



An  
Bord  
Pleanála

## Inspector's Report ABP-309761-21

### Development

The development of a 2.5 storey detached house and all ancillary site works. Also, a new vehicular entrance onto the existing access road and a proprietary sewage station and foul rising main connection to the public sewer on Brighton Road. The access road serving the site is located within the 'Foxrock Architectural Conservation Area'.

### Location

Rockfield, Brighton Road, Foxrock, Dublin 18.

### Planning Authority

Dun Laoghaire-Rathdown County Council.

### Planning Authority Reg. Ref.

D20A/0981

### Applicant(s)

Michael Curran

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission.

### Type of Appeal

First Party

**Date of Site Inspection**

19<sup>th</sup> May 2021

**Inspector**

Paul O'Brien

## 1.0 Site Location and Description

- 1.1. The subject site with a stated area of 0.323 hectares comprises of an almost rectangular shaped site located to the south eastern side of an existing laneway that provides access to a number of detached houses, which is located to the south western side of Brighton Road, Foxrock, Co. Dublin.
- 1.2. The site is undeveloped and is located to the western side of 'Rockfield', a detached single storey house, that was undergoing renovations/ extension on the day of the site visit. The site was overgrown with vegetation and the boundaries consist of a mix of timber post/ rail fencing and hedgerows. A temporary fence is located along the front of the site.
- 1.3. The access laneway is relatively narrow and the entrance onto Brighton Road is no wider than a driveway entrance to a single house. The site is approximately 1 km to the south east of Foxrock Village and approximately 1.2 km from Carrickmines Luas stop. Go-Ahead bus route 63A operates along Brighton Road, however this route only operates each direction once a day.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the following:
  - The provision of a new vehicular entrance onto an existing access road.
  - The development of a 2.5 storey detached house with a stated floor area of 434.55 sq m.
  - The provision of an on-site sewage pumping station and foul rising main connecting to the public system on Brighton Road.
  - All landscaping, boundary treatment and associated site works.

The applicant is supported by the following documents:

- Cover Letter/ Planning Report prepared by PD Lane Associates
- Traffic & Transport Statement by Martin Peters Associates – Consulting Engineers

- Engineering Services Design Report by Martin Peters Associates – Consulting Engineers
- Certificate of Exemption under Part V of the Planning and Development Act 2000 as amended.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to refuse permission for five 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 would result in the intensification of additional traffic exiting the laneway onto Brighton Road via the restricted shared (laneway) vehicular entrance and would endanger public safety by reason of a traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development would endanger public safety as a result of insufficient sightlines for additional traffic exiting the laneway onto Brighton Road. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. The proposed development would also set an unwelcome precedent for future intensification of use of a restricted vehicular access onto Brighton Road.
4. The proposed development is not considered to be of a sufficiently high density, as envisaged by the County Development Plan and Ministerial Guidelines in an area that is within around 1km of the Luas line. The

proposals represent an inefficient and unsustainable use of serviced, metropolitan lands, contrary to Policy RES3 'Residential Density' of the Dun Laoghaire Rathdown County Development Plan 2016-2022, and Section 5.8 of the Sustainable Residential Development in Urban Areas (DHPLG 2009) and are therefore contrary to the proper planning and sustainable development of the area.

5. The proposed development would constitute the piecemeal development of a site that is suitable for amalgamation with adjoining backlands, including backlands outside the Foxrock ACA. The proposals may thereby inhibit future prospects for the sensitive, infill development of under-utilised lands in a metropolitan area that is well-served by public transport at a sustainable residential density. The proposals are contrary to Section 8.2.3.4 Additional Accommodation in Existing Built-up Areas (vi) Backland Development of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and Objective 3B of the National Planning Framework and are therefore contrary to the proper planning and sustainable development of the area.

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

#### **3.2.1. Planning Report**

The Planning report reflects the decision to refuse permission for the proposed development. A deficiency in the local foul drainage network was identified and no timeframe for the upgrade of the system is available. In addition, traffic safety issues were raised – there is a history of such concerns on this access road, the density was considered to be too low and the development of this site would prevent a more comprehensive development of the area resulting in piecemeal development.

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

**Municipal Services Department – Drainage Planning:** No objection to this development subject to conditions in relation to surface water drainage.

**Conservation Report:** No objection to the proposed development subject to condition that the trees along the laneway be protected during and post the construction phases.

**Parks and Landscape Services:** Refusal recommended due to the negative impact on the character of this part of Foxrock, the development would negatively impact on trees in the vicinity of the site and insufficient detail has been provided in relation to the impact on existing trees.

**Transportation Planning:** Refusal recommended due to the potential impact on traffic safety, due to increased traffic, obstruction of road users and insufficient sightlines and due to undesirable precedent for similar development in the area.

### 3.2.3. **Prescribed Bodies**

**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**

None received.

## 4.0 **Planning History**

**P.A. Ref. D17A/0243** refers to an August 2017 decision to grant permission for the construction of a private foul pumping station and rising main to serve a total of 3 no. dwellings, 2 no. existing dwellings Rockfield & Torry & 1 no. proposed dwelling approved under the approved outline permission D16A/0258. The proposed rising main to connect to the existing public sewer. The works will include new gravity sewers from Rockfield & the proposed dwelling approved under the outline permission D16A/0258 and also the replacement of the existing septic tank at Torry to a single house sewage transfer station and all associated site works. Torry is the house/ site to the south west of the subject site.

**P.A. Ref. D16A/0258/ ABP Ref. 246839** refers to an October 2016 decision to grant outline permission for a house and all associated site works at 'Rockfield', Brighton Road, Co. Dublin – the proposed development to be located in the same location as the subject application/ appeal.

**P.A. Ref. D15A/0188** refers to a May 2015 decision to refuse permission for the demolition of an existing single storey dwelling, Rockfield (172 sq m) and associated outbuildings; re-alignment of boundary wall with Torry and the demolition of garden shed; erection of 4 no. five bedroom two storey dwellings (388 sq m each); reuse of gateway to existing access road; new internal access road/individual entrances; car parking; gardens; landscaping and all ancillary development works including SUDS drainage, pumped foul drainage, entrance improvement works at access road junction with Brighton road, improvement and minor intermittent widening/edging of existing access road; improvement of 2 no. existing passing bays and provision of 1 no. new passing bay. All works within the existing access road will be carried out to best arboriculture practices, with minor access road widening/edging and passing bay provision and improvement to be constructed with non-invasive permeable woodblock paving. Three reasons for refusal were given as follows:

1. The proposed development would result in the intensification of additional traffic exiting the laneway onto Brighton Road via the restricted shared (laneway) vehicular entrance and would endanger public safety by reason of a traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The existing laneway is located within the Foxrock Architectural Conservation Area and is lined with a number of mature trees, which form a significant feature in the area. This laneway is an integral landscape character feature of the Foxrock ACA and the proposed widening of the laneway would neither maintain nor enhance the special character of the sylvan character of the laneway and Foxrock Architectural Conservation Area and as a result, would contravene Policy AR8, Policy LHB11 and Section 16.9.2 of the 2010-2016 Dun Laoghaire-Rathdown County Development Plan, would set an unwelcome precedent and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed entrance improvement works at the laneway junction with Brighton Road, which propose an additional area of footpath behind the proposed kerb line, in order to satisfy the required sightlines for additional traffic exiting the laneway onto Brighton Road, would set an unwelcome precedent and would, therefore, be contrary to the proper planning and sustainable development of the area.

**P.A. Ref. D20A/0982** refers to a February 2021 decision to refuse permission for a 2.5 storey detached house & ancillary site development works including a proposed vehicular entrance onto the existing access road, site services including an individual on-site proprietary sewage pumping station & foul rising main to connect to the existing foul sewer on Brighton Road, demolition of existing garage/glass house, landscaping & boundary treatment. The existing access road/laneway is located within the 'Foxrock Architectural Conservation Area'. This is the site immediately to the south west of the subject site.

The following reasons for refusal were issued:

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 would result in the intensification of additional traffic exiting the laneway onto Brighton Road via the restricted shared (laneway) vehicular entrance and would endanger public safety by reason of a traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development would endanger public safety as a result of insufficient sightlines for additional traffic exiting the laneway onto Brighton Road. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
4. The proposed development would also set an unwelcome precedent for future intensification of use of a restricted vehicular access onto Brighton Road. The proposed development is not considered to be of a sufficiently high density, as envisaged by the County Development Plan and Ministerial Guidelines in an area that is within around 1km of the Luas line. The proposals represent an inefficient and unsustainable use of serviced, metropolitan lands, contrary to Policy RES3 'Residential Density' of the Dun Laoghaire Rathdown County Development Plan



2016-2022, and Section 5.8 of the Sustainable Residential Development in Urban Areas (DHPLG 2009) and are therefore contrary to the proper planning and sustainable development of the area.

5. The proposed development would constitute the piecemeal development of a site that is suitable for amalgamation with adjoining backlands, including backlands outside the Foxrock ACA. The proposals may thereby inhibit future prospects for the sensitive, infill development of under-utilised lands in a metropolitan area that is well-served by public transport at a sustainable residential density. The proposals are contrary to Section 8.2.3.4 Additional Accommodation in Existing Built-up Areas (vi) Backland Development of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and Objective 3B of the National Planning Framework and therefore contrary to the proper planning and sustainable development of the area.

## **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 access road serving the site is located within the Foxrock Architectural Conservation Area (ACA), the site itself is outside of the ACA.
- 5.1.3. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development'.
  - Section 8.2 refers to 'Development Management'.
  - Section 8.2.3.4 refers to 'Additional Accommodation in Existing Built-up Area' and the following is relevant:
    - (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.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8)'.

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

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

## 5.2. Guidelines

- '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).

## 5.3. Natural Heritage Designations

None.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The applicant, Michael Curran, has engaged the services of Jim Brogan – Planning and Development Consultant to appeal the decision to refuse permission for a house on this site as issued by Dun Laoghaire-Rathdown County Council.

The issues raised in the appeal include:

- The planning history of the site is provided. Outline permission was granted for a house on this site and subsequently permission was granted for the connection of

a house to the public foul drainage system; full permission was never sought for the development of a house on this site.

- The reasons for refusal are considered individually.
  - Reason 1 – foul drainage: Provides details on the method of foul drainage. A pre-connection enquiry has been submitted to Irish Water and further information was sought. Considers the decision of the Planning Authority to be unreasonable and unjust as no account was made of the pre-connection enquiry, no account was made of the Irish Water recommendation and no account was made of the differences between the subject development and another development on Golf Lane which is referred to in the Planning Authority report.
  - Reason 2 and 3 – Traffic Safety: Both of these issues are considered together. Note that the reasons were similar to those issued by the Planning Authority under PA D16A/0258 and subsequently granted by the Board. A Traffic & Transport Statement has been included with the application and traffic safety issues have been considered in this report. The provision of one additional house is unlikely to generate a significant amount of traffic in the area. The appeal refers to the report of the Planning Inspector under ABP Ref. 246839 and no concern was raised in relation to traffic safety. In conclusion, these issues were already considered under a previous application and the concerns were dismissed. No new material issues have arisen and there is no change in circumstance.
  - Reason 4 – Insufficient density of development: Reference is made to the previous report by the Planning Inspector under ABP Ref. 246839 and it was considered that the proposed density was acceptable. The development provides for an infill house in a suitable location and complies with the county development plan and national guidance. Contradiction between the low-density reason for refusal and the increase in traffic reason for refusal.
  - Reason 5 – Backland development: Considers the development to constitute 'a corner site development as defined in the Development Plan'.

Requests that the reasons for refusal be dismissed and that permission be granted for the proposed house.

## 6.2. **Planning Authority Response**

The Planning Authority report that the grounds of the appeal do not raise any new issues, so no additional comments are made.

## 7.0 **Assessment**

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

- Nature of the Development
- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Traffic Safety Issues
- Drainage and Water Supply
- Other Issues
- Appropriate Assessment Screening

### 7.1. **Nature of the Development**

- 7.1.1. The subject site is zoned A and the development of a detached house on this site is acceptable in principle. I note the planning history of the site, including the various reports of the Planning Authority and those of An Bord Pleanála. I have fully considered the submitted application and the appeal statement/ supporting information.

### 7.2. **Design and Impact on the Character of the Area**

- 7.2.1. The site is located adjacent but not within the Foxrock Architectural Conservation Area (ACA). The driveway which provides access to the site from the Brighton Road/ public road is within the ACA. This creates a somewhat unusual situation in that the house is not within the ACA but it will directly affect the ACA as a new entrance will have to be provided onto it. From the submitted plans it should be

possible to provide the new entrance without impacting on any of the trees that form a key feature of the driveway/ ACA.

- 7.2.2. The Dun Laoghaire-Rathdown Conservation Officer raised no objection to the development subject to the protection of the trees. I do not foresee any negative impact on the ACA. The immediate area is characterised by detached houses on generous sized sites and the proposed development provides for a similar scale of development. The access to the site, over 150 m from the public road via a narrow laneway, also ensures that the house will not be easily visible from the public street.
- 7.2.3. This is a very large house, but I consider that the site area at 0.323 hectares can easily accommodate such a unit in the context of the established character of the area. I note that permission was refused by the Planning Authority for a detached house on the site to the south west, for similar reasons of refusal as the subject development. The design and material finishes are acceptable.
- 7.2.4. I note the comments made in the appeal in relation to the reasons for refusal and potential contradiction in reasoning between the need for increased density but also a concern about increased traffic. I calculate that the site is approximately 1.2 km walking/ cycling distance from Carrickmines Luas stop; existing bus service provision is negligible. There may be shortcuts to the Luas stop, but I am not aware of these.
- 7.2.5. I recognise the point that the Planning Authority Case Officer is making about the need to develop lands at an appropriate density as well as considering the residential zoned nature of these lands, but I have a concern that the implications on the ACA and the fact that the lands are not currently serviced as per the first reason for refusal. To achieve a minimum of 35 units per hectare, a development of circa 11 units would have to be provided on this site. The only feasible way to do that is to provide for an apartment block, which would be out of character with the established form of development in the area and would negatively impact on the ACA. Although not a direct planning concern, the provision of a multi occupancy unit may require significantly upgraded fire brigade access which may negatively impact on the tree lined laneway, which is part of the ACA. I note the submitted 'Proposed Swept Path Analysis' – Drawing No. 201038/C/009.2 which indicates that a fire tender of 6.49 m length and width of 2.3 m could use the laneway; Dublin Fire Brigade tenders are longer at between 7.5 and 10 m.

7.2.6. I therefore consider that the development of a single house on this site would be acceptable. The site is restricted by the access, which is located within an ACA and the fact that the development site is located adjacent to this ACA.

### **7.3. Impact on Residential Amenity**

7.3.1. The proposed house is a large, two-storey detached unit, providing for five bedrooms, one of which may be used as a gym instead. The ground floor provides for over 196 sq m of floor area including a large drawing room, dining room, kitchen with family area and a study-home office. In addition, a large hall is provided, a utility room with a stated floor area of 8.7 sq m and a conservatory to the rear. Room sizes are acceptable and adequate storage is provided within the house. The house is also provided with more than adequate private amenity space.

7.3.2. I do not foresee that the development will negatively impact on the established residential amenity of the area. Overlooking leading to a loss of privacy and overshadowing giving rise to a loss of daylight and sunlight are not foreseen. The development of this house does not prevent similar development on adjacent sites especially that to the south west – adequate separation distances to the boundary are provided and consideration is given to building lines.

### **7.4. Traffic Safety Issues**

7.4.1. The Dun Laoghaire-Rathdown Transportation Planning Section detail the planning history of the site in their report. This is a standalone application and is not a permission consequent to the grant of outline permission under P.A. Ref. D16A/0258/ ABP Ref. 246839. Reference is made to the application on the adjacent site under P.A. Ref. D20A/0982 and since the report of the Transportation Section, a decision to refuse permission has been issued. Refusal was recommended due to road safety reasons.

7.4.2. I again note the planning history of the site and the surrounding area. I do not foresee that the development will give rise to traffic congestion as any increase in traffic will be minor and whilst the laneway may not be able to accommodate a significant increase in vehicular movements, no such concerns arise on Brighton Road. I would query the comment (Section 8.1.1 of the Traffic and Transport Statement) that the development of two houses here would only generate one

additional car movement – this seems a very conservative projection of car movements.

- 7.4.3. The issue of sightlines at the junction with Brighton Road is given as a reason for refusal. I again note the Transportation Report and that included with the application prepared by Martin Peters Associates. Improvement works that can be undertaken at the junction are listed and detailed. I accept that these works will improve the safety aspect of this junction but there is information provided as to whether the applicant/ appellant can undertake these works as they appear to be on lands outside of their control. The sightlines to the south east are indicated to be 28 m, which is deficient.
- 7.4.4. I therefore agree with the Planning Authority that the development would endanger public safety by reason of insufficient sightlines and that there is insufficient evidence that the necessary works required to improve the junction can actually be undertaken by the developer.

## **7.5. Drainage and Water Supply**

- 7.5.1. Irish Water have sought further information that the 'outcome of the PCE must be submitted as a response to Further Information', due to a significant constraint in the wastewater network in the area. The Irish Water report is dated 10<sup>th</sup> of February 2021. The appeal statement is dated the 22<sup>nd</sup> of March 2021 and no evidence of any change of decision by Irish Water has been provided. From the available information, there is a constraint in the foul drainage network in the area.
- 7.5.2. I will dismiss any relevancy to previous applications as the constraints in a network can come to light through one or two new developments/ connections to the public system. The applicant has not demonstrated that the proposed house can be served by the public foul drainage system and no timeframe for the necessary upgrade of this system has been provided to date. It is considered that permission should be refused. In addition, permitting the proposed development, when there is a known constraint in the public network, is premature and would a poor precedent for similar development in the area.
- 7.5.3. I note the report of the Municipal Services Department – Drainage Planning Section and there should be no difficulty in the provision of a suitable surface water drainage

system to serve this site. There is no known constraint or difficulty in the provision of a water supply to serve this house.

## **7.6. Other Issues**

- 7.6.1. The proposed landscaping and boundary treatment is considered to be acceptable. I do note that the front gate serving the house is proposed to be 1.5 m high. Generally front gates are only 1.2 m in height and there is no reason why this should be any different. A reduced height of 1.2 m would be more appropriate, and this can be provided by way of condition.
- 7.6.2. In addition to a fully detailed construction management plan, a tree protection plan should be provided if permission were to be granted. The tree lined laneway forms part of the Foxrock ACA and as such the trees require protection especially during the construction phase of development, if permission were to be granted.
- 7.6.3. I have identified the issues of poor sightlines and a constraint in the foul drainage network as reasons for refusal of this development. I would be concerned that permitting the development in advance of the upgrade of these services would set a poor precedent for similar development in the area. This is an area with a high demand for housing and permitting substandard development at this stage may encourage further such proposals in the short to medium term. There is an opportunity for additional development in the area but full account of the constraints on services and the presence of the ACA has to be taken into account.

## **7.7. Appropriate Assessment Screening**

- 7.7.1. Having regard to the nature and scale of the proposed development and the location of the site in an established, serviced, suitably zoned urban area 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 reasons 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. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a substandard road at a point where sightlines are restricted in a south east direction.

3. The proposed development would be premature pending the provision of a suitable foul drainage system and ensuring that sightlines onto the Brighton Road meet minimum standards. There is a significant demand for housing in this area and permitting the proposed development in advance of necessary infrastructure upgrades would set a poor precedent for similar development in the area.

---

Paul O'Brien  
Planning Inspector

10<sup>th</sup> of June 2021