



An
Bord
Pleanála

Inspector's Report 310036-21

Development	Demolition of 2-storey dwelling & sheds & construction of 20 no. dwellings
Location	Rosemount, Malahide Road, Dublin 5
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3169/20
Applicant(s)	Elm Mount Development PRS Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v. Decision
Appellant(s)	(1) Shane Cotter & Kathryn Wilson (2) Mathew & Linda Reardon (3) Christine Dempsey
Observer(s)	Seán Haughey TD
Date of Site Inspection	28 th April 2022

Inspector

Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 3704 m² and is located at Rosemount, Malahide Road, Dublin 5. The site fronts onto the north-western side of the Malahide Road and is situated approximately 50 m south-west of the junction with Elm Mount Road. The Malahide Road is characterised by a single-traffic lane and a bus lane in either direction at this location. A Dublin Bus stop is located directly opposite the subject site on the inbound traffic lane. A pedestrian crossing extends across the road on the south-western side of its junction with Elm Mount Road.
- 1.2. The site has a t-shaped configuration, being narrower to the front onto the Malahide Road and extending to the rear of the adjoining 2-storey properties at Nos. 1 & 2 Rosemount and No. 13 Maypark to the south-west and Nos. 3-6 Rosemount to the north-east. The site extends in a north-easterly direction as far as Elm Mount Road and in a south-westerly direction as far as the rear garden of No. 13 Maypark. The existing 2-storey dwellings at Elm Mount Avenue adjoin the length of the rear site boundary.
- 1.3. A single-storey dwelling adjoins the southern site boundary and is accessed via the original entrance gates into the subject site. The side elevation of this dwelling directly adjoins the public footpath at the Malahide Road, while its primary elevation fronts onto the side elevation of the 2-storey dwelling within the subject site. The private amenity space extends in a north-westerly direction to the rear of the dwelling and is bounded by the subject site to the north and west. The internal boundary between both sites is poorly defined. The rear portion of the subject site is separated from that of the adjoining dwelling by a low metal railing, with clear views available between both sites.
- 1.4. The site is characterised by a detached, 2-storey dwelling which is located towards the front of the site facing the Malahide Road. The return of the dwelling has a distinctive 2-storey wood-clad extension. The building has fallen into disrepair and appeared to be vacant at the time of the inspection. Ancillary shed structures, which are also in a poor state of repair, extend between the rear of the dwelling and the rear site boundary. The remainder of the site is characterised by private open space, with mature vegetation and trees, which is significantly overgrown.

1.5. The site boundary onto Malahide Road is characterised by a rendered wall with centrally located cast iron railings above and mature trees to the rear. The existing boundary treatment largely screens views into the site from the public road. There is no existing vehicular or pedestrian entrance into the site at this location. The site boundary onto Elm Mount Road comprises a rendered wall of c. 2 m in height, with a metal vehicular entrance gate which is generally located opposite the junction of Elm Mount Road and Thorndale Drive to the north-east of the site. The remaining boundaries within the site vary, comprising blockwork walls and wooden fences of varying heights and condition and overgrown vegetation.

2.0 Proposed Development

2.1. The proposed development comprises the demolition of the existing single-storey outhouses and sheds associated with the former Rosemount farm (totalling 319 m²) and the existing 2-storey dwelling (comprising 224 m²) and the construction of 20 no. dwellings, comprising 13 no. 3-bedroom, 2-storey with attic level accommodation, semi-detached townhouses (types 1A, 1B & 1C), 5 no. 2-bedroom, 2-storey end-of-terrace houses (types 2A, 2B, 2C, 2D & 2E) and 2 no. 2-bedroom, split-level bungalows (types 3A & 3B). Each dwelling is provided with a rear garden.

2.2. The development is served by 21 no. car parking spaces, 3 no. of which are accessible off Malahide Road and 18 no. of which are accessible via a newly created vehicular entrance off Elm Mount Road, and landscaping, boundary treatments, SUDS drainage and all associated works necessary to facilitate the development.

2.3. The site layout is generally characterised by the introduction of 3 new buildings lines which extend in a north-westerly direction from the Malahide Road / front site boundary towards the rear boundary adjoining Elm Mount Avenue. A detached 2-storey, 2-bedroom townhouse (unit no. 1) and a semi-detached pair comprising a 2-storey, 2-bedroom townhouse (unit no. 2) and a 3-bedroom, 2-storey townhouse (unit no. 3) are proposed fronting onto the Malahide Road and generally reflect the building line of Nos. 1-2 and 3-6 Rosemount adjoining the site on either side.

2.4. Two, 2-bedroom split level bungalows (unit nos. 4 and 5) are proposed to the rear, with the third building line extending across the rear portion of the site and accommodating 11 no. terraced and semi-detached dwellings, (unit nos. 10 – 20). It

is proposed to introduce a fourth building line in the north-western corner of the site comprising a terrace of 4 no. 2-storey dwellings (2 no. 2-bedroom and 2 no. 3-bedroom units: nos. 6-9) and which extends perpendicular to the side elevation of unit no. 10 within the site and the rear elevation of No. 308 Elm Mount Avenue to the north-west and Nos. 1 and 2 Rosemount to the south-east. The rear gardens of these dwellings abut the side boundary / rear garden of No. 13 Maypark.

- 2.5. Unit nos. 1-3 to the front of the site are accessed via new entrances to be created off the Malahide Road, with access to the remaining 17 no. dwellings proposed via a new vehicular entrance onto Elm Mount Road. The primary communal open space is proposed towards the front site boundary adjacent to unit nos. 1-3 and includes a new pedestrian link onto the Malahide Road.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission subject to 24 no. conditions issued on 1st April 2021.
- 3.1.2. Condition no. 4 requires a development contribution of €80,000 in lieu of public open space.
- 3.1.3. Condition no. 5 (a) requires that the opaque glazing panels to the windows in the dwellings shall extend to 1.8 m in height above floor level. Any rooflights to the rear of the dwellings which are less than 1.8 m in height above finished floor level shall be permanently fitted with opaque glazing.
- 3.1.4. Condition no. 5 (b) requires the ground and 1st floor level windows to the east and west elevations of the apartment block to have a top glazing panel with a minimum height of 1.8 m above floor level. The high-level windows at 2nd floor level to the west elevation shall also have a minimum height of 1.8 m above floor level.
- 3.1.5. Condition no. 5 (c) requires the ground floor terraces/patio and 1st floor level balconies to the apartment block to have screening of 1.8 m between the units.
- 3.1.6. Condition no. 5 (d) requires that no above-ground, flat-roofed area shall be used as a balcony patio space whether or not it would be exempted development.

- 3.1.7. Condition no. 7 (e) notes there is an existing public surface water sewer running through the site and requires a clear minimum distance of 3 m to be maintained between sewers and all structures.
- 3.1.8. Condition no. 8 (a), (i) and (ii) requires the final road junction design and layout details and specifications on Elm Mount Road and the areas to be taken in charge to be agreed in writing with the Planning Authority. It also requires the road layout and junction arrangements to be designed in accordance with DMURS.
- 3.1.9. Condition no. 8 (b), (i) and (ii) requires a revised layout plan showing a north-south pedestrian crossing located to the west of car parking spaces 8 and 14 and a revised bicycle parking storage plan to be agreed in writing with the Planning Authority.
- 3.1.10. Condition no. 9 requires a Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals.
- 3.1.11. Condition no. 11 requires a tree retention and protection plan to be approved with the Planning Authority prior to the commencement of construction.
- 3.1.12. Condition no. 13 (a) requires a landscape scheme to be agreed in writing with the Planning Authority prior to the commencement of development. Condition no. 13 (b) requires that no boundary wall onto a 3rd party site shall be higher than the existing boundary or more than 2 m above the adjoining ground level, whichever is the higher.
- 3.1.13. All other conditions are generally standard in nature.

3.2. Planning Authority Reports

3.3. Planning Reports (1st October 2020; 3rd February 2021; 1st April 2021)

- 3.3.1. Following their initial assessment of the planning application, Dublin City Council's Planning Officer recommended that **Further Information** be requested in relation to 6 no. items which can be summarised as follows:

(1) Concerns that the development will have a negative impact on the residential amenity of neighbouring dwellings and will provide a low level of amenity for future occupants. The applicant is requested to respond to the following:

(a)(i) concerns regarding excessive overlooking of neighbouring dwellings.

(a)(ii) rear gardens to provide a depth of 11m from 1st floor level to rear boundaries to limit excessive overlooking to 3rd party private open space.

(b) Concerns that the positioning of the proposed dwellings in close proximity to boundaries with neighbouring dwellings will have an overbearing and obtrusive appearance. It is requested that house nos. 6 and 9 be omitted.

(c) House type no. 2 to be revised to provide a larger floor area allowing for higher levels of amenity and quality including improved storage space.

(d) A daylight study to demonstrate that the ground floor (basement) level of house nos. 4 and 5 will receive adequate levels of daylight.

(e) Revised site layout to ensure all dwellings have 10 m² of private open space per bedspace – (i) it may be necessary to omit dwellings to achieve same, and (ii) consideration should be given to including garden/storage sheds within rear gardens which may avoid the loss of open space in the future.

(f) A revised landscape masterplan which clearly identifies the proposed areas of public open space.

(2) Planning drawings of the existing dwelling, an assessment of its historical context, condition and layout and a rationale for its demolition. The potential to reuse the existing dwelling or provide multiple units within it should be considered.

(3) A revised shadow study which clearly identifies the levels of overshadowing of the proposed development.

(4) The requested Further Information of the Transportation Planning Division as per the report of 18th September 2020.

(5) The requested Further Information of the Engineering Department – Drainage Division as per the report of 1st September 2020.

(6) Consultation required with Parks and Landscape Services relating to the removal of an area of open space and street trees on Elm Mount Avenue to enable the provision of a new access to the proposed development.

- 3.3.2. The applicant submitted a response to the Request for Further Information on 16th December 2020 which can be summarised as follows:
- 3.3.3. **Item No. 1 (a)(i)(ii):** The proposed site layout has been amended to include a 2-3 storey apartment block with 7 no. units to the front of the site and 13 no. 2-storey dwellings to the rear.
- 3.3.4. The revised site layout repositions and amends the design of house nos. 1-10 and omits 1 no. dwelling to address the Planning Authority's concerns. The amended site layout provides 10 no. dwellings that generally comply with the 22 m separation distance, apart from 2 no. windows in house no. 2 where a shortfall of 1.75 m arises to the opposing windows in No. 326 Mount Elm Avenue. Additional screening will be maintained, and where appropriate, additional planting will be incorporated.
- 3.3.5. All garden depths have been increased to between 9.5 m and 12.5 m. Where an 11 m garden depth is not provided, private open space exceeding the minimum requirements has been provided. Garden widths are increased due to the replacement of the terraced dwellings with semi-detached units.
- 3.3.6. **Item No. 1 (b):** The 4 no. terraced dwellings have been replaced with 2 no. semi-detached and 1 no. detached dwelling, allowing for increased separation distances. The side gables of unit nos. 11 and 13 have limited fenestration which will mitigate the potential for overlooking.
- 3.3.7. **Item No. 1 (c):** The floor area of house type 2 has been increased by 13% of the average floor area of the original house type 2 submitted with the application. A dedicated storage room is included at the 1st floor level, with total storage space of 20.2 m².
- 3.3.8. **Item No. 1 (d):** House nos. 4 and 5 have been omitted.
- 3.3.9. **Item No. 1(e)(i)(ii):** Revised private open which exceeds the minimum development plan requirements is now provided for each unit. A storage shed is also provided in the rear garden of each dwelling unit.
- 3.3.10. **Item No. 1 (f):** Public open space of 450 m² is now proposed to serve the development, which equates to 12% of the site area, and includes high-quality landscaping, paving and seated areas.

- 3.3.11. **Item No. 2:** Floor plans, sections and elevation drawings of the existing house have been provided. Cathal O'Neill & Associates Conservation Architects have undertaken an expert assessment on the existing house, and it has been determined that little or none of the original fabric of Rosemount House remains. Much of the house was damaged by fire and is in poor condition.
- 3.3.12. In considering the potential to reuse the existing house as a single dwelling or multiple units, it is noted that modern building regulations would not be achieved and that such proposals would be unviable, both architecturally and economically.
- 3.3.13. **Item No. 3:** An updated daylight/sunlight study has been submitted.
- 3.3.14. **Item No. 4 (a):** A revised access junction is proposed at Elm Mount Road, comprising a priority controlled (stop) junction with a raised table. Elm Mount Road will be maintained as the priority through-route. Thorndale Drive will be converted from a yield-controlled to a stop-controlled minor arm and a new stop-controlled minor arm will be introduced to the south-west of Elm Mount Road to function as a new site access. A Stage 1 Road Safety Audit of the revised access arrangements did not identify any fundamental issues. The revised access arrangements have been agreed in principle with the Transportation Planning Division of the Planning Authority
- 3.3.15. **Item No. 4 (b) (i):** The Planning Authority's concerns regarding potential conflicts between the proposed car parking layout and the proposed vehicular entrances onto the Malahide Road and pedestrians, cyclists, buses and other vehicles have been addressed by the revised site access arrangements. A single vehicular access point to the site is now proposed via Elm Mount Road.
- 3.3.16. **Item No. 4 (b) (ii):** A report has been prepared by Transport Insights Transport Planning Consultants demonstrating the scheme's compliance with DMURS.
- 3.3.17. **Item No. 4 (b) (iii):** The width of the parallel parking bays has been increased from 2000 mm to 2200 mm and the length has been increased to 6 m.
- 3.3.18. **Item No. 4 (b) (iv):** The proposed development now includes 1 no. accessible car parking space and 1 no. motorcycle space.
- 3.3.19. **Item No. 4 (v):** The proposed development now includes 2 no. visitor car parking spaces.

- 3.3.20. **Item No. 4 (b) (vi):** A footpath width of 1.8 m is provided throughout the development.
- 3.3.21. **Item No. 4 (b) (vii) and (viii):** A swept path analysis has been provided to demonstrate large refuse vehicle and large fire tender movements within the site. Parking bay no. 19 has been omitted from the revised development.
- 3.3.22. **Item No. 4 (b) (ix):** The communal bin store has been removed from the scheme.
- 3.3.23. **Item No. 4 (b) (x):** The proposed bicycle parking provision has been informed by the relevant standards of the Dublin City Development Plan 2016-2022.
- 3.3.24. **Item No. 4 (c):** A revised site plan is provided to demonstrate the proposed car parking allocation. Parking bays are numbered to correspond to the associated house number.
- 3.3.25. **Item No. 4 (d):** Drawing No. RF104 identifies the areas of the development which are proposed to be taken in charge.
- 3.3.26. **Item No. 5 (a):** The proposed development now maintains a 3 m separation distance between sewers and structures on the site.
- 3.3.27. **Item No. 5 (b):** A detailed Flood Risk Assessment has been submitted, which concludes that the site is located within Flood Zone C, with a low risk of flooding. There are no records to indicate that flooding has occurred on the site. The proposed development incorporates measures such as water butts, SuDS drainage, green roofs and permeable paving. The proposed masonry block wall will also prevent the ingress of surface waters and a secondary flow path is available along Elm Mount Road towards Malahide Road, which will convey floodwaters away from the site during exceedance events.
- 3.3.28. **Item No. 5 (c):** SuDS measures will be incorporated into the proposed development and have been agreed in principle with the Wastewater Planning and Development Control Section of the Planning Authority.
- 3.3.29. **Item No. 6:** The applicant has consulted with the Parks and Landscape Service in relation to the removal of an area of open space and street trees on Elm Mount Avenue. A 59 m² area of public open space will be provided within the development to offset the loss of 54 m² of public open space to create the site access from Elm Mount Road.

3.3.30. Dublin City Council considered that the applicant's response contained **Significant Further Information** and the application was readvertised to the public. It was subsequently determined that **Clarification of Further Information** was required in relation to the following:

3.3.31. **Item No. 1:** The potential for revised dwelling layouts to minimise overlooking of adjoining 3rd party dwellings and associated rear private open space, to consider the following:

- (i) House no. 10 - the potential to reposition 1st floor bedrooms with primary windows to the side (south-western elevation).
- (ii) House no. 11 – the potential to bring the dwelling in line with adjoining house nos. 12 & 13 or the provision of additional set-backs at 1st floor level or a louvered treatment to rear windows.

3.3.32. **Item No. 2:** Further measures that will optimise the potential to increase levels of sunlight and daylight to the apartment units and minimise overlooking of adjoining residences outside and inside the subject site. The applicant should consider the potential to re-position living spaces to a southerly aspect where possible to maximise sunlight to apartment units and the provision of additional opens to apartment nos. 1, 3, 4 and 6.

3.3.33. **Item No. 3:** Concerns regarding the proposed parking provision and layout and the potential for overspill parking on surrounding streets and the creation of a traffic safety hazard by way of the parking layout.

- (a) Parallel parking spaces 1 – 8 are below the standard parking space width outlined in DMURS.
- (b) No swept path analysis has been submitted for the accessible visitor parking bay or parking bay no. 10.
- (c) Inadequate privacy strip between the proposed turning area head and house no. 11.
- (d) The quantum of onsite visitor parking is considered excessively low.
- (e) No provision has been made for an accessible parking bay for future residents.

- (f) Revised plans showing the accessible parking bay(s) in a more central location for convenient access and adjacent to a pedestrian crossing.
- (g) Visitor parking bays should be in a central and accessible location and the proposed visitor parking bay to the front of house no. 12 should be relocated.
- (h) The motorcycle parking area to the front of house no. 13 is not acceptable and should be relocated.

3.3.34. **Item No. 4:** The quantum of bicycle parking for the apartments is considered excessively low and the proposed bicycle parking store area does not meet development plan standards for long-term residential parking.

- (a) The quantum of bicycle parking spaces should be increased to better reflect the total bedrooms and occupancy of the apartment block.
- (b) Detailed drawings of the bicycle store to be provided. The store should be fully weather proofed with a minimum of 1.8 m to the front of each parking space to facilitate access/egress.
- (c) Location of visitor bicycle parking area to be demonstrated.

3.3.35. The applicant submitted a response to the Request for Clarification of Further Information on 5th March 2021, which can be summarised as follows:

3.3.36. **Item No. 1 (i):** The 1st floor windows to the rear of house no. 10 will be retained and fitted with permanent obscured opaque glazing. The top of the pane above eye level will be fitted with clear glass to allow the entry of natural light. In addition, 2 no. windows are proposed in the side elevation of the rear bedroom, which will provide natural light and enable passive surveillance to the public areas of the development.

3.3.37. **Item No. 1 (ii):** House nos. 11, 12 & 13 have been further set back from the south-western site boundary and have garden depths exceeding 11 m. House no. 11 has been realigned with house nos. 12 & 13 and has been flipped on its long axis, resulting in its windows being located further from the existing dwellings on Malahide Road.

3.3.38. House nos. 1, 2 & 3 have also been amended to include additional screening measures such as obscure opaque glazing on the rear elevation and timber screening on the side elevations where windows directly adjoin other dwellings. The

windows on the side elevation of house no. 1 will provide passive surveillance to the area of open space to the east.

- 3.3.39. **Item No. 2:** Additional windows have been provided to south-western façade of apartment nos. 1 & 4 serving the bedroom and living room. This approach has also been adopted for the penthouse unit on the second floor, together with a roof light serving the master bedroom.
- 3.3.40. Two additional windows have been included in the north-eastern façade of apartment nos. 3 & 6 to maximise natural light to the living room.
- 3.3.41. **Item No. 3:** The car parking provision has been amended to include a total of 23 no. car parking spaces and 2 no. motorcycle spaces. Each dwelling and apartment unit will be allocated 1 no. space. 3 no. visitor parking spaces will be provided, 2 no. of which will be accessible.
- 3.3.42. **Item No. 4:** The quantum of bicycle parking spaces has been increased from 8 no. to 16 which complies with the 2018 apartment design standards. All bicycle parking spaces will be in the same area, with visitor spaces clearly defined. The bicycle shelter has been upgraded to a Cyclepod system, which provides an egress of 2.1 m for a safe and easy-to-use storage system.
- 3.3.43. Following their assessment of the submitted information, Dublin City Council's Planning Officer considered that the proposed development would not seriously injure the residential amenity of neighbouring dwellings or the amenities of the area and recommended that planning permission be granted.
- 3.3.44. **Other Technical Reports**
- 3.3.45. **Engineering Department – Drainage Division (1st September 2020; 22nd December 2020; 15th March 2021):** Recommended that Further Information be requested in relation to: (1) a drawing to reflect a 3 m minimum distance between all sewers and on-site structures, (2) a revised Flood Risk Assessment, and (3) the incorporation of additional SuDS measures on site.
- 3.3.46. Following the applicant's Further Information and Clarification of Further Information submissions, no objections arose to the proposed development subject to conditions.
- 3.3.47. **City Archaeologist (14th September 2020):** No objection to the proposed development subject to conditions.

- 3.3.48. **Transportation Planning Division (18th September 2020; 27th January 2021; 24th March 2021):** Recommended that Further Information be requested in relation to: (1) a revised access junction layout incorporating a roundabout on Elm Mount Road, with sightlines and a Stage 1 Road Safety Audit, (2) revised site layout to address concerns regarding proposed car parking layout and the creation of a number of vehicular entrances onto Malahide Road, resulting in a conflict with pedestrians, cyclists, buses and other vehicles on the main road, (3) the location of each parking bay pertaining to each unit and identification of designated visitor and accessible parking bays, (4) lands to be taken in charge.
- 3.3.49. Following the applicant's Further Information submission, Clarification of Further Information was recommended in relation to: (1) concerns regarding overspill parking on surrounding streets, the creation of a traffic safety hazard by way of the parking layout and the accessibility and functionality of the site layout.
- 3.3.50. The applicant was requested to address the following:
- (a) insufficient parking widths of parallel parking spaces nos. 1 – 8.
 - (b) no swept path analysis submitted for the accessible visitor parking bay or parking bay no. 10.
 - (c) failure to provide an adequate privacy strip between the proposed turning area head and house no. 11.
 - (d) excessively low quantum of visitor parking.
 - (e) no provision of accessible parking bay for future residents.
 - (f) inconvenient location of accessible parking bay.
 - (g) the location of visitor parking bays in a central and accessible location and the parking bay to the front of house no. 12 to be relocated,
 - (h) the location of general motorcycle parking bay to the front of house no. 13 is unacceptable and should be relocated.
- (2) The quantum of bicycle parking spaces for the apartments is considered excessively low and the proposed bicycle parking store does not meet development plan standards for long-term residential parking.

(a) Quantum of bicycle parking to be increased to better reflect the total bedrooms and occupancy of the apartment block.

(b) Detailed drawings and plans of the bicycle store to be provided.

(c) Location of visitor bicycle parking area to be demonstrated.

3.3.51. Following the applicant's response to the request for Clarification of Further Information, no objections arose to the proposed development subject to conditions.

3.3.52. **Parks, Biodiversity and Landscape Services (29th September 2020):** Notes that: (1) the proposed development has a negative impact on the arboricultural resource of the site, with the impact on trees around the original house considered unacceptable - development should be restricted to the existing building footprint, (2) areas of public open space should be clarified and should provide suitable recreation for residents, (3) a landscape masterplan should be submitted, (5) the felling of street trees and use of grass verge area as an entrance road at Elm Mount Road requires further discussion.

3.4. Prescribed Bodies

3.4.1. **Irish Water:** None received.

3.4.2. **An Taisce:** None received.

3.4.3. **NPWS:** None received.

3.5. Third Party Observations

3.5.1. A total of 9 no. third party observations were made on the application by: (1) George Fitzgerald on behalf of the Fitzgerald Family, 314 Elm Mount Avenue, Beaumont, Dublin 9, (2) Paul Gallagher, 11 Beechwood Park, Cork, (3) Úna O'Brien, 306 Elm Mount Avenue, Beaumont, Dublin 9, (4) Christine Dempsey, 310 Elm Mount Avenue, Beaumont, Dublin 9, (5) Deaton Lysaght Architects on behalf of residents of Rosemount, Elm Mount Road and Elm Mount Avenue, (6) Tony and Joan Murphy, 320 Elm Mount Avenue, Beaumont, Dublin 9, (7) Kiara McFadden, 304 Elm Mount Avenue, Beaumont, Dublin 9, (8) Elm Mount Residents Association, c/o 246 Elm Mount Avenue, Dublin 9, and (9) Lorcan Wood, Gate Lodge, Rosemount, Malahide Road, Dublin 5.

- 3.5.2. Representations were also made by: (1) Cllr. Deirdre Heney, (2) Seán Haughey TD, (3) Cian O'Callaghan TD, and (4) Cllr. Naoise Ó Muirí.
- 3.5.3. The issues which are raised can be summarised as follows: (1) habitat loss and wildlife impacts, (2) tree loss, (3) overlooking of back gardens along Elm Mount Avenue from unit nos. 8 & 9, which should be restricted to single-storey in height, (4) 3-storey development does not reflect character of the area and will result in overlooking and loss of daylight, (5) access laneways may encourage anti-social behaviour and should be omitted, (6) proposed upgrade of the existing T- junction is an unacceptable risk to pedestrians and motorists, (7) proposal does not meet the principles of infill development, (8) overshadowing, (9) historical significance of existing house, (10) measures required to control construction dust and gravel on public streets, (11) inadequate separation distances, (12) deficient public open space, (13) substandard road layout, (14) insufficient car parking, with no universal access car parking or motorcycle parking provided, (15) unacceptable bin storage arrangements, (16) unclear boundary wall details, (17) flooding, (18) location of culverted stream on the site requires clarification, (19) overdevelopment, (20) residential amenity impacts, (21) excavation works will impact on site trees, (22) inadequate separation distances between houses 1 & 2, 2 & 3 and house 5, with houses 4 & 5 having no real private open space, (23) impact on local drainage network, (24) public lighting should not overspill adjoining gardens, (25) excessive development density.
- 3.5.4. 9 no. further submissions were made on the application following the receipt of Significant Further Information from: (1) Shane Cotter and Kathryn Wilson, 13 Maypark, Malahide Road, Dublin 5, (2) Deaton Lysaght Architects on behalf of residents of Rosemount, Elm Mount Road and Elm Mount Avenue, (3) Paul Gallagher, 11 Beechwood Park, Cork, (4) Matthew & Linda Reradon, (5) Elm Mount Residents Association c/o 246 Elm Mount Avenue, Dublin 9, (6) Kiara McFadden, 304 Elm Mount Avenue, Beaumont, Dublin 9, (7) Patrick & Catherine Smyth, (8) Anthony & Joan Murphy, (9) Christine Dempsey.
- 3.5.5. A representation was also received from Cllr. Donna Cooney.
- 3.5.6. The new issues which are raised can be summarised as follows: (1) unit nos. 11, 12 & 13 conflict with the established pattern of development in the area, with loss of

amenity, privacy and overlooking, (2) elevated views of neighbouring properties from patio and 1st floor bedroom windows of unit nos. 11, 12 & 13, (3) significant changes to submitted plans, (4) demolition of boundary walls not justified, (5) insufficient space for bin collection, (6) insufficient road width, (7) side access, foundations, site drainage and roof of house no. 1 will impinge on Elm Mount Road, (8) inadequate revised site notice.

4.0 Planning History

- 4.1. **Planning Authority Reg. Ref. 2755/09:** Planning permission granted on 13th July 2009 for single storey extension to existing single-storey lodge, with internal and external alterations to the lodge and all associated site works at Rosemount Lodge, Artane, Dublin 5.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

5.2. Land Use Zoning

- 5.2.1. The site is subject to land use zoning objective “Z1” (Sustainable Residential Neighbourhoods) which has the objective “to protect, provide and improve residential amenities”.
- 5.2.2. Residential land uses are permissible under this zoning objective.

5.3. Housing

- 5.3.1. The housing policies of Dublin City Council are set out in chapter 5 of the development plan. Those policies which are relevant to this application are identified below.
- 5.3.2. **Policy QH1:** To have regard to the DEHLG Guidelines on ‘*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*’ (2007), ‘*Delivering Homes Sustaining Communities – Statement on Housing Policy*’ (2007), ‘*Sustainable Urban Housing: Design Standards for New Apartments*’ (2015) and ‘*Sustainable Residential Development in Urban Areas*’ and the accompanying ‘*Urban Design Manual: A Best Practice Guide*’ (2009).

- 5.3.3. **Policy QH5:** To promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.
- 5.3.4. **Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 5.3.5. **Policy QH8:** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- 5.3.6. **Policy QH18:** To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.
- 5.3.7. **Policy QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.
- 5.3.8. **Policy Q23:** To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

5.4. Infill Housing

- 5.4.1. The development standards concerning infill housing are set out in section 16.10.10 of the development plan. In general, infill housing should comply with all relevant development plan standards for residential development. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.

5.4.2. Infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- Comply with the appropriate minimum habitable room sizes.
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

5.5. Backland Development

5.5.1. Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. The development of individual backland sites can conflict with the established pattern and character of development in an area and cause a significant loss of amenity to existing properties. Applications for backland development will be considered on their own merits.

5.6. Private Open Space

5.6.1. A minimum standard of 10 m² of private open space per bedspace will normally be applied, with up to 60-70 m² of rear garden area sufficient for houses in the city.

5.7. Public Open Space

5.7.1. In new residential developments, 10% of the site area shall be reserved as public open space. Where a site is too small or inappropriate to fulfil a useful purpose, a financial contribution in lieu will be required.

5.8. Car / Bicycle / Motorcycle Parking

5.8.1. The site is located in Area 3 of the city, within which, a maximum standard of 1.5 no. car parking space per dwelling applies. Disabled car parking should comprise at least 5% of the total number of spaces. Motorcycle parking should be provided at a rate of 4% of the number of car parking spaces provided. Bicycle parking is required at a rate of 1 space per unit.

5.9. Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

5.9.1. These Guidelines set out target gross floor areas for a range of different dwelling types. Those which are relevant to this case are identified below.

House Type Bedroom (B) Person (P) Storeys (S)	Target GFA (m ²)	Min. main living room (m ²)	Aggregate living area (m ²)	Aggregate bedroom area (m ²)	Storage (m ²)
2-B/3-P/2-S	70	13	28	20	3
3-B/5-P/3-S	102	13	34	32	5

5.9.2. The Guidelines also recommend the following:

- A main bedroom area of at least 13 m² in dwelling for 3+ persons
- Double bedroom of at least 11.4 m² (min. width 2.8 m)
- A single bedroom of at least 7.1 m² (min. width 2.1 m)
- Min. obstructed living room width of 3.8 m for 3-bedroom dwellings.

5.10. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)

5.10.1. The key development standards for apartment units in the context of this appeal case are summarised below:

- **Overall floor area:** 1-bedroom unit - 45 m²; 2-bedroom/4-person unit – 73 m².
- **Unit Mix:** Max. 50% 1-bedroom units, with no requirement for 3-bedroom units.
- **Storage space:** 1-bedroom unit - 3 m²; 2-bedroom/4-person unit – 6 m².
Storage for bulky items should also be provided outside individual apartment units.
- **Dual Aspect Ratio:** Minimum 50% dual aspect units on standalone brownfield regeneration sites. Where single aspect apartments are provided, the number

of south facing units should be maximised, with east and west facing units also acceptable.

- **Floor to Ceiling Height:** Min. of 2.4 m required, but 2.7 m encouraged.
- **Lift and Stair Cores;** Max. of 12 apartments per floor per core.
- **Private amenity space:** 1-bedroom unit - 5 m²; 2-bedroom/4-person unit – 7 m².
- **Communal amenity space:** 1-bedroom unit - 5 m²; 2-bedroom/4-person unit – 7 m².
- Private and communal amenity space may adjoin each other, but there should be a clear distinction, with an appropriate boundary treatment and/or a 'privacy strip' between the two.
- **Public open space:** No standard identified.
- **Bicycle parking:** 1 cycle storage space per bedroom, with visitor parking required at a rate of 1 space for every 2 units.

Car parking: In suburban/urban locations served by public transport or close to town centres or employment areas (intermediate urban locations), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum standard.

5.10.2. **Communal facilities** should not generally be imposed as requirements by the planning authority in the absence of proposals from and/or the agreement of the applicant.

5.10.3. Provision shall be made for the **storage and collection of waste** materials in apartment schemes. Refuse facilities shall be accessible to each apartment stair/ lift core and designed for the projected level of waste generation and types and quantities of receptacles required.

5.11. National Planning Framework (NPF)

5.11.1. The NPF sets out objectives which aim to secure more compact and sustainable growth patterns in urban areas in the period to 2040.

5.11.2. **National Policy Objective 3b** seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

5.12. Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities, May 2021

5.12.1. These Guidelines identify planning conditions to which planning authorities and the Board must have regard in granting planning permission for new residential development including housing and/or duplex units. This is intended to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors in a manner that displaces individual purchasers and/or social and affordable housing, including cost rental housing.

5.12.2. The application of these conditions applies to all housing developments that include 5 or more houses and/or duplex units.

5.13. Urban Development and Building Heights Guidelines for Planning Authorities (2018)

5.13.1. The Guidelines confirm that in suburban/edge locations in cities and towns, development should include an effective mix of 2, 3 and 4 storey developments which integrate well with existing and historical neighbourhoods.

5.14. Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009)

5.14.1. These Guidelines identify locations in cities and larger towns where increased residential densities are appropriate, including inter alia, public transport corridors which relates to lands within 500 m walking distance of a bus stop or 1 km of a light rail stop or rail station. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within such corridors.

5.15. Natural Heritage Designations

5.15.1. None.

5.16. EIA Screening

5.16.1. An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.16.2. It is proposed to construct 20 no. dwelling houses which is significantly below the 500-unit threshold noted above. The site has an area of 0.3704 ha and is located within an existing built-up area but not in a business district. The site is therefore well below the applicable threshold of 10 ha. The introduction of this residential scheme would have no adverse impact in environmental terms on surrounding land uses. The site has already been developed for residential purposes. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not like to have a significant effect on any European site. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal.

5.16.3. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment, and that on preliminary examination, an environmental impact assessment report for the proposed development was not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Third party appeals against the Planning Authority's Notification of the Decision to Grant Permission have been lodged by:

(1) Mathew & Linda Reardon, 1 Rosemount, Malahide Road, Dublin 5

(2) Shane Cotter & Kathryn Wilson, 13 Maypark, Malahide Road, Dublin 5, and

(3) Christine Dempsey, 310 Elm Mount Avenue, Beaumont, Dublin 9.

6.1.2. The appeal submission from **Mathew & Linda Reardon** can be summarised as follows:

- Overbearing and overlooking impacts of the appellants' property and No. 2 Rosemount from unit nos. 11, 12 and 13.
- A condition should be attached to any grant of permission requiring any extensions and alterations which would normally be exempt from the planning acts to be subject to a planning application.
- Limited dimensions and levels provided as part of the planning application which do not demonstrate the overbearing impact of these units on the appellants' garden, including a 9.2 m gable wall directly on the shared boundary.
- Overlooking from proposed 1st floor windows and raised patios of unit nos. 11, 12 and 13.
- No. 2 Rosemount will have a public footpath and motorbike parking area 1.4 m above the level of their garden, without any real consideration of the privacy, boundary or level issues that arise.
- Unclear boundary treatment information provided. Additional fencing up to 1.8 m above the proposed ground levels along the existing boundary walls is insufficient to protect from the significant overlooking from the raised patio of unit no. 11.

- The proposed number, design and levels of the units are not suitable for this area of the site as they conflict with the established pattern and character of development.
- An Bord Pleanála should consider alternative solutions for units that would be more appropriate for the part of the site occupied by unit nos. 11, 12 and 13 such as 2 no. single-storey, 2 or 3-bedroom units with dormers to the front (images provided within the appeal). Such a solution could potentially remove many of the concerns in relation to overlooking and privacy and reduce overbearing impacts.
- Should the current proposals for this part of the site be accepted, it is requested that: (i) the rear 1st floor windows be obscured to a height of 1.7 m to prevent excessive overlooking of the appellants' garden, (ii) the window to the gable of unit no. 11 be omitted, (iii) unit no. 11 be moved further away from the boundary by changing unit nos. 11, 12 and 13 to terraced dwellings.

6.1.3. The appeal submission from **Shane Cotter & Kathryn Wilson** can be summarised as follows:

- Lack of detail of boundary treatments and lack of dimensions provided for the approved development to the boundaries.
- The development does not respect the existing topography of the site.
- Alternative design solutions for units 11, 12 and 13 would remove and significantly mitigate overlooking and overbearing impacts from these units.
- The approved housing design is based on minimum design standards and all houses and apartment units fall short of the required minimum living room widths as set out in DEHLG 2007 guidance.
- In responding to the Planning Authority's concerns, the scheme has been stripped of all its defensible spaces.
- Overdevelopment of a restricted site and over reliance on 2-bedroom, 3-person house type.
- Unit nos. 11, 12 and 13 conflict with the established pattern and character of development in the area as they run perpendicular to the existing houses.

- Disorderly backland development will cause significant loss of amenity, loss of privacy and overlooking.
- The ground floor and patio levels of units 11, 12 and 13 are c. 450 mm above the appellants' garden level and c. 1.4 m above nos. 1 and 2 Rosemount, resulting in an elevated view from both the patio and 1st floor bedrooms of the entire length of the appellants' garden and patio.
- The rear windows of units 11, 12 and 13 are approx. 11 m from the appellants' boundary wall, with directly overlooking of the rear garden and children's play area. This issue is compounded by the elevated nature of the proposed patio and dwellings.
- No provision has been made for the inclusion of opaque glazing on the rear 1st floor windows of units 11, 12 and 13.
- A condition should be attached to a grant of permission requiring the provision of obscure glazing in the 1st floor windows of these units to a height of 1.8 m above internal floor level and a 1.8 m high fence above the level of the patio and ground floor level of the houses. A 1.8 m fence above the rear gardens is completely insufficient to provide adequate screening from the elevated patio of proposed units 11, 12 and 13.
- The proposed number, design and levels of these units are not suitable in this area of the site as they conflict with the established pattern and character of development. A reduction in the number and massing of the units would be more appropriate.
- It is submitted that 2 no. sensitively designed, single-storey, 2-bedroom units or a single-storey, 3-bedroom house with dormers to the front could be sustained in this area of the site (images of revised scheme provided). Such an alternative proposal would significantly reduce overlooking and overbearing impacts on neighbouring properties.
- The proposed housing mix is at odds with the development plan and offers little flexibility for changing circumstances, with 7 of the 13 houses being 2-bedroom, 3-person units.

6.1.4. The appeal submission from **Christine Dempsey** can be summarised as follows:

- Loss of daylight and sunlight, overlooking and devaluation of the appellant's property on foot of the proximity of house no. 13.
- Raised site levels will result in new houses being significantly higher than the appellant's property.
- Issues with site drainage due to presence of underground stream.
- Low rise development, such as bungalows, would have less of an impact on the existing properties at this location.

6.2. Applicant Response

6.2.1. A response to the appeal was lodged by Hughes Planning & Development Consultants and Ryan + Lamb Architects on behalf of the applicant on 26th May 2021 which can be summarised as follows:

- The scheme has been carefully designed to respect the surrounding context in response to the further information requests and thorough assessment of the Planning Authority.
- The development has been amended to achieve all qualitative and quantitative development plan standards and accords with national planning policy to increase densities on infill sites in central locations.
- Unit no. 13 has been carefully positioned within the site to mitigate the potential for impacts on the amenity of the rear gardens along Elm Mount Avenue.
- No unreasonable loss of light will occur to the rear garden of No. 310 Elm Mount Avenue as demonstrated in the Daylight/Sunlight Analysis Report submitted in response to the Planning Authority's Request for Further Information.
- The orientation, positioning and omission of windows on the gable wall of unit no. 13, ensures that no undue overlooking of No. 310 Elm Mount Avenue will occur.

- The appellants' concerns in relation to site flooding are addressed in the submitted Flood Risk Assessment, which has been deemed acceptable by the Drainage Division of Dublin City Council.
- The appeal submission from the occupants of No. 13 Maypark includes an incorrect drawing extract of unit no. 11, which does not demonstrate this dwelling as granted by Dublin City Council. As such, the appellants have incorrectly demonstrated the overlooking impacts from the rear façade of this unit.
- In response to the request for Clarification of Further Information, the layout of unit no. 11 was amended, creating an additional 2.2 m separation distance from its 1st floor windows to No. 13 Maypark.
- Unit nos. 11 – 13 do not directly oppose any 1st floor windows and maintain a 24 m distance from the 1st floor windows of No. 13 Maypark, which are located at a 45-degree angle from this unit. Opaque glazing measures are not necessary in this context.
- A minimum garden depth of 11 m is effective in mitigating the potential for overlooking of No. 13 Maypark. Contrary to the appellants' assertion, the existing vegetation offers screening to their rear garden in views from unit nos. 11 – 13.
- The applicant would welcome a condition requiring the provision of a sufficient boundary wall for additional screening to No. 13 Maypark and No. 1 Rosemount.
- The orientation of unit no. 11, with no clear windows proposed on its eastern façade and the separation distance to No. 1 Rosemount, will result in no undue overlooking of this neighbouring property.
- The potential for future extensions and alterations to the proposed dwellings is a matter for the Planning Authority to assess through planning control procedures.
- The ridge height of unit no. 11 is lower than that of No. 13 Maypark and No. 1 Rosemount.

- Unit nos. 11 – 13 have been designed appropriately in relation to the scale of the existing dwellings along the Malahide Road and Elm Mount Avenue, which combined with separation distances of 18.2 m and 22.5 m, reduces overbearing impacts.
- Low density dwellings are not appropriate on the site as suggested by the appellants' given that it has been demonstrated that the proposed development complies with all internal and external space standards.
- The proposed housing mix is fully compliant with relevant guideline standards, which are noted to have been incorrectly referenced by the appellants.
- All units comply with the applicable internal room dimension standards.

6.3. Planning Authority Response

6.3.1. None received.

6.4. Observations

6.4.1. An observation on the appeal was received from Seán Haughey TD, who notes his support for the appeal submission of Shane Cotter and Kathryn Wilson. It is suggested that 2 no. houses be omitted from the scheme to alleviate the concerns of adjoining residents and improve the residential amenity of the site for future occupants.

7.0 Assessment

7.1. Planning permission was originally for 20 no. dwellings, comprising 13 no. 3-bedroom, 2-storey semi-detached townhouses, 5 no. 2-bedroom, 2-storey, end-of-terrace houses and 2 no. 2-bedroom, split level bungalows. The proposed development was amended at Further Information stage to include **7 no. apartments** (5 no. 2-bedroom units and 2 no. 1-bedroom units) arranged in 1 no. block of 2-3 storeys in height and **13 no. dwellings** as follows:

- House nos. 1 - 6 (types 1A & 1B): 3-storey / 3-bedroom / 5-person, semi-detached dwellings.

- House nos. 7, 8, 9, 10, 12 and 13 (types 2A & 2B): 2-storey / 2-bedroom / 3-person, semi-detached dwellings.
- House no. 11 (type 2 C): 2-storey / 2-bedroom / 3-person, detached dwelling.

7.2. Dublin City Council determined that the applicant's Further Information response contained Significant Further Information, and as such, the planning application was readvertised to the public. Having regard to the foregoing, I am satisfied that it is appropriate to base my assessment on the amended development as submitted at Further Information stage and amended at Clarification of Further Information stage. In my opinion, the main issues for consideration in this case include:

- Compliance with Development Management Standards
- Development Density / Building Height
- Overlooking / Overbearing / Overshadowing Impacts
- Boundary Treatments
- Flooding
- Traffic / Site Access / Car Parking
- Appropriate Assessment

7.3. Each of these issues is addressed in turn below.

7.4. Compliance with Development Management Standards

7.4.1. The appeal submission from Shane Cotter & Kathryn Wilson of 13 Maypark, Malahide Road, Dublin 5 states that the approved house design is based on minimum standards, with all the houses and apartment units falling short of the minimum living width required under DEHLG 2007 guidance. The appellants also submit that the proposed housing mix is at odds with the development plan and offers little flexibility for changing circumstances, with 7 of the 13 no. houses comprising 2-bedroom, 3-person units. It is considered that the over-reliance on this unit type is at odds with the Sustainable Urban Housing: Design Standards for New Apartments, 2018.

7.4.2. In responding to the foregoing, the applicant's agent submits that the proposed development has been amended to achieve all qualitative and quantitative

development plan standards, including internal room dimensions and housing mix. It is also submitted that the appellants have incorrectly applied apartment planning policy to the proposed housing units and have provided factually incorrect statements.

- 7.4.3. Housing policy QH1 of the development plan identifies the guidance documents to which regard must be had when assessing residential development proposals, including the 2007 DEHLG Guidelines on “Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities”. This document identifies space provision and room sizes for a range of typical dwellings.
- 7.4.4. House types 2A, 2B and 2C are 2-storey / 2-bedroom / 3-person dwellings with a stated floor area of 90.8 m². The Guidelines identify a target gross floor area of 70 m² for such units. Drawing nos. RF301 and RF304 (as submitted at Further Information stage) confirm that all internal room sizes within these units, meet or exceed the Guideline standards. House types 1A and 1B are 3-storey / 3-bedroom / 5-person, semi-detached dwellings, with the Guidelines identifying a target gross floor area of 102 m² for such units. These units have a stated floor area of 111.14 m² and the schedule of areas provided on drawing no. P201 (as submitted at planning application stage), confirm that all internal room sizes meet or exceed the Guideline standards. Having regard to the foregoing, I am satisfied that the size of the proposed housing units is acceptable.
- 7.4.5. The proposed development also includes 7 no. apartments (5 no. 2-bedroom units and 2 no. 1-bedroom units). The “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” (2020) identify an overall floor area requirement of 45 m² for 1-bedroom units and 73 m² for 2-bedroom/4-person units. The proposed 1-bed apartments have a stated floor area of 49.8 m², while the 2-bedroom units range in size from 78.4 – 79 m². As such, I am satisfied that the proposed apartments exceed the overall floor areas required under national planning guidelines.
- 7.4.6. The 2020 Apartment Guidelines are applicable to the apartment units only as identified by the applicant’s agent. The Guidelines identify a unit mix of a max. 50% 1-bedroom units, with no requirement arising for 3-bedroom units. The proposed unit

mix in this instance is 29% 1-bedroom units and 71% 2-bedroom units, which is acceptable. The development plan does not identify a unit mix requirement for houses.

- 7.4.7. Overall, the proposed development includes 2 no. 1-bedroom apartments, 5 no. 2-bedroom/4-person apartments, 7 no. 2-bedroom/3-person houses and 6 no. 3-bedroom/5-person houses. In my opinion, the overall unit mix is appropriate having regard to the scale of the proposed development. I also note that the existing residential developments adjoining the subject site are primarily traditional 2-storey family dwellings, and as such, the proposed development would improve the unit mix in the area for a variety of household sizes.
- 7.4.8. In considering other key development management standards which relate to the proposed development, I note that the private open space to serve the proposed dwellings comprises individual rear gardens which range in size from 49.5 m² – 74.5 m² serving unit nos. 1 – 10 and from 67.6 m² – 109 m² serving unit nos. 11 – 13 as identified on Drawing No. RF104 (Public Open Space and Areas to be Taken in Charge) submitted at Further Information Stage.
- 7.4.9. The development plan requires a minimum standard of 10 m² of private open space per bedspace, with up to 60 – 70 m² of rear garden area sufficient for houses in the city. Having regard to the unit mix and number of bedspaces proposed, I consider that the private open space serving the houses is acceptable. For the avoidance of doubt, I note that the private open space serving unit nos. 11, 12 and 13 was increased at Clarification of Further Information stage, although the exact figures are not quoted on the Site Layout Plan (CFI-102). In any event, I am satisfied that the private open space is acceptable, given that it was increased in size, and having regard to the unit sizes and development plan requirements.
- 7.4.10. The 2020 Apartment Guidelines require that private open space of 5 m² be provided for 1-bedroom units, with 7 m² required for 2-bedroom/4-person units. I am satisfied that these standards have been exceeded in all instances.
- 7.4.11. The primary area of public open space is proposed towards the front of the site adjacent to the Malahide Road. It comprises an area of 391 m² (equating to 10.5% of the total 12% space provided) and accommodates exercise machines, seating, hard and soft landscaping and pedestrian connections to the front of the proposed

apartment block and onto the Malahide Road. The development plan requires that 10% of the site area in new residential developments shall be reserved as public open space. The communal open space requirement for the apartment units is 55 m² based on the standards of the 2020 Apartment Guidelines.

- 7.4.12. In assessing the proposed public open space arrangements, which includes a smaller parcel adjoining proposed unit no. 13, Dublin City Council's Planning Officer considered that the spaces do not constitute meaningful public open space. As such, it was recommended that a financial contribution in lieu of public open space be attached to the Notification of the Decision to Grant Planning Permission.
- 7.4.13. I note that communal open space has not been designated within the site. However, given the small number of units proposed, I consider that the public open space areas would likely function as communal open space for the proposed development only, rather than serving any wider neighbourhood function. While I acknowledge the Planning Officer's concerns in relation to the proposed public open space, I note that the development plan standard (10%) has been achieved. I further note that the subject site is located directly opposite Mayfield Park, which includes green areas, playing pitches and a children's playground. Thus, in my opinion, it would be unreasonable to require a financial contribution in lieu of public open space in this instance. In the event the Board disagrees with my assessment, this matter can be addressed by planning condition.
- 7.4.14. Thus, in conclusion, I am satisfied that the grounds of appeal regarding the schemes' compliance with development management standards are without substance and can be dismissed.

7.5. Development Density / Building Height

- 7.5.1. The appellants submit that the scale, design and height of the proposed development conflicts with the established character of the area, which primarily includes 2-storey dwellings. It is considered that the proposal represents the overdevelopment of a restricted site and constitutes disorderly, backland development. The appellants also submit that the number and massing of the units should be reduced, with bungalows and dormer dwellings presented as alternative design solutions for the site.

- 7.5.2. In responding to these grounds of appeal, the applicant's agent submits that the proposed development has been carefully designed to respect the surrounding context and accords with national planning policy to increase residential densities on infill sites in central locations. It is considered that it would be inappropriate to include low-density dwellings on the site, given that the proposed development complies with all relevant internal and external space standards.
- 7.5.3. In considering the issues which have been raised, I note that the Urban Development and Building Heights Guidelines for Planning Authorities (2018) confirm that suburban locations in cities and towns should include an effective mix of 2, 3 and 4-storey developments which integrate well with existing and historical neighbourhoods. While I acknowledge that the existing residential development on the subject site and the adjoining sites is primarily 2-storeys in height, I consider that the proposed building height range of 2-3 storeys is acceptable in principle at this location. The site size is generous and separation distances exceeding 20 m arise to the 2-storey dwellings to the rear at Elm Mount Avenue and at Nos. 3-6 Rosemount to the front. Separation distances exceeding 18 m arise between the gable elevations of the proposed 2-storey units (house nos. 11 and 13) on the north-western corner of the site and No. 308 Elm Mount Avenue to the rear and No. 2 Rosemount to the front. Thus, I consider that an increased building height of 1 storey above the prevailing context would be entirely reasonable at this location and that the inclusion of bungalows or dormer bungalows on the subject site is not warranted.
- 7.5.4. I also consider that the proposed development would not represent disorderly backland development as asserted by the appellants. I acknowledge that a new parallel building line will be introduced to the rear of the existing dwellings on the Malahide Road and Elm Mount Avenue, with a new perpendicular building line arising between proposed unit nos. 11-13 and Nos. 1 and 2 Rosemount and Nos. 306 and 308 Elm Mount Avenue. However, I consider that the site size, configuration and the separation distances which can be achieved, enables the successful integration of the proposed development into the existing built fabric.
- 7.5.5. The proposed development represents an equivalent residential density of 54 units/ha. While the appellants have expressed concerns in relation to the number/scale of units proposed, I note that national planning policy supports increased residential densities on sites adjoining public transport corridors. Policies

QH7, QH8 and Q23 of the development plan also support increased residential densities in the interests of ensuring the efficient use of zoned, urban land. As such, I am satisfied that the scale/density of development which is proposed in this instance is appropriate on this underutilised brownfield site which directly adjoins a public transport corridor.

7.6. Overlooking / Overbearing / Overshadowing Impacts

7.6.1. All appellants have raised concerns in relation to overlooking, overbearing and overshadowing impacts on their respective properties on foot of the proximity / configuration of unit nos. 11, 12 and 13 on the north-western portion of the subject site. The potential impact of the proposed development on each of these properties is considered in turn below.

- **No. 13 Maypark**

7.6.2. No. 13 Maypark is a 2-storey, semi-detached property located to the south of the subject site, fronting onto the Malahide Road. The rear garden of this property extends perpendicular to the rear gardens of proposed unit nos. 11, 12 and 13. An off-set separation distance of 24.025 m arises between the rear elevation of proposed unit no. 11 and the rear elevation of this existing dwelling (Drawing No. CFI – 102: Site Layout Plan refers).

7.6.3. In summary, the appellants submit that overlooking and overbearing impacts will arise to their property from proposed units 11, 12 and 13. It is submitted that the ground floor and patio levels of these units are c. 450 mm above their garden, resulting in an elevated view of their private amenity space from the patios and 1st floor bedrooms of the proposed dwellings. It is submitted that obscure glazing to a height of 1.8 m above internal floor level should be provided to the 1st floor windows of these units and that a 1.8 m high fence should be provided above the patio and ground floor levels.

7.6.4. In response to the foregoing, the applicant's agent submits that the layout of unit no. 11 was amended at Clarification of Further Information stage, creating an additional 2.2 m separation distance from the 1st floor windows to No. 13 Maypark. It is also submitted that unit nos. 11, 12 and 13 do not directly oppose the appellants' property, with their windows located at a 45-degree angle from unit no. 11. It is considered that opaque glazing is not necessary in this context, and it is noted that the proposed

ridge height of unit no. 11 is lower than that of the existing dwelling. While the applicant's agent submits that a minimum garden depth of 11 m is effective in mitigating the potential for overlooking, the applicant would welcome a condition requiring the provision of a boundary wall to offer additional screening to this property.

- 7.6.5. In considering the foregoing, I acknowledge that new building forms will be introduced to the north of No. 13 Maypark where none currently exists, which will alter the existing open nature of the subject site in views from the appellants' property. However, the rear façades of unit nos. 11, 12 and 13 are proposed to be set back by 11 m from the appellants' rear boundary / garden, which is not an unreasonable separation distance in an urban context. No directly opposing relationship arises between the appellants' property and the proposed units, with an off-set separation distance of 24.025 m arising to the rear façade of proposed unit no. 11. In my opinion, the provision of opaque glazing to the rear 1st floor windows of these units would be unreasonable and unnecessary given the separation distances which arise and given that these windows serve bedrooms rather than primary living spaces. Should the Board disagree with my assessment, this matter can be addressed by condition.
- 7.6.6. The applicant is willing to accept a condition requiring an appropriate boundary treatment to address the appellants' overlooking concerns, which I consider to be reasonable. In my opinion, a boundary treatment to a height of 1.8 m above the proposed patio level of these units would offer sufficient screening to the appellants' rear garden. This matter can be addressed by planning condition.
- 7.6.7. In conclusion, I am satisfied that the proposed development would not result in any significant negative impact on the residential amenities of No. 13 Maypark.
- **No. 310 Elm Mount Avenue**
- 7.6.8. The appellant submits that a loss of daylight and sunlight, overlooking and devaluation of their property will occur on foot of the proximity of proposed unit no. 13. It is also submitted that the raised site levels will result in the new houses being significantly higher than No. 310 Elm Mount Avenue.
- 7.6.9. In response to the foregoing, the applicant's agent submits that the orientation, positioning and omission of windows on the gable wall of unit no. 13 will ensure that

no undue overlooking of No. 310 Elm Mount Avenue will occur. It is submitted that the Daylight/Sunlight Analysis Report prepared in response to the Request for Further Information demonstrates that no unreasonable loss of light will occur to the rear garden of this property. It is also submitted that unit nos. 11, 12 and 13 have been designed appropriately in relation to the scale of the existing dwellings along Elm Mount Avenue, with the separation distances arising serving to reduce any overbearing impacts.

- 7.6.10. No. 310 Elm Mount Avenue is located to the north of unit no. 13, with a separation distance of approx. 17 m – 18 m arising between the gable elevation of the proposed dwelling and the rear, single-storey extension and 2-storey façade respectively of the existing dwelling. A directly opposing relationship does not occur between appellant's dwelling and proposed unit nos. 11-13.
- 7.6.11. The applicant's shadow study demonstrates the impact of the proposed development on neighbouring properties during the Spring and Autumn equinox, 21st June and 21st December. The study illustrates the existing situation, the proposed development as submitted at planning application stage and as amended at further information stage. I note that some additional shadow impacts will arise to the rear garden of No. 310 Elm Mount Avenue at 10 am, 12 pm and 2 pm on 21st December, reflecting the low position of the sun at this time of year. Having regard to the extent of the existing overshadowing, I am satisfied that the additional overshadowing which would arise on foot of the proposed development would have no significant negative impact on the residential amenities of this property.
- 7.6.12. In considering the potential for overlooking impacts to arise to No. 310 Elm Mount Avenue, I note that the only fenestration on the 1st floor gable elevation of unit no. 13 is a bathroom window. Drawing No. RF300 (submitted at Further Information stage) confirms that this window will be permanently maintained in opaque glazing. As such, I am satisfied that no overlooking of No. 310 Elm Mount Road could occur from proposed unit no. 13.
- 7.6.13. Drawing RF602 which formed part of the applicant's Further Information Response illustrates the proposed front and rear contiguous elevations of the proposed development in the context of the adjoining dwellings along Elm Mount Avenue. Based on the foregoing, I am satisfied that the site levels and overall height of the

proposed development would not be significantly higher than No. 310 Elm Mount Avenue, and that the appellant's assertion in this regard is incorrect.

7.6.14. In conclusion, I am satisfied that the proposed development would not result in any significant negative impact on the residential amenities of No. 310 Elm Mount Avenue.

- **No. 1 Rosemount**

7.6.15. The occupants of No. 1 Rosemount submit that overlooking and overbearing impacts will arise to their property, and to the adjoining property at No. 2 Rosemount, from proposed unit nos. 11, 12 and 13. It is submitted that a gable wall of 9.2 m in height will be provided directly on the shared boundary, and that fencing up to 1.8 m above the proposed ground levels is insufficient to protect from significant overlooking from the raised patio of unit no. 11. Should the Board consider granting planning permission for the proposed development, the appellants request that the rear 1st floor windows of unit nos. 11-13 be obscured to a height of 1.7 m and that the window to the gable elevation of unit no. 11 be omitted.

7.6.16. No. 1 Rosemount is located to the south-east of unit no. 11 and fronts onto the Malahide Road. The gable elevation of unit no. 11 is set back by approx. 2.6 m from the rear boundary of this dwelling and by approx. 19.2 m from its rear façade.

7.6.17. In considering the potential for overlooking impacts to occur, I note that 1 no. window is proposed at 1st floor level of the gable elevation of unit no. 11 facing the appellants' rear garden (Drawing No. C302 of CFI response refers). This window adjoins the 1st floor landing of unit no. 11 (Drawing No. C301 of CFI response refers). The window treatment is described as crittal style double/triple opaque and high-level clear glazing. In my opinion, the removal of this window is not warranted as suggested by the appellants. However, I consider that the entirety of the window should comprise opaque glazing given that it does not serve a primary living space and having regard to its orientation towards Nos. 1 and 2 Rosemount. This matter can be addressed by way of condition should the Board decide to grant planning permission in this instance.

7.6.18. While the appellants have requested that the rear 1st floor windows of unit nos. 11, 12 and 13 be obscured to a height of 1.7 m, I can identify no valid planning argument

to justify this amendment. None of the 1st floor windows overlook the appellants property, and as such, I consider that this point of appeal is without substance.

7.6.19. In considering the potential for overbearing impacts to arise to No. 1 Rosemount, I acknowledge that the 2-storey gable elevation of unit no. 11 will be introduced to the rear of the appellants' property and will alter the existing open nature of the subject site. However, unit no. 11 does not sit directly on the shared boundary as asserted by the appellants', being set back by c. 2.6 m and by c. 19.2 m from the 2-storey rear façade of No. 1 Rosemount. In my opinion, the overall separation distance which is proposed is not unreasonable in an urban context, and I am satisfied that no significant overbearing impacts would arise which would justify an amendment to the development as proposed, or which would warrant a refusal of planning permission in this instance.

7.6.20. I consider that no overlooking or overbearing impacts will arise to the appellants' property from proposed unit nos. 12 and 13 given that these dwellings do not directly adjoin No. 1 Rosemount. As such, I consider that these points of appeal are without substance.

7.6.21. In conclusion, I am satisfied that the proposed development would not result in any significant negative impact on the residential amenities of the appellants' property.

7.7. Boundary Treatments

7.7.1. The appellants submit that unclear information has been submitted in relation to the proposed boundary treatments. Mathew & Linda Reardon of No. 1 Rosemount submit that boundary fencing of 1.8 m in height is insufficient to prevent the significant overlooking of their property from the raised patio of proposed unit no. 11. Shane Cotter & Kathryn Wilson of No. 13 Maypark, Malahide Road also submit that a 1.8 m fence above rear garden level is insufficient to provide adequate screening from the elevated patios of unit 11, 12 and 13. In response to these concerns, the applicant's agent submits that the applicant would welcome a condition requiring the provision of a boundary wall for additional screening to No. 1 Rosemount and No. 13 Maypark.

7.7.2. In my opinion, a suitable boundary treatment of 1.8 m in height measured above the patio space of unit nos. 11, 12 and 13 would be appropriate to mitigate any undue overlooking of the adjoining properties. For the avoidance of doubt, I consider that a

boundary treatment of 1.8 m in height should also be maintained or provided as appropriate, adjoining Nos. 3 - 6 Rosemount and along the rear site boundary adjoining Nos. 310 - 326 Elm Mount Avenue. These matters can be addressed by planning condition should the Board decide to grant planning permission for the proposed development.

7.8. Flooding

- 7.8.1. The appeal submission from Christine Dempsey of No. 310 Elm Mount Avenue notes concerns in relation to the site drainage due to the presence of an underground stream which could lead to flooding. Similar concerns were also raised in the third-party submissions on the application. In responding to the foregoing, the applicant's agent submits that these' concerns were addressed in the submitted Flood Risk Assessment (FRA), which has been deemed acceptable by the Drainage Division of Dublin City Council.
- 7.8.2. The revised FRA which was submitted to the Planning Authority at Further Information stage identifies the following:
- The site is located in Flood Zone C, with a low risk of flooding.
 - There are no surface water bodies adjacent to the site that would pose a flood risk to the development.
 - The FloodResilienCity and Dublin City SFAR highlight a potential source of inundation along Elm Mount Road along the northern/north-western section of the site. Appropriate levels have been identified for the access road, the finished floor levels of unit nos. 1 and 2 and the remainder of the site to minimise the flood risk from possible inundation along Elm Mount Road.
 - The identified SuDS measures have the potential to lower pluvial flood risk in the area.
 - The identified flood risk mitigation measures will ensure that the risk of inundation onsite is minimised and that there is no increase in flood risk downstream of the site.
- 7.8.3. The report concludes that the risk of flooding to the development has been reduced as far as is reasonably practical and the proposal does not increase the risk of flooding to any adjacent or nearby area.

7.8.4. As identified by the applicant's agent, the Drainage Division of Dublin City Council had no objection to the proposed development subject to conditions, following the Further Information and Clarification of Further Information responses which were received by the Planning Authority. Thus, having regard to the foregoing, and the design measures which have been identified to mitigate any potential flood risk within and downstream of the subject site, I am satisfied that this issue has been satisfactorily addressed in this instance.

7.9. Traffic / Site Access / Car Parking

7.9.1. A new site access is proposed in the northern site boundary from Elm Mount Road in the form of a priority controlled (yield) junction. It is proposed to remove a street tree (early-mature flowering cherry) on the public margin adjoining the site at this location to facilitate the new site access and to provide 4 no. replacement specimen trees along the boundary of the public road. In the event the Board grants planning permission for the proposed development, the removal/replacement of these trees should be agreed in advance with the Parks Department of Dublin City Council. This matter can be addressed by planning condition.

7.9.2. A total of 21 no. car parking spaces are proposed to serve the development as assigned on the site layout plan, including 2 no. visitor spaces, 1 no. accessible visitor space and 1 no. accessible resident space. I am satisfied that the proposed car parking provision is acceptable based on development plan standards.

7.9.3. Bicycle parking is proposed in a secure shelter adjacent to the apartment block and will accommodate 16 no. spaces (12 no. resident spaces and 4 no. visitor spaces). I am satisfied that the proposed bicycle parking provision complies with the standards of the 2020 Apartment Guidelines.

7.9.4. A swept path analysis has been undertaken which confirms that a large refuse vehicle and large fire tender can access, traverse and egress the site in a forward manner, with no traffic safety concerns arising.

7.9.5. Thus, while I note that traffic safety and car parking concerns were raised in the third-party submissions on the application, I am satisfied that the proposed site access and car parking arrangements would be acceptable in this instance. I also note that the Transportation Planning Division of Dublin City Council has no objection to the proposed development subject to conditions.

7.10. Appropriate Assessment Screening

- 7.10.1. The subject site is not located within or directly adjacent to any Natura 2000 site, and as such, there is no potential for **direct impacts** to occur. Surface water and wastewater pathways ultimately lead to Dublin Bay, which is subject to a number of designations including, South Dublin Bay and River Tolka Estuary SPA (site code: 004024), South Dublin Bay SAC (site code: 000210), North Dublin Bay SAC (site code: 000206) and North Bull Island SPA (site code: 004006).
- 7.10.2. In considering **indirect impacts**, it is noted that water supply to the site is proposed via a single 100 mm diameter estate watermain connected to the Irish Water main in Elm Mount Road. Foul effluent will be discharged to the wastewater treatment plant (WWTP) at Ringsend via a new connection to the foul sewer in Malahide Road and will ultimately discharge to Dublin Bay. There is potential for a distant hydrological connection between the subject site and the sites in Dublin Bay due to the wastewater pathway. However, having regard to the scale of the proposed development, the foul discharge from the site will be negligible in the context of the overall licenced discharge at Ringsend Wastewater Treatment Plant (WWTP).
- 7.10.3. It is noted that emissions from this plant are currently not in compliance with the Urban Wastewater Treatment Directive. However, the pollutant content of discharges to Dublin Bay is likely to decrease in the longer term due to the permission to upgrade the WWTP which was granted in 2019. It is also an objective of the Greater Dublin Strategic Drainage Study and all development plans in the catchment of Ringsend WWTP to include SuDS within new developments and to protect water quality in the receiving freshwater and marine environments and to implement the WFD objective of achieving good water quality status in Dublin Bay. The proposed development will incorporate SuDS measures as detailed in the Engineering Report (dated 9th December 2020) which accompanied the applicant's Further Information Response, including the provision of a green roof to the apartment building, water butts to the housing units and the use of permeable paving where possible. These are standard features for residential development not specifically included to mitigate against impacts on a European site. Pollution control measures which will be undertaken during both the construction and operational phases are standard practices for urban sites and would be required for a development on any urban site to protect local receiving waters, irrespective of any potential hydrological connection

to Natura 2000 sites. Thus, I conclude that the proposed development will not impact on the water quality status of Dublin Bay.

- 7.10.4. In relation to **in-combination impacts**, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded.
- 7.10.5. Based on the foregoing and having regard to the qualifying interests and conservation objectives for the European sites identified in Appendix 1 of this report, I consider that the following sites can be screened out from further assessment, South Dublin Bay and River Tolka Estuary SPA (site code: 004024), South Dublin Bay SAC (site code: 000210), North Dublin Bay SAC (site code: 000206) and North Bull Island SPA (site code: 004006), and the undertaking of an appropriate assessment is not necessary in this instance.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted for the proposed development.

9.0 Reasons and Considerations

- 9.1. Having regard to the location of the subject site on serviced urban land, the residential land use zoning of the site, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 on the 16th day of December 2020 and clarified on 5th day of March 2021, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>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.</p> <p>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.</p>
3.	<p>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</p>

	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
4.	<p>Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
5.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p>

	<p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
6.	<p>The entire 1st floor window on the gable elevation of proposed unit no. 11 shall be comprised of opaque glazing.</p> <p>Reason: To prevent overlooking of neighbouring properties in the interests of residential amenities.</p>
7.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>(a) The rear and side gardens of unit nos. 11, 12 and 13 shall be bounded by a 1.8 m high concrete block wall, suitably capped and rendered, or by a 1.8 m high timber fence with concrete posts, or such other screening treatment of at least 1.8 m in height as may be deemed appropriate by the Planning Authority. The overall height of the boundaries shall be based on level of the raised patios to the rear of each dwelling unit. Details of the proposed boundary treatments shall be submitted for the written agreement of the planning authority prior to the commencement of the development.</p> <p>(b) An appropriate boundary treatment, to comprise a 1.8 m high concrete block wall, suitably capped and rendered, or a 1.8 m high timber fence with posts, or such other screening treatment of at least 1.8 m in height as may be deemed appropriate by the Planning Authority, shall be provided along the site boundaries adjoining Nos. 3 – 6 Rosemount and Nos. 310 – 326 Elm Mount Avenue, and shall be submitted for the written agreement of the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of residential and visual amenity.</p>
9.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these</p>

	<p>facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
10.	<p>The construction of the development shall be managed in accordance with a Construction and Demolition 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 the hours of working, traffic management arrangements, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
11.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall</p>

	<p>agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
12.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.</p> <p>Reason: To ensure the satisfactory completion and maintenance of this development.</p>
13.	<p>(a) An accurate tree survey of the site, which shall be carried out by an arborist or landscape architect, shall be submitted to the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.</p> <p>(b) Measures for the protection of those trees which it is proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.</p> <p>(c) Prior to the commencement of development, the developer shall liaise with the Parks, Biodiversity and Landscape Services of the planning authority in relation to the removal / replacement of any street trees outside the site to facilitate the proposed development.</p>

	<p>Reason: To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of visual amenity.</p>
14.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) A plan to scale of not less than 1:500 showing –</p> <p>(i) The species, variety, number, size and locations of all proposed trees and shrubs.</p> <p>(ii) Details of screen planting.</p> <p>(iii) Details of roadside/street planting.</p> <p>(iv) Hard landscaping works, specifying surfacing materials, furniture, and finished levels.</p> <p>(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment</p> <p>(c) A timescale for implementation.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
15.	<p>All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to</p>

	<p>comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of sustainable transportation.</p>
16.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety.</p>
17.	<p>No additional development shall take place above the roof parapet level of the apartments, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
18.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
19.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
20.	<p>The internal road network serving the proposed development shall comply with the detailed standards of the planning authority for such road works.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
21.	<p>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</p>

	<p>accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility.</p>
22.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

Louise Treacy
 Planning Inspector

12th May 2022

Appendix 1: Natura 200 Sites – Qualifying Interests & Conservation Objectives

North Bull Island SPA (Site Code: 004006)	
Qualifying Interests	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
Conservation Objective(s)	<ul style="list-style-type: none"> - To maintain the favourable conservation condition of Light-bellied Brent Goose in North Bull Island SPA (A046) - To maintain the favourable conservation condition of Shelduck in North Bull Island SPA (A048) - To maintain the favourable conservation condition of Teal in North Bull Island SPA (A052) - To maintain the favourable conservation condition of Pintail in North Bull Island SPA (A054) - To maintain the favourable conservation condition of Shoveler in North Bull Island SPA (A056) - To maintain the favourable conservation condition of Oystercatcher in North Bull Island SPA (A130) - To maintain the favourable conservation condition of Golden Plover in North Bull Island SPA (A140)

	<ul style="list-style-type: none"> - To maintain the favourable conservation condition of Grey Plover in North Bull Island SPA (A141) - To maintain the favourable conservation condition of Knot in North Bull Island SPA (A143) - To maintain the favourable conservation condition of Sanderling in North Bull Island SPA (A144) - To maintain the favourable conservation condition of Dunlin in North Bull Island SPA (A149) - To maintain the favourable conservation condition of Black-tailed Godwit in North Bull Island SPA (A156) - To maintain the favourable conservation condition of Bar-tailed Godwit in North Bull Island SPA (A157) - To maintain the favourable conservation condition of Curlew in North Bull Island SPA (A160) - To maintain the favourable conservation condition of Redshank in North Bull Island SPA (A162) - To maintain the favourable conservation condition of Turnstone in North Bull Island SPA (A169) - To maintain the favourable conservation condition of Black-headed Gull in North Bull Island SPA (A179) - To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it (A999)
--	--

North Dublin Bay SAC (Site Code: 000206)	
Qualifying Interests	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>

Conservation Objective(s)	<ul style="list-style-type: none"> - To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide [1140] - To restore the favourable conservation condition of Annual vegetation of drift lines [1210] - To restore the favourable conservation condition of Salicornia and other annuals colonizing mud and sand [1310] - To maintain the favourable conservation condition of Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] - To maintain the favourable conservation condition of Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] - To restore the favourable conservation condition of Embryonic shifting dunes [2110] - To restore the favourable conservation condition of Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ('white dunes') [2120] - To restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation ('grey dunes') [2130] - To restore the favourable conservation condition of Humid dune slacks [2190] - To maintain the favourable conservation condition of Petalwort [1395]
----------------------------------	---

South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024)	
Qualifying Interests	<p>Light-bellied Goose <i>Branta (bernicla hrota)</i> [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa tetanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193]</p>

	<p>Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetlands [A999]</p>
<p>Conservation Objective(s)</p>	<ul style="list-style-type: none"> - To maintain the favourable conservation condition of Light-bellied Brent Goose in South Dublin Bay and River Tolka Estuary SPA (A046) - To maintain the favourable conservation condition of Oystercatcher in South Dublin Bay and River Tolka Estuary SPA (A130) - To maintain the favourable conservation condition of Ringed Plover in South Dublin Bay and River Tolka Estuary SPA (A137) - To maintain the favourable conservation condition of Knot in South Dublin Bay and River Tolka Estuary SPA (A143) - To maintain the favourable conservation condition of Sanderling in South Dublin Bay and River Tolka Estuary SPA (A144) - To maintain the favourable conservation condition of Dunlin in South Dublin Bay and River Tolka Estuary SPA (A149) - To maintain the favourable conservation condition of Bar-tailed Godwit in South Dublin Bay and River Tolka Estuary SPA (A157) - To maintain the favourable conservation condition of Redshank in South Dublin Bay and River Tolka Estuary SPA (A162) - To maintain the favourable conservation condition of Black-headed Gull in South Dublin Bay and River Tolka Estuary SPA (A179) - To maintain the favourable conservation condition of Roseate Tern in South Dublin Bay and River Tolka Estuary SPA (A192) - To maintain the favourable conservation condition of Common Tern in South Dublin Bay and River Tolka Estuary SPA (A193) - To maintain the favourable conservation condition of Arctic Tern in South Dublin Bay and River Tolka Estuary SPA (A194) - To maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it (A999).

South Dublin Bay SAC (Site Code: 004024)

<p>Qualifying Interests</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetland and Waterbirds [A999]</p>
<p>Conservation Objective(s)</p>	<p>To maintain the favourable conservation condition of Light-bellied Brent Goose [A046] To maintain the favourable conservation condition of Oystercatcher [A130] To maintain the favourable conservation condition of Ringed Plover [A137] To maintain the favourable conservation condition of Knot [A143] To maintain the favourable conservation condition of Sanderling [A144] To maintain the favourable conservation condition of Dunlin [A149] To maintain the favourable conservation condition of Bar-tailed Godwit [A157] To maintain the favourable conservation condition of Redshank [A162] To maintain the favourable conservation condition of Black-headed Gull [A179] To maintain the favourable conservation condition of Roseate Tern [A192] To maintain the favourable conservation condition of Common Tern [A193]</p>

	<p>To maintain the favourable conservation condition of Arctic Tern [A194]</p> <p>To maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it [A999]</p>
--	--