



An
Bord
Pleanála

Inspector's Report ABP-309383-21

Development

The demolition of 'Rusheen' a detached house and the construction of 14 residential units in the form of three houses and eleven apartments.

Location

'Rusheen', Westminster Road,
Foxrock, Dublin 18.

Planning Authority

Dun Laoghaire-Rathdown County
Council

Planning Authority Reg. Ref.

D20A/0830

Applicant(s)

Kevin Loughnane

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Observers

Marston Planning Consultancy on
behalf of Malcolm Craigg and others

JFOC Architects on behalf of Rosa,
Jimmy and Alison Chan

Niall & Maeve Pelly

Date of Site Inspection

21st April 2021

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site comprises of a large, detached, two-storey house known as 'Rusheen' and which is located on a site with a stated area of 2,446 sq m on the southern side of Westminster Road, Foxrock, Dublin 18. Westminster Road is located to the eastern side of Foxrock village and connects to the N11 to the north east. This section of Westminster Road is characterised by detached houses of different designs/ types located on generous sites.
- 1.2. There are two main sections to the site; Rusheen and its garden and to the south/ rear is a tennis court on an east west axis. To the front/ north east of the house is a detached garage. The rear garden is landscaped to a high quality and the tennis court is screened from view by mature vegetation/ fence. A small shed/ water tanks are located to the south west of the site.
- 1.3. Although Westminster Road is served by Go Ahead route 63A and the site is less than 80 m from the relevant bus stops, this route only operates once a day in each direction between Kilternan and Dun Laoghaire. High capacity/ frequency public transport is available on the N11, with stops between 800 m and 850 m from the subject site. Dublin Bus routes 145 and 155 provide an off-peak frequency of every 6 to 8 mins between Bray and Dublin City Centre.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - The demolition of 'Rusheen', a detached, two-storey house with a stated floor area of 281.6 sq m and an ancillary garage with a stated floor area of 37.4 sq m. Also, the demolition/ removal of small sheds in the rear garden. Rusheen is located within the Foxrock Architectural Conservation Area (ACA).
 - The construction of a residential development consisting of three, two-storey, three-bedroom houses.
 - A three storey over basement apartment block of 11 units consisting of:
 - Two, one-bedroom units
 - Eight, two-bedroom units

- One, three-bedroom unit.
- The total of 14 units would provide for a density of 57 units per hectare.
- New vehicular entrance onto Westminster Road and closure of the existing entrance.
- A total of 19 no. car parking spaces and 14 no. bicycle parking spaces.
- All boundary treatments, landscaping, cycle parking shelter, bin storey and all ancillary site works.

A significant amount of supporting documentation has been provided with this application such as a Lighting Report, Design Statement, Planning Report, Engineering Services Report, C&D Waste Management Plan, Architectural Heritage Impact Assessment & Photographic Survey, Arboricultural Assessment, Landscape Rationale and Site Specific Flood Risk Assessment.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse permission for the development subject to two reasons as follows:

1. 'The proposed development would be premature by reason of an existing deficiency in the existing provision of sewerage facilities, pending the upgrade of the existing Irish Water foul drainage network for which there is no defined timeframe for the commencement of the necessary improvement works. The connection of the proposed development to the current foul/combined drainage system would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development by virtue of the demolition of 'Rusheen' (original house from 1905) and its replacement with an unsympathetic apartment block of excessive bulk and mass and sited in most visually prominent and sensitive portion of the site in terms of its contextual setting within the ACA together with the new wider vehicular entrance and loss of vegetation to the front of the proposed apartment block along Westminster Road, as well as the removal of

Category A trees across the site would result in significant negative effects on the special character of the Foxrock Architectural Conservation Area contrary to development Plan policies AR8, AR12 and AR13 of the County Development Plan 2016-2022’.

The following note was included with the reasons for refusal:

‘The Planning Authority notes several other issues have been raised in the above planning report including around the disposal of surface water effluent, flood risk management, the siting of cycle parking and sufficiency of waste storage provision. These issues should be addressed in any re-submission/appeal of these/ similar proposals’.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Report reflects the decision to grant permission. In addition to a deficiency in the foul drainage network and the impact on the Foxrock Architectural Conservation Area, concern was expressed about surface water drainage/ flood risk assessment, the location of car parking/ cycle parking and in relation to refuse storage capacity on site.

3.2.2. Other Technical Reports

Conservation Officer: Refusal recommended due to the negative impact, of the demolition of Rusheen and construction of an apartment block, on the Foxrock Architectural Conservation Area (ACA). The proposed development does not enhance the special character of the ACA and would negatively impact on its architectural integrity and character.

Transportation Planning: Further information requested in relation to a revised site entrance, revised car/ bicycle parking details, provision for electric vehicle charging, provision of a motorcycle space and a visitor parking space.

Parks and Landscape Services: Further information requested in relation to the provision of a detailed tree survey, a tree constraints plan, arboricultural impact

assessment, tree protection plan and arboricultural method statement. Also, there is a need for a landscaping plan – for both soft and hard landscaping.

Housing Department: No objection subject to condition.

Municipal Services Department - Drainage Planning: Further information requested in relation to the proposed surface water drainage system and in relation to the submitted Site Specific Flood Risk Assessment (SSFRA) and in particular to detail what would happen if there were blockages in the system.

Environmental Health Officer: Further information requested in relation to bin storage/ provision, need for a demolition management plan and construction management plan.

3.2.3. **Prescribed Bodies Reports**

Irish Water: Report that there are significant wastewater network constraints in the foul sewer which the development is proposed to connect to. Further information is requested.

3.2.4. **Objections/ observations**

A number of letters of objection were received including from Foxrock Area Community & Enterprise (FACE), from Marston Planning Consultancy on behalf of named residents, from JFOC Architects on behalf of named residents, and individual members of the public.

Issues raised, in summary, include:

- The development would have a negative impact on the character of Foxrock.
- It is contrary to the current development plan.
- The area is characterised by low density development dating from the 1860s onwards. Houses are large, single-family units on generous sites in a sylvan setting of mature trees and vegetation.
- The area is described as ‘Arcadian’.
- The area will be negatively impacted upon by excessive traffic and ‘attendant development pressures’.

- Permitted development at 'Voewood', located to the south/ south west of the site, has not been adequately considered in the subject application.
- Insufficient justification for the demolition of the house and for the removal of trees on site.
- It is considered that the site could be developed, and the house could be retained in its entirety.
- The design of the development is out of character with the existing form of development in the area.
- Contrary to the 'Architectural Heritage Guidelines'.
- The height of the apartment block is out of character with the established form of development in the area.
- Concern about overlooking leading to a loss of privacy of neighbouring properties.
- No Visual Impact Assessment has been included with the application.
- Potential negative impact on property values in the area.
- Negative impact on flora and fauna – no Ecology Impact Assessment has been provided in support of the application.
- Potential traffic safety issues due to the proposed road access.
- The density of housing in excess of 50 units per hectare is excessive.
- Insufficient communal open space to serve the future residents.
- Concern about connection to the existing foul drainage network as other developments could not be connected due to capacity issues.
- Floor area of each unit is close to the minimum acceptable level.

4.0 Planning History

None recorded on the subject site.

Adjacent sites:

P.A. Ref. D20A/0149 refers to a July 2020 decision to grant permission for a new single storey entrance porch to side and new single storey dining room extension

to side and rear of 'Voewood', Hainault Road, Foxrock; new glazed roof lights to existing roof; revisions to window opening to provide new corner window to rear and side elevation at ground floor level to family room; existing boiler room to rear to be re-roofed and extended. At first floor level revision to existing window openings to master ensuite and new landing; new window to master ensuite on side elevation. Existing garage to be extended and modified to provide games room with wc and garden store, comprising part altered roof with raised ridge height to front and new window to rear; revisions to existing entrance gate comprising setback of gates with new gate piers along with ancillary site works. 'Voewood' is located to the south/ south west of the subject site.

P.A. Ref. D14A/0636 refers to a February 2015 decision to grant permission for the construction of a proposed 1 no. two storey, part single storey detached dwelling, provision of new vehicular entrance onto Westminster Road with associated set back piers and gates, new connections to all services, including public foul and surface water drainage pipes and associated site works, at a site fronting onto Westminster Road, adjacent to Rusheen, Westminster Road and formerly part of the garden of the house on the western boundary of the site at Westminster Road, Foxrock, Dublin 18

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A, 'To protect and/ or improve residential amenity'. Residential development is listed within the 'Permitted in Principle' category of this zoning objective.
- 5.1.2. The site is located within the Foxrock Architectural Conservation Area (ACA).
- 5.1.3. Chapter 6 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to Archaeological and Architectural Heritage. Policy AR12: Architectural Conservation Areas, is relevant:

It is Council policy to:

- i. 'Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA).
- ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.
- iii. Seek 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.
- iv. Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.
- v. Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture'.

Policy AR13: Demolition within an ACA, is also relevant:

'It is Council policy to prohibit the demolition of a structure(s) that positively contributes to the character of the ACA.

Any such proposals will be required to demonstrate that the existing building is incapable of viable repair and reuse and should be accompanied by an Architectural Heritage Assessment, photographic survey and condition report. (Refer also to Section 8.2.11.3)'.
'(i) New Development within an ACA

5.1.4. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development'.

- Section 8.2.4.9 refers to 'Vehicular Entrance and Hardstanding Areas'.
- Section 8.3.11.3 refers to 'Architectural Conservation Areas'.

The following is relevant:

'(i) New Development within an ACA

A sensitive design approach is required for any development proposals in order to respect the established character and urban morphology. Where development is appropriate, contemporary design is encouraged that is complementary and

sympathetic to the surrounding context and scale. All planning applications for development within an ACA shall have regard to the following criteria:

- All developments within an ACA should be site specific and take account of their context without imitating earlier styles. New developments should normally be 'of their time' and to the high standards of design with contemporary design encouraged. 'Pastiche' design should normally be avoided.
- Demolition of structures that contribute to the streetscape character will not normally be permitted. Where demolition is proposed a key consideration is the quality of any replacement structure and whether it enhances/contributes to the ACA.
- Where proposals include modifications and/ or alterations or extensions affecting structures within an ACA, these should be designed and sited appropriately and not be detrimental to the character of either the structure or its setting and context within the ACA'.

5.1.5. Appendix 4 refers to 'Record of Protected Structures/ Record of Monuments and Places/Architectural Conservation Areas'. Foxrock is listed as an ACA.

5.2. Guidelines

- Architectural Heritage Protection - Guidelines for Planning Authorities (2011, DoAHG)
- 'Urban Development and Building Heights - Guidelines for Planning Authorities' – (DoHPLG, 2018)
- 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' (DoHPLG, 2020)
- 'Design Manual for Urban Roads and Streets' (2013)
- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual') (DoEHLG, 2009)
- 'Quality Housing for Sustainable Communities' (DoEHLG, 2007).
- 'The Planning System and Flood Risk Management' including the associated 'Technical Appendices' (DEHLG/ OPW, 2009).

5.3. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant has engaged the services of IMG Planning to appeal the decision of Dun Laoghaire-Rathdown County Council who decided to refuse permission for this development.

The following comments are made in support of the appeal:

- Details are provided of the subject site and of the proposed development.
- An assessment of the Planning Authority report is made, and the comprehensive nature of the report is acknowledged. Reference positive points made in the report.
- Reject the reasons for refusal as issued by the Planning Authority.
- The first reason for refusal refers to the deficiency in the existing provision of wastewater facilities. A positive response was received from Irish Water in the form of a pre-connection enquiry. Notes the report submitted to the Planning Authority and identifies a number of discrepancies in it.
 - The proposed for surface water disposal is to discharge attenuated/ treated surface water to an existing storm culvert traversing the site and not to be discharged to the combined foul/ wastewater collection system.
 - The issue of capacity is at odds with the response received in the pre-connection enquiry response from Irish Water.
 - The Irish Water Report requested further information from the applicant.
 - The applicant has contacted Irish Water following the issuing of the decision to refuse permission for this development. No response had been received prior to the lodging of the appeal.

- The applicant is willing to accept a condition that a connection agreement be entered into with Irish Water prior to the commencement of development.
- The second reason for refusal refers to significant negative impacts on the Foxrock Architectural Conservation Area.
 - The decision to refuse permission relies on the Conservation Officer's report.
 - Full regard was had to Policy AR12 at all times.
 - The following comment is made: 'Protection of the historic environment should not be about the retention of every element of minor historic significance, rather it should be about managing any proposed change in a positive and progressive way. Any proposal for change should therefore enhance rather than diminish the historic environment within which it is located'.
 - Note that the council do not favour pastiche development but prefer contemporary design. The design is modern and fits well into its setting.
 - A tree survey was undertaken by Doirin Tree Care and was submitted with the application. Most trees will be retained, especially around the boundary of the site.
 - An Architectural Heritage Assessment was included with the planning application.
 - The development is in accordance with Development Plan policies and objectives in relation to residential development.
 - The removal of the later additions to Rusheen would result in 'a modest Arts and Crafts style house of only 120 sq.m. that occupies a prominent location in the centre of the site'. The unit does not comply with current room standards. Similarly, it will not comply with the current Building Regulation Standards. When this house was extended about 40 years ago, 'the extension was three times the size of the original house'.
 - Rusheen is not listed on the record of protected structures and has not 'been identified as an exemplar of early twentieth century buildings'.

- A number of reasons are presented to justify the demolition of Rusheen: It is not a protected structure, the original gate lodge has been extended which loses its character, it is a small unit on a large site, important features are limited and are not exceptional or unique, the building would require extensive work to bring it up to current standards.
- The proposed apartment block is considered to be acceptable in this location. There is no established building line along Westminster Road and it was considered appropriate to follow the building line of the newly constructed house to the west of the site.
- Other issues raised include the pattern of development, the proposal is considered to be acceptable in relation to this.
- It was proposed that 19 out of the 34 trees on site be removed. Revised details in support of the appeal including the retention of the existing vehicular entrance will result in the retention of seven additional trees. Compensatory planting is proposed. The revision to the site layout will reduce the area of the communal open space, but which will still represent 11.4% of the site area.
- In addition, three parking spaces will be removed, and two additional spaces will be provided elsewhere on site, a net reduction of one parking space.
- A number of precedents are referred to in the area – ‘Kilmantain’, ‘Carrigmore’ and ‘Weavers Hall’.
- The rationale for the development is provided.
- The applicant addresses some other issues raised in the Planning Authority Case Officers Report:
 - The entrance to the site is to be relocated to the existing entrance and is to be 4.8 m wide, which is in accordance with DMURS.
 - A visitor parking space can be provided by way of condition and suitable signage on site.
 - The three parallel spaces can be increased in width from 2 m to 2.4 m. The internal road will be reduced from 4.8 m to 4.4 m but should be reduced to 3.7 m as a traffic management measure.

- Electric Vehicle parking can be accommodated on site.
- A motorcycle parking space has been accommodated on site.
- Revised bicycle parking has been provided on NODE architects Drawing no. 19115_AP_1-02 – Site Plan, submitted in support of his appeal.
- Issues in relation to drainage can be addressed by way of condition.
- Culvert details were provided in the application and additional information can be provided.
- Full details in relation to surface water drainage, attenuation, green roofs and Qbar rates can be addressed by way of condition.
- Details in relation to flooding (blockage/ partial blockage of the proposed surface water drainage system) can be addressed by way of condition.

Additional correspondence, 3D imaging, site plan and road layout have been provided in support of the appeal.

6.2. Planning Authority Response

The Planning Authority submitted a detailed response to the appeal. They consider 'that the decision made stands'. Additional comment is made on the Grounds of Appeal No.1 by the applicant, summarised as follows:

- Acknowledgement is made of the apparent contradictions of the Irish Water pre-connection enquiry and the report of Irish Water made to the Planning Authority. However, the Planning Authority decision was made on the basis of available information including documentation from Irish Water dated 16/12/2020, other decisions in the area and knowledge of capacity constraints in the area.
- In the absence of a clear timeframe for the upgrading of the network, it is considered that the development is premature.
- The provision of a condition to address these matters would not be appropriate as the upgrade may require further works to be carried out.
- The Drainage Section have provided a report (Dated 24th February 2021) restating concerns about the proposed development and the applicant has failed to address these matters in the appeal. Advise that it would be appropriate for

An Bord Pleanála to engage with Irish Water in relation to these issues. A list of conditions is provided in the event that permission is granted.

- The revisions made in support of the appeal are noted and the Planning Authority consider it to be appropriate that a new application be made allowing for third party comment. A number of issues raised in the Planning Authority Case Officers report have not been addressed such as potential impact on bats.
- The two reasons for refusal – prematurity due to a deficiency in the foul drainage network and negative impact on the Foxrock Architectural Conservation Area, are restated by the Planning Authority.

6.3. Observations

A number of observations have been received opposing the proposed development. Support is provided for the decision of Dun Laoghaire-Rathdown County Council.

Issues raised include the following:

- The development is located within the Foxrock Architectural Conservation Area and would be out of character with the existing form of development in this area.
- The development would set an undesirable precedent for similar developments in the area.
- The density is proposed is high even though the site is restricted and is somewhat distant from the nearest QBC/ Luas stop.
- The proposed development includes the demolition of ‘Rusheen’ an historic gate lodge associated with the Kilteragh estate.
- Reference to existing precedents is not appropriate as the situation was different in these cases.
- Potential congestion due to the road layout/ site entrance.
- There is a deficiency in the foul drainage network in the area – refers to similar applications where this issue was raised.
- The proposed units just meet minimum standards.
- The loss of trees will be significant.

- Potential impact on neighbouring properties in terms of overbearing impact and overlooking.
- The development may reduce the potential for redevelopment of adjoining sites.
- Potential negative impact on trees/ hedgerow in adjoining sites.
- Concern about the surface water drainage proposal to serve this site and the flood risk assessment.
- The development provides the demolition of the existing house and the removal of trees, revisions to entrance etc. All these measures will negatively impact on the setting and the character of the Architectural Conservation Area (ACA).
- Buildings can have a local importance even though they are not listed on the Record of Protected Structures.
- The development is contrary to the Architectural Heritage Protection Guidelines.

7.0 **Assessment**

7.1. The main issues that arise for assessment in relation to this appeal can be addressed under the following headings:

- Principle and Nature of Development
- Design and Impact on the Character of the Area
- Residential Amenity of Future Occupants
- Impact on Existing Residential Amenity
- Transportation
- Water Supply and Drainage
- Other Issues
- Appropriate Assessment Screening

7.2. **Principle and Nature of Development**

7.2.1. The proposed development consists of the demolition of 'Rusheen' a detached two-storey house, the demolition of a garage and ancillary units and the construction of three house and eleven apartment units in a single block.

- 7.2.2. The site is zoned 'A' for residential development and the provision of additional residential accommodation in an urban, serviced area is generally acceptable in principle.
- 7.2.3. I note the revisions submitted by the applicant in support of the appeal and I also note the additional comments made by the Planning Authority and the Drainage Section in response to the appeal. The comments raised in the observations support many of the points of the Planning Authority report.

7.3. Design and Impact on the Character of the Area

- 7.3.1. There is little doubt that the development will have a significant impact on the established character of the area. First, through the removal of Rusheen, secondly the removal of existing trees on site and thirdly through the provision of an apartment block on this site.
- 7.3.2. I note the comments made in the planning application and the appeal regarding Rusheen. I accept that it has been significantly extended over time and is not listed on the Record of Protected Structures. From the site visit, it was apparent that it adds to the character of this section of Westminster Road. I note the detailed report of the Planning Authority Conservation Officer and I agree with the points made. It is clear that it is more than just the house that sets the character of the area, it is the associated trees/ planting and the positioning of the entrance to the site. The house though is an important feature and perhaps it is the modern extensions to it that strengthen its setting on the streetscape.
- 7.3.3. The loss of these elements would erode the character of the Foxrock Architectural Conservation Area. The area is primarily characterised by detached houses on generous sized sites. The existing use and layout achieves this. I accept that the site is relatively large and has potential for the provision of a greater number of units, however the development potential of the site is limited by the ACA and the need to protect the character of the area. My assessment of this site is that it is not Rusheen itself that is important, but it is the whole 'package' including the layout, the trees, the front boundary and the site entrance. The proposed development would remove or significantly affect these features to the detriment of the ACA and the character of the area.

- 7.3.4. The Planning Authority noted that a number of trees would be lost in this development and the applicant through the revised layout design submitted in response to the appeal, reduced the number of trees to be removed. However, the likes of tree no. 325 and 326 would be removed to facilitate the development of the houses and these are listed as Category A trees. The loss of Category A trees is of particular concern.
- 7.3.5. The proposed apartment block is considered to be of an attractive design and provides for a high quality of design. The mix of stone cladding, brick finish and terracotta tiles will provide for a high quality and long-lasting finish. The massing of the building is broken up through the mix of materials and the use of recessed/ projecting elements in the elevations. Whilst I consider the design to be of a high quality, I do not consider it to be appropriate in this location. The apartment block will form the public face onto Westminster Road and again, combined with the revised boundary treatment, entrance arrangement, car parking to the front of the site and loss of trees, there will be a significant adverse impact on the visual amenity of Westminster Road. Unfortunately, the development does not stand out from any other infill development of this nature.
- 7.3.6. The proposed houses to the rear of the site are of a contemporary design and again are out of character with the area as they appear as a terrace of these houses. However, they are not easily visible from the front of the site and they do not impact on the visual amenity or on the Architectural Conservation Area.
- 7.3.7. I accept that the site is constrained by the number of trees and that any increase in unit numbers will require the loss of trees. I do not accept that the planting of trees as a compensatory measure is acceptable as the location of these will not restore the current visual appearance, which would be adversely affected by the development. The revised layout, submitted in support of the appeal, does not go far enough in addressing these issues of concern.
- 7.3.8. I therefore consider that the development should be refused permission due to the negative impact it would have on the Foxrock Architectural Conservation Area and would set an undesirable precedent for similar developments along Westminster Road, thereby eroding the established character of the area.

7.4. Residential Amenity of Future Occupants

- 7.4.1. The proposed houses will provide for a high quality of residential amenity. Room sizes and floor areas meet all requirements. These houses are provided with good quality storage at ground and first floor levels. Private amenity space, which is south facing, exceeds the minimum requirements for units of this type. Each house is provided with two car parking spaces, within the curtilage of the individual site and which are easily accessible.
- 7.4.2. The single apartment block will provide for a total of 11 apartments in the form of two x one bed, eight x two bed and one three-bedroom unit. Four units on each of the ground and first floors are proposed and three units to be provided on the second floor. Room sizes are generally acceptable. Storage is provided in the form of dedicated areas within the floor plan and within an area of the basement level. A single lift and stairwell provide access to all of the floor levels including to the basement. This provides for good access to the basement storage area. An advantage of the basement storage is that it is more likely to be used as a store; the dedication of a small room of less than 3.5 sq m as a store, often means that its primary function for storage is overtaken by another use. Utility rooms are often taken up with washing machines, freezers, dryers etc. and cannot be used for the intended storage function.
- 7.4.3. All units are provided with private amenity spaces. Six out of the eleven units are dual aspect. No shared facilities such as laundry room or office space is provided to serve the future residents of this apartment block.
- 7.4.4. I note that an area of communal open space has been provided to serve the residents of this development. The entrance to the apartments is from the southern side of block and therefore provides for direct/ easy access to the open space. This is appropriate. The open space exceeds the required 10% of the site area and although a small space at 300 sq m as submitted/ 276 sq m as revised, it should be sufficient to serve the residential needs of the occupants of the houses/ apartments.

7.5. Impact on Existing Residential Amenity

- 7.5.1. I do not foresee that the development will give rise to significant overshadowing leading to a loss of daylight/ sunlight. The location of the apartment block has been carefully considered to address this issue. Some overshadowing from the proposed

houses onto the property to the east/ Derreen is possible but this will be limited to late evenings and for a short period of time.

- 7.5.2. The use of recessed balconies in the apartment block will address issues of concern in relation to overlooking. A 1.7 m high louvred screen along the north east elevation will address most issues of overlooking from this side of the second floor. Windows in the side elevations are proposed to serve bathrooms and will not therefore give rise to overlooking leading to a loss of privacy of the adjoining properties to the east and west.
- 7.5.3. Concern was expressed about the impact on third party lands. The removal or impact to trees on a third-party site is a legal issue and is outside of the remit of the Board. I do not foresee that the submitted application would prevent development on adjoining lands, however full regard would have to be taken as to the impact on the ACA.
- 7.5.4. Excessive density was raised in the observations. The density at 57 units per hectare is high considering the distance to high capacity/ frequency public transport. Public transport provision is poor in this part of Foxrock, primarily due to the low-density character of the area. Overall, whilst noting the density, this is a development of 14 units and is unlikely to impact on the existing/ available service provision in the area such as for schools, childcare, retail etc.

7.6. Transportation

- 7.6.1. The relocation of the entrance to the site was raised as an issue of concern, primarily on the basis of negative impact to the ACA. I do not foresee any issue about being able to provide a suitable entrance to the site from Westminster Road. The Dun Laoghaire-Rathdown Transportation Planning Section have sought an entrance of between 5 and 5.5 m; the revised entrance submitted in support of the appeal is only 4.8 m between pillars. This can be widened by condition but will impact further on the front boundary.
- 7.6.2. In addition to the site entrance issue, the Transportation Planning Section raised a number of issues in their report. Visitor parking space, bicycle parking, electric vehicle charging spaces and motorcycle parking can all be addressed by way of condition.

- 7.6.3. The applicant did make some alterations to the layout of the site to address these issues, however I would have concern about the implications of some of these measures. The increase in width of the parallel parking spaces from 2 m to 2.4 m, result in a reduction in the width of the adjacent access road to 3.7 m. The applicant suggests that this is of benefit in terms of traffic management. I fail to see the advantage in this as the road only serves the three houses and the parking spaces adjacent to the open space. Road speeds would be low anyway and I would be concerned that emergency access to the houses could be impeded by the reduced width of road here. On the other hand, some of the bicycle parking areas are very close to the access road and may put cyclists at risk when parking/ retrieving their bicycles.
- 7.6.4. I am uncertain as to the quality of pedestrian access within the site. Gravel surfacing for the roads may impact on wheelchair and buggy users. This is an issue that can be addressed by way of condition.

7.7. Water Supply and Drainage

- 7.7.1. Irish Water did not report any concerns regarding the provision of a water supply to serve the development. The development is in an established urban area and which is served by a public water supply.
- 7.7.2. Foul drainage capacity/ deficiency was listed as a reason for refusal. I note the comments of the applicant in relation to the pre-connection enquiry with Irish Water and which appeared to be positive towards the development. I note that the correspondence dated the 12th of November 2019, was for 13 units. This letter from Irish Water appears to be a standard letter that is issued when services are in place in an area. There are disclaimers in the letter and the applicant would be aware of these.
- 7.7.3. I accept that the applicant would be disappointed with the decision as issued by Dun Laoghaire-Rathdown County Council and which appears to be supported by the Irish Water report. From the available information, there is a foul drainage capacity constraint in the area and which a study is underway to determine the issues. This will identify what upgrades are required. The Drainage Section provided some additional detail on this in their response to the appeal. The pre-connection enquiry was made over a year before the application was made, there are known constraints

in the network and there is no timeframe for the completion of the necessary upgrades. It is possible that a significant upgrade/ increased capacity, could give rise to further issues such as the need to upgrade existing pipes, provide additional pumping etc.

7.7.4. Overall, there is no information available as to the extent of works required and more importantly, for the applicant/ Planning Authority, no completion date has been provided. I therefore consider it appropriate that permission be refused due to a deficiency in the foul drainage network and permitting the development may be prejudicial to public health.

7.7.5. Surface water drainage is not adequately addressed either. There are a range of issues that require addressing by the applicant and the Drainage Division have provided a list of suitable conditions in the event that permission is granted. I note the detail of these conditions and would be concerned that these matters could take some time to resolve. Third parties in addition to the applicant would require certainty as to what is permitted and what is required to enable the completion of this development. For example, the attenuation system and a culvert require a significant amount of detail to be provided. The need to demonstrate 'that the landscape proposals are compatible with the drainage proposals' would give rise to concern that a different scheme of landscaping may be provided rather than that proposed and submitted.

7.7.6. The comments regarding the Site-Specific Flood Risk Assessment are noted. The concern here is that the proposed surface water drainage system suffers a blockage, and that flooding may arise. This issue may be addressed by way of condition, but again I consider it appropriate that it be addressed before a decision is made so as to provide clarity for interested third parties.

7.8. **Other Issues**

7.8.1. Comment was made on the failure of the Planning Authority to request further information. The reasons for refusal do not appear to be resolvable through the application as submitted and to request further information would only delay and add to the cost of the application, without a positive result for the applicant. I note that all of the internal departments of Dun Laoghaire-Rathdown County Council, other than

the Housing Department, requested a significant number of points of further information that the applicant would be required to address.

- 7.8.2. I would be concerned also about the applicant's suggestion that items could be conditioned to be addressed prior to the commencement of development. The range of issues is extensive and as I have already reported, there would be no certainty for third parties as to what was permitted.
- 7.8.3. I would suggest that there is a need for a bat survey of this site, as referenced by the Planning Authority and an Ecological Impact Assessment (EclA) would also be advisable considering the quantity and quality of trees and vegetation. Although an urban area, the volume of trees that forms part of the character of Foxrock, is sure to provide habitation to a range of animals and birds.
- 7.8.4. I have no objection to the provision of an increased number of units on this site subject to the necessary improvements to the foul drainage network being completed. Any such development has to have regard to the character of the Foxrock Architectural Conservation Area and development should enhance rather than erode the ACA. The development as submitted fails to achieve this.

7.9. **Appropriate Assessment Screening**

- 7.9.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area, zoned for residential development, and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 **Recommendation**

- 8.1. I recommend that permission be refused for the following reason and considerations as set out below.

9.0 **Reasons and Considerations**

1. The proposed development would be premature pending the upgrade of the existing Irish Water foul drainage network, which is currently deficient and for which

there is no defined timeframe for the commencement of the necessary improvement works. The connection of the proposed development to the current foul drainage system would therefore be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of:

- a) the demolition of 'Rusheen' (original house from 1905) and its replacement with an unsympathetic apartment block of excessive bulk and mass and sited in most visually prominent and sensitive portion of the site in terms of its contextual setting within the ACA,
 - b) together with a new wider vehicular entrance and loss of trees/ vegetation to the front of the proposed apartment block along Westminster Road,
 - c) as well as the removal of Category A trees throughout the subject site,
- would materially affect the character of the Foxrock Architectural Conservation Area and would thereby seriously injure the visual amenities of the area. The proposal would be contrary to Objective AR12 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 which seeks to protect designated Architectural Conservation Areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Paul O'Brien
Planning Inspector

20th May 2021