 20<sup>th</sup> day of June 2020 and as modified by the further plans and particulars lodged with appeal to An Bord Pleanála on the 16<sup>th</sup> day of July 2020, 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. All of the parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** in the interest of sustainable transportation.

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

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

5. Prior to commencement of development, the applicant shall submit to the planning authority a letter of consent from Iarnrod Eireann Infrastructure in respect of compliance with health and safety requirements in relation to structural, landscaping and site works.

**Reason:** In the interest of public safety and protection of public transport infrastructure.

6. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, shall be

erected on the site/within the rear garden area, without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling and in the interest of the amenities of the area.

7. 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. In this regard the following shall apply:

a) Prior to commencement of development the applicant shall submit to the planning authority for its written agreement a revised surface water drainage proposal which incorporates local infiltration of surface water from the development or submit a SI report and results confirming why this is not feasible.

b) Prior to commencement of development the applicant shall submit to the planning authority for its written agreement a revised surface water drainage proposal which provides interception/treatment for the hardstanding and roof s as per the requirements of GDSDS and in accordance with the SUDS Manual (CIRIA C753)

c) Prior to the commencement of development the applicant shall submit to the planning authority for its written agreement a revised surface water drainge proposal which ensures the attenuation system and access manholes are located appropriately in communal areas to allow for ease of maintenance and foul connections are not routed through the system. Adequate cover and protection shall be provided for the attenuation system and evidence of this shall be provided by a competent structural engineer. All details to be included in the surface water layout.

**Reason:** In the interest of public health.

8. The developer shall facilitate the industrial heritage appraisal of the site and shall provide for the presentation, recording or otherwise protection of industrial heritage

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 commencement of any site operations (including stripping of topsoil and hydrological or geotechnical investigations), and

(b) employ a suitably-qualified and experienced industrial heritage professional to assess the site and monitor all site development works. The assessment shall address the following issues:

(i) the nature and location of industrial heritage material on the site, and

(ii) the impact of the proposed development on such industrial heritage material.

A report, containing the results of the assessment, shall be submitted to the planning authority. Arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further industrial heritage requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

**Reason:** In the interest of industrial heritage, to secure the preservation (in-situ or by record) of any remains of industrial heritage merit that may exist within the site.

9. The site shall be landscaped, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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 order to screen the development and to safeguard the operation of the adjoining railway infrastructure.



10. Prior to commencement of development the applicant shall submit the following for the written agreement of the planning authority:

- a) Detailed drawings of car parking allocation for all dwellings on the site (as outlined in blue) i.e. including the refurbished townhouse in the old forge .
- b) Revised elevation drawings for the proposed vehicular entrance treatment demonstrating all existing and proposed level.
- c) Details of road safety signage.
- d) Details, following consultation with the Roads Maintenance and Roads Control Section, for the dishing and strengthening of the footpaths fronting the development and associated adjustment to any public utilities infrastructure which shall be carried out at the applicant's own expense.

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

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

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

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

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

13. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge.

14. Public lighting shall comply with the detailed standards of the planning authority, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

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

Prior to commencement of development, a detailed plan and elevation drawings of all boundary treatment shall be submitted to, and agreed in writing with, the planning authority

15. Site development and building works shall be carried out only between the hours of 0700 and 1900 Mondays to Fridays inclusive, between 0800 and 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.

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

16. 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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**Suzanne Kehely**  
**Senior Planning Inspector**

**28<sup>th</sup> April 2021**