



An
Bord
Pleanála

Inspector's Report ABP-311626-21

Development	Demolition of 1 dwelling and 4 out-buildings/sheds and the construction of 14 residential units, all with associated private open space areas in the form of balconies and gardens.
Location	Long Acre, School Road, Rathcoole, Dublin 24
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD21A/0206
Applicant(s)	Edward Balfe
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Edward Balfe
Date of Site Inspection	30 th April 2022

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.3 hectares (measured as 0.25 by the PA), is located to the south west of Rathcoole village centre. The appeal site is located between the existing housing developments of Windmill Close and Broadfield Court. The site is a long narrow site that is accessed from an existing access road off School Road. This road provides access to Windmill Close, Croftwell (has own access off School Road) and a pedestrian access to Broadfield Court. The road also serves the appeal site, which has an existing dwelling to the south of the site and a number of sheds along the eastern boundary. At the time of the site visit the site was cordoned off. The levels on the appeal site are located at a higher level than the existing dwellings in Windmill Court to the north east, which are two-storey terraced dwellings with the site adjoining the open space area within the existing housing development. To the south west of the site are a mix of two-storey terraced and single-storey semi-detached dwellings that back onto the south western boundary of the site. The site extends as far as the boundary with the N7 to the north west of the site.

2.0 Proposed Development

- 2.1. Permission is sought for demolition of 1 no. existing dwelling and 4 no. out buildings/sheds and the construction of 14 no. residential units, comprising 6 no. 1 bed apartments, 6 no. 3 bed duplex apartments and 2 no. three bed semi-detached dwellings all with associated private open space area in the form of balconies and gardens, provision of bicycle storage, bin storage, signage, associated drainage, landscaping, boundary treatment and sites works.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused based on five reasons...

1. The proposed layout is substandard, would be an inefficient use of zoned lands, and would seriously injure the amenities of property in the vicinity (particularly

Broadfield Court). The development does not respond well to the context of take advantage of potential access from adjoining sites. Having regard to Section 11.3.2 of the South Dublin County Development Plan 2016-2022, the site does not comply with the County Development Plan policy on infill development, as it relates to:

- architectural integration with adjoining sites
- retention of significant features (trees)
- inappropriate transition in height.

The proposed development would also have a detrimental and overbearing visual impact for houses on Broadfield Court to the west, which back onto the site, with a loss of privacy and daylight indicated due the massing, height and proximity of the apartment block.

The proposal would also back onto the existing public open space to the east which is poor urban design.

For these reasons, the proposed development would contravene the South Dublin County Development Plan 2016-2022 and would be contrary to the proper planning and would be contrary to the proper planning and sustainable development of the area.

2. The applicant has proposed access via the laneway to the south, which is not yet taken in charge. Development would be premature prior to (a) a section of this laneway being taken in charge, or (b) establishment of agreement to a right of way across these lands. Consent from the adjoining land owner should be provided in the event that a planning application includes lands in separate ownership.

3. Notwithstanding the potential ownership of the access laneway, the lack of segregation at the interface between vehicular and non-vehicular sections of the laneway is a hazard and would be made worse by the proposed development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

4. The application does not address the issue of noise impact from the N7 Road to the north. Without appropriate specification boundary treatment and/or mitigation measures, this will impinge on residential amenity and potentially impact the health of residents. The proposed development would therefore be contrary to IE Policy 7 Environmental Quality and the proper planning and sustainable development of the area.

5. The proposed development would see the removal of a considerable number of trees on-site and no effort has been made to incorporate them in the proposed design. The proposed loss of green infrastructure would contradict Policies G2 and HCL15 of the South Dublin County development plan 2016-2022.

6. Insufficient attenuation capacity has been proposed in order to achieve greenfield run-off rates. The form of attenuation proposed does not conform with Policy IE2 or section 11.6.1(iii) under which natural SUDs features are sought.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (14/09/21): Issues of concern arose regarding quality of design, impact on adjoining amenities, access issues, surface water drainage, and inadequate consideration of road noise. Refusal was recommended based on the reason outlined above.

3.2.2. Other Technical Reports

EHO (19/08/21): No objection subject to conditions.

Water Services (20/08/21): Further information required regarding surface water attenuation and provision of SUDs measures.

Irish Water 23/08/21): Further information required including submission of pre-connection enquiries for water supply and foul drainage.

3.3. Prescribed Bodies

Department of Defence (09/08/21): Conditions required in relation to construction phase including consultation regrading operation of cranes and bird control measures during construction.

TII (27/08/21): The TII will entertain no new claims in respect of impact (noise and visual) on the proposed development if approved due to the presence of the existing road or any new road scheme.

3.4. Third Party Observations

Several third party submission were received from residents in the vicinity of the proposed development. The issues raised in the submissions can be summarised as follows...

- Premature pending an LAP, visual impact, overlooking, overbearing impact reduced privacy, inappropriate density, segregation of pedestrian and vehicular traffic poor, traffic hazard, lack if TIA, no flood risk assessment, inadequate sewerage facilities, lack ecological impact, inadequate school facilities in the area. .

4.0 Planning History

No planning history on the appeal site.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the South Dublin County Council Development Plan 2016-2022.

The appeal site is zoned 'RES-N' with a stated objective 'to provide for new residential communities in accordance with approved area plans'.

Core Strategy (CS) Policy 4 Small Towns

It is the policy of the Council to support the sustainable long term growth of Small Towns based on local demand and the ability of local services to cater for growth.

CS4 Objective 1: To support and facilitate development on zoned lands on a phased basis subject to approved Local Area Plans.

CS4 Objective 2: To provide sufficient zoned land to accommodate services, facilities, retail and economic activity

Policy H7: It is the policy of the Council to ensure that all new residential development within the County is of high quality design and complies with Government guidance on the design of sustainable residential development and residential streets including that prepared by the Minister under Section 28 of the Planning & Development Act 2000 (as amended).

Policy H15: It is the policy of the Council to promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.

Policy IE2: It is the policy of the Council to manage surface water and to protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.

Policy IE7: It is the policy of the Council to have regard to European Union, National and Regional policy relating to air quality, light pollution and noise pollution and to seek to take appropriate steps to reduce the effects of air, noise and light pollution on environmental quality and residential amenity.

11.2.7 Building Heights

Varied building heights are supported across residential areas, urban centres and regeneration zones in South Dublin County, subject to appropriate safeguards to protect the amenity of the area.

Development proposals that include 'higher buildings' that are greater than the prevailing building height in the area should be supported by a strong urban design rationale (as part of a Design Statement) and provide an appropriate series of measures that promote the transition to a higher building.

Proposals for higher buildings of over three storeys in residential areas should be accompanied by a site analysis (including character appraisal) and statement that addresses the impact of the development (see also Section 11.2.1 – Design Statements).

The appropriate maximum or minimum height of any building will be determined by: -

- The prevailing building height in the surrounding area.
- The proximity of existing housing - new residential development that adjoins existing one and/or two storey housing (backs or sides onto or faces) shall be no more than two storeys in height, unless a separation distance of 35 metres or greater is achieved.
- The formation of a cohesive streetscape pattern – including height and scale of the proposed development in relation to width of the street, or area of open space.
- The proximity of any Protected Structures, Architectural Conservation Areas and/or other sensitive development.

11.3.2 Residential Consolidation

Infill residential development can take many forms, including development on infill sites, corner or side garden sites, backland sites and institutional lands.

(i) Infill Sites

Development on infill sites should meet the following criteria:

- Be guided by the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities DEHLG, 2009 and the companion Urban Design Manual.
- A site analysis that addresses the scale, siting and layout of new development taking account of the local context should accompany all proposals for infill development. On smaller sites of approximately 0.5 hectares or less a degree of architectural integration with the surrounding built form will be required, through density, features such as roof forms, fenestration patterns and materials and finishes. Larger sites will have more flexibility to define an independent character.
- Significant site features, such as boundary treatments, pillars, gateways and vegetation should be retained, in so far as possible, but not to the detriment of providing an active interface with the street.
- Where the proposed height is greater than that of the surrounding area a transition should be provided (see Section 11.2.7 Building Height).
- Subject to appropriate safeguards to protect residential amenity, reduced open space and car parking standards may be considered for infill development, dwelling sub-division, or where the development is intended for a specific group such as older people or students. Public open space provision will be examined in the context of the quality and quantum of private open space and the proximity of a public park. Courtyard type development for independent living in relation to housing for older people is promoted at appropriate locations. Car parking will be examined in the context of public transport provision and the proximity of services and facilities, such as shops.
- Proposals to demolish a dwelling(s) to facilitate infill development will be considered subject to the preservation of the character of the area and taking account of the structure's contribution to the visual setting or built heritage of the area.

GREEN INFRASTRUCTURE (G) Policy 3 Watercourses Network

It is the policy of the Council to promote the natural, historical and amenity value of the County's watercourses; to address the long term management and protection of these corridors and to strengthen links at a regional level.

5.2 National Policy

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities
- Urban Development and Building Heights Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets • Childcare Facilities Guidelines for Planning Authorities
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices)

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

Project Ireland 2040 - National Planning Framework

The recently published National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating

physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMRA)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),

'Housing for All - a New Housing Plan for Ireland' (September 2021).

5.3 Natural Heritage Designations

5.3.1 None within the zone of influence of the project.

5.4 EIA Screening

5.4.1 The proposal for 14 no. residential units on a site of 0.3 ha is below the mandatory threshold for EIA. The nature and the size of the proposed development is well below the applicable thresholds for EIA. I would note that the uses proposed are similar to predominant land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by CDP Architecture on behalf of Edward Balfe, Long Acre, School Road, Rathcoole, Dublin 24.

- The proposal for residential development on this infill site is compliant with national policy for increased density on underutilised lands zoned for residential use. The development is designed with adequate regard to adjoining amenities. The proposal is also designed to allow for future amalgamation with adjoining development including access and open space areas and a provision of walkway.
- In relation to building height it is noted that development plan policy supports varying building heights and that the transition in height between the existing development and the appeal site would be gradual.
- The provision of apartments adjoining dwellings is a compatible use and will provide more of mix of unit types in the area.
- In relation to access the appellant/appellant notes that the issue consent/right of way could have been dealt with by way of further information.

- Sightlines provided are indicated on a site layout submitted and such are compliant with the requirements of Design Manual for Urban Roads and Streets and the requirements of the County Development Plan. It is noted that the existing entrance facilities the movement of articulated vehicle currently and the proposal would eliminate this traffic.
- In relation to noise impact the applicant/appellant notes that such could have been provided by way of further information and could also be provided by way of compliance condition.
- In response to the refusal reason regarding trees it is noted that the development seeks to retain all existing mature trees across the site and provide additional tree planting.
- In relation surface water drainage issues the applicant/appellant has noted that such could have been addressed by way of further information and the applicant was not given the opportunity to do so.

6.2. Planning Authority Response

6.2.1 Response by South Dublin County Council.

- The submission states that South Dublin County Council wish to confirm their decision to refuse permission.

7.0 Assessment

7.1. Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development

Density, Core Strategy, Area Capacity

Layout & Design/Development Control Standards

Residential Amenity/Adjoining Amenity

Traffic/Access

Surface Water Drainage

Trees

Noise

7.2. Principle of the proposed development:

7.2.1 The proposed development is located on lands zoned 'RES-N' with a stated objective 'to provide for new residential communities in accordance with approved area plans'. Permission is sought for the construction of a residential development with 14 no. residential units comprising 6 no. 1 bed apartments, 6 no. 3 bed duplex apartments and 3 no. three bed semi-detached. The appeal site is an infill site located between the housing developments of Windmill Close and Broadfield Court. Access is from an existing road (not a public road or taken in charge based on the information on file) that provides access from School Road to the west and provides access to Windmill Close, Croftwell Drive and pedestrian access to Broadfield Court. The principle of a housing development at this location is supported by Development Plan policy, and would constitute planned development. The principle of the proposed development at this location is acceptable.

7.3 Density, Core Strategy, Area Capacity:

7.3.1 The appeal has an area of 0.3 hectares and the proposed development consists of 14 no. residential units yielding a density of 46 units per hectare. National policy on density is contained under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual'). Chapter 5 relates to Cities and Larger Towns. The application site is on the periphery of a large town (defined as population of 5,000 or more) and would constitute an Outer Suburban/Greenfield Site "defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities". The guidelines identify that "the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally". The proposed development provides for a density of 46 units

per hectare, which in my view would be consistent with the recommendations of national policy and an appropriate density at this location.

7.3.2 The South Dublin County Council Development Plan 2016-2022 identifies Rathcoole as a Small Town (within the Metropolitan Green Belt) under the settlement hierarchy (population 1,500-5000). The Plan identifies a requirement for 39,649 from Jan 15 up to the end of 2022 based on regional planning guidelines. The plan identifies 45 hectares of land within Rathcoole for housing with a capacity of 1,062 residential units and an anticipated population of 5,703 by 2022. The proposed development accounts for 98 units. It would appear based on current information that the level of the provision of units proposed on lands zoned for residential use under this application can be facilitated under the core strategy of the South Dublin County Development Plan.

7.3.3 The population statistics for Rathcoole indicated a population of 4,351 in the last census (2016). The core strategy indicates that the population is expected to be over 5,000 by 2022. Based on the Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual') the application site is on the periphery of a large town (defined as population of 5,000 or more) and would constitute an Outer Suburban/Greenfield Site, even if it is classified as being a small town in the settlement hierarchy. The site is within walking distance of the town centre and is in a commutable distance of a wide variety of services in the area including employment and public transport infrastructure (Saggart Luas stop 4.2km from the site). I would acknowledge that Circular NRUP 02/2021 allows for consideration of lower density on the edge of smaller settlements, however I am satisfied that the site is an Outer Suburban/Greenfield site and the density proposed is consistent with national guidance and in the interests of efficient use of zoned serviced lands. The Draft Development Plan (2022-2028) classified Rathcoole as a self-sustaining growth town with an anticipated population of over 6,000 by 2028 and capacity to facilitate additional housing. The core strategy in the draft plan does not alter my view in terms of the appropriateness of the density and type of development proposed.

7.4 Layout & Design/Development Control Standards:

7.4.1 Permission was refused on the basis that the design and layout was considered to be substandard in terms of urban design and the amenities of future residents.

Housing Mix

7.4.2 The proposal provides for 14 no. residential units comprising 6 no. 1 bed apartments, 6 no. 3 bed duplex apartments and 2 no. three bed semi-detached. The mix of units provides more variety from the permitted/existing development on the adjoining sites. I note that while the surrounding residential developments contain a mix of dwelling types, there remains a predominance of 3 and 4 bedroom houses in the area as many of the adjacent developments were permitted prior to the NPF or the RSES. I consider that the proposed mix of houses, apartment and duplex units will add to the variety of housing typologies in the area. I note SPPR 4 of the Building Height Guidelines, 7.4. which requires that planning authorities must secure a greater mix of building heights and typologies in planning the future development of greenfield or edge of city/town locations and avoid mono-type building typologies such as two-storey own door houses only, particularly in developments > 100 units and I consider that the development is consistent with this guidance. As discussed above, the density complies with the guidance for outer suburban sites in the Sustainable Residential Development Guidelines and is therefore also consistent with SPPR 4 in this regard. The development also meets the requirements of SPPR 1 of the Apartment Guidelines. The proposed housing mix is considered acceptable on this basis.

7.4.3 Minimum floor area for apartments under Section 3.4 of the Apartment Guidelines is 45sqm, 63sqm (two bed 3 person units) 73sqm (two bed 4 person units) and 90sqm for one, two and three bed units respectively. All apartments meet these standards. In addition there is a requirement under Section 3.8 for “the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the

total, but are not calculable as units that exceed the minimum by at least 10%)". In this case this standard is also met.

7.4.4 In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

(ii) In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.

100% of the apartment units are dual aspect with the requirement of the guidelines met.

All apartment units are provided with balcony areas or garden areas. The requirement under the Sustainable Urban Housing: Design Standards for New Apartments (December 2020) being for 5, 6, 7 and 9sqm for one bed, two (3 person), two bed (4 person) and three bed units respectively. This standard is met in all cases. All apartment units meet the required standards in terms of room dimensions and storage space.

7.4.5 In case of the proposed dwellings the recommended room size/dimensions are as set out under the Quality Housing for Sustainable Communities guidelines. All dwellings are provided with rear gardens with areas of a reasonable size and in compliance with Development Plan standards as set out under Table 11.20.

7.4.6 The maximum requirements for car parking under Development Plan policy is under Table 11.2.4 of the County Development Plan. Based on the number of units the maximum parking requirement for the development is 19 spaces (4 for the dwellings and 15 for the 12 no. apartments). The provision of parking is 14 spaces in total including 2 dedicated spaces for each of the dwelling units and 10 spaces to serve the 12 no. apartment units. I would highlight the fact the development is in walking distance of the Rathcoole town centre (existing pedestrian infrastructure in place) and in walking distance of public transport infrastructure.

7.4.7 Provision of bicycle parking for the dwellings is within their curtilage and there is provision of a secure bike store adjacent the apartment blocks. The requirement under Development Plan policy for the 12 no. apartment units is 1 per 5 apartments with 10 spaces being provided and well in excess of Development Plan requirements.

7.4.8 The requirement for public open space on land zoned 'RES-N' is a minimum of 14% of the total site area. The applicant has provided 4,01.5sqm (two areas either side of the apartment block) of public open space, which is just marginally below 14% of the stated site area (13.38%). The quantity of public/communal open space meets development plan requirements.

Layout/Urban Design

7.4.9 Refusal reason no. 1 relates to the failure to integrate well with adjoining development and the layout of existing development adjoining sites and being contrary development plan policy in relation to infill development. The appeal site is an infill site zoned for residential use in an existing residential area. The site is located between existing housing development consisting of two-storey terraced (Windmill Close) and semi-detached dwellings (Broadfield Court). The proposed development as noted above the proposal meets minimum and maximum development control standards in most cases apart from maximum car parking standards.

7.4.10 As noted above the density of the development is 46 units per hectare, which by density standards is within the range recommended under national guidance for residential developments in areas such as this. I would consider that the proposal provides for a design that is of an acceptable standard in terms of layout and urban design. The site is an infill site, which has its own access of the service road that provides access to School Road and other residential developments. I would consider that there is probably scope for some level of integration of access with Windmill Close to the north west in terms of both access, integration with public open

space, however I would note that such would be contingent on getting consent to do so and would likely to be subject to more strong opposition from the residents of the existing housing development than the current proposal, which itself had several submissions from residents of the adjoining developments. I am of the view that given the site has its own access that the proposal can facilitate an independent development and the design of such has had regard to how it integrates with adjoining properties (a more detailed assessment of residential amenity is included in the following section). The proposal has sited the apartment block along the north western boundary with balcony areas at first floor level serving duplex units benefiting from an outlook towards open space in the adjoining development of Windmill Close. The applicant/appellant has also identified that the way the development is laid out allows for integration in the future if possible with a turning area adjacent the turning area in Windmill Close and open space areas adjoining the open space area in the existing dwelling.

7.4.11 I would be of the view the provision of three-storey block at this location can be successful absorbed in terms of visual impact. The proposed block is three-storey flat roofed block with a ridge height 10.27m. The provision of varied heights and different housing typologies in areas that are dominated by a particular typology is consistent with national policy and I would be of view that subject an acceptable impact on adjoining amenities that the layout and design of the development proposed is satisfactory in terms of urban design and overall visual amenity of the area. The proposal is relatively simple in layout on an infill site and although not of exceptional architectural merit would be an acceptable level of development on an infill site of this nature, on lands zoned for residential development in an established suburban area. I would be of the view that the overall design and layout has adequate regard to the provision of relevant guidelines in relation to urban design such as the, Urban Design Manual-A Best Practice Guide, the Urban Development and Building Heights Guidelines for Planning Authorities, the Design Manual for Urban Roads and Streets and Policy H7 'Urban Design in residential Development' of South Dublin County Development Plan 2016-2022.

7.5 Residential Amenity/Adjoining Amenity:

7.5.1 The first refusal reason outlines concerns regarding impact on adjoining residential amenities due to height scale and orientation in relation to existing properties to the south west (Broadfield Court) and impacts on daylight and privacy. The layout of the proposal is such that the apartment block backs onto the north eastern boundary where it adjoins the public open space area in Windmill Close. The apartment block has its longest facade facing north east and south west. In the case of the aspect to north west such as to overlook the existing open space area and the layout of the duplex units is such that balcony areas at first floor level have an outlook to the north east. The south western facade is orientated towards the rear of existing dwellings in Broadfield Court that back onto the south western boundary of the appeal site. The three-storey block is set back from this boundary to facilitate vehicular access with a setback of between 8.927m and 8.827m from the boundary.

7.5.2 The refusal reason raises impact on light to adjoining properties. The applicant/appellant did not include an assessment of daylight or sunlight or any shadow study. Notwithstanding such there are a number of factors that should be considered in assessing this issue. The BRE Guidelines (The Building Research Establishment guidelines on Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice) are the most commonly used standards for assessing such impacts. In relation to daylight (Vertical Sky Component/VSC) the test for assessment of such under the BRE guidelines is whether the distance of each part of the new development from the existing window is three or more times its height above the centre of the window. If yes no further analysis is required, if no the second test is whether a line drawn from the centre of the existing windows at a 25 degree angle cuts through the new development. If no the proposal use is unlikely to have substantial effect. The dwellings in Broadfield Court to the south west of the apartment block are numbers 19-29 (six dwellings). The windows on the ground floor of these dwellings are on their north east elevations facing the site and in the case of the extended dwellings facing south east. The distance between the windows on the rear elevation of these dwellings facing the site is 17.683m from the south western facade of the proposed block. The centreline of these windows (examined history files for no. 23 and 27) would be between 1 and 2m above ground level. The level of

separation based on such would have to be between 24.81 and 27.81m to avoid need for further assessment. In this case separation is less than such. The next test is whether a line drawn from the centre of the existing windows at a 25 degree angle cuts through the new development. Having carried out an examination based on this criteria no further assessment is required with the proposal unlikely to have a significant effect and based on the level of separation the proposed structure would have to be 16.4m high to subtend a 25 degree angle from the existing windows.

7.5.3 In relation to sunlight (Annual Probable Sunlight Hours, APSH) the test is, is that some part of the new development is within 90 degrees of due south of the window wall of an existing building. If yes in a section drawing perpendicular to this existing window wall, the new development subtends an angle greater than 25 degrees to the horizontal measured from the centre of the lowest window to a main living room further assessment is required. In this case the proposed development is located to the north west of the dwelling Broadfield Court and would not require any further assessment for sunlight impact based on the BRE guidelines. In regards to overshadowing the requirement under the BRE guidelines is that adjoining amenity spaces would provide for a minimum of 2 hours of sunlight over 50% of the amenity space on the 21st of March. As stated there is no assessment of such, however I would be of the view that such is unlikely to be necessary with the gardens serving Broadfield Court located to the south west of the appeal site. I am satisfied the overall scale and orientation of the apartment block and 2 no. dwellings in relation to existing dwellings is such that there are no issues concerning loss of daylight, sunlight or overshadowing. I would note that the 2 no. dwellings proposed to the north west of the site also pass the relevant tests outlined above with no further assessment required.

7.5.3 In relation to the issue of overlooking the issue appears to be related to the dwellings in Broadfield Court. The dwellings in Broadfield Court that back onto the site are single-storey dwellings with rear gardens backing onto the boundary. I would be of the view that the notion that any development adjoining existing development in an area such as this should be similar in height is not a sustainable approach to

development of residential sites. The predominant scale of development in the area is two-storeys with some single-single-storey dwellings. The proposal provides for 2 no. two-storey dwellings and a three-storey block with duplex units. This scale of development is not a significant or excessive increase in buildings heights in a suburban location and is a scale that can and must adequately be absorbed to achieve the efficient use of zoned land. I would note that the provision of two-storey development instead of three-storey development would still entail a certain degree of overlooking, which is an unavoidable characteristic of development in an urban location. The level of separation between the south western façade and to the rear elevation (north east facing windows) of existing dwelling is well over the 22m that is so commonly applied to suburban development and opposing first floor windows. I would note that the design of the apartment block has adequate regard to adjoining amenity by placing balconies to the living space of the duplex apartments on the north eastern elevation and orientated towards the existing open space area in Windmill Close and not towards the dwellings in Broadfield Court. I am of the view that the design gives rise to a level of overlooking that would be acceptable in an urban context/residential area such as this. In this regard I am satisfied the proposed development has adequate regard to the amenities of adjoining properties.

7.6 Traffic/access:

7.6.1 Access to the site is through an existing access road that has a junction with School Road to the east of the site. This access road serves dwellings in Windmill Close as well as providing access to dwellings in Croftwell to the south (Croftwell also has direct access from School Road) and also gives pedestrian access to Broadfield Court. The access road also provides access to the site, which is occupied by an existing dwelling and sheds (appears to be a commercial use). The proposal was refused due to this access road not having been taken in charge and the requirement for the applicant to gain adequate consent/right of way. The site has an existing access from the laneway/service road, however the issue of right of way, issue of taking in charge is not a planning consideration or impediment to the grant of permission.

7.6.2 The proposal was refused on the basis that “the lack of segregation at the interface between vehicular and non-vehicular sections of the laneway is a hazard” and such will be exacerbated by the proposal. The existing laneway/access road has footpath along its northern edge that ends at the entrance to Windmill Close and there will be a lack of footpath provision for a small section between the site entrance and the entrance to Windmill Close. The fragmentation in terms of footpath provision is an issue and providing such would require consent from the relevant owner and works outside the site boundary.

7.6.3 I would be of the view that the development should not be precluded on this basis and that the proposal is located in heart of an existing housing area and accessible to a sufficient level of pedestrian infrastructure.

7.6.4 In regards to the level of traffic likely to be generated, the development is an infill development of modest scale. The nature and type of traffic generated is not out of keeping with the type of traffic already being generated at this location with the access road providing sole vehicular access to Windmill Close. It would appear that the site was in use for commercial development with a number of sheds and the applicant indicating that articulated vehicles were accessing the site. The proposal for residential use and the subsequent nature of such traffic is more in keeping with adjoining uses. In addition the site is in walking distance of the village centre and schools in the area.

7.7: Surface Water Drainage:

7.7.1 The proposal was refused on the basis that insufficient attenuation capacity was provided and the form of attenuation provided does not conform to development plan policy and the requirement for natural SUDs features. The appeal site is a zoned serviced site and proposes a density that is not a high density by the standard of residential development and includes a reasonable level open space area, which is mainly soft landscaping. I can see no reason why the development cannot be serviced adequately in terms of surface water attenuation. I would consider that

subject to an appropriate condition requiring compliance with planning authority's requirements and consultation on such prior to the commencement of development, the proposed development would be satisfactory in the context of drainage infrastructure.

7.8 Trees:

7.8.1 Permission was refused on the basis that proposal entails the removal of a considerable number of trees on-site with no effort to incorporate them in the proposed design. The loss of green infrastructure was deemed to be contrary Policies G2 and HCL15 of the South Dublin County development plan 2016-2022. The appeal site is a brownfield site being occupied by an existing dwelling and a number of sheds with indication that commercial activity was carried out on site. I would question whether the existing trees on site are high value, however there is a lack of a tree survey. The appellant in response has indicated the intention to retain all mature trees as well as provide additional planting. I would consider an appropriate condition could deal with this issue.

7.9 Noise:

7.9.1 The appeal site is located adjacent the N7 National Route, which runs along the north western boundary of the site. The proposal was refused on the basis that the application does not address the issue of noise impact from the N7 and without appropriate specification boundary treatment and/or mitigation measures, this will impinge on residential amenity and potentially impact the health of residents. The proposed development was deemed to be contrary to IE Policy 7 Environmental Quality. In response to this reason for refusal the appeal submission indicates that such could have been addressed by way of further information and now could be addressed by way of condition.

7.9.2 The appeal site is zoned for residential development and is in an established residential area. The site is close to the N7, however it is notable that there are existing housing development adjoining the site in similar proximity to the N7 in the

form of Windmill Close to the north east and Broadfield Court. The applicant/appellant has not submitted a noise assessment in relation to the appeal. The South Dublin Council Councils Round 3 Noise Maps show that the site has a day time noise reading ranging from between 60-64dB(A) and 65-69dB(A) and a night time noise reading ranging from between 60-64dB(A) and 65-69dB(A). The extreme northern part of the site may have a higher level (70-74dB(A) daytime). I would be of the view that having regard to the zoning of the site under Development Plan policy and its location in established residential area with existing residences in a similar proximity to the N7, that the proposal would be satisfactory in the context of noise impact. The most relevant/commonly used standards for noise assessment for residential development are under BS 8233:2014, ProPG: Planning & Noise Professional Practice Guidance on Planning & Noise New Residential May 2017 and the Dublin Agglomeration Noise Action Plan December 2018. I would consider however that some mitigation measures are required. A number of construction measures could to be implemented with glazing designed to ensure that the required internal noise standards set down under the aforementioned guidelines are met. Other measures including details of ventilation proposals, external wall and roof construction should be specified. I would consider that an appropriate condition requiring the details and specific of acoustic measures could be applied and subject to agreement prior to the commencement of development.

8.0 Appropriate Assessment

- 8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend a grant of permission subject to the following conditions.

10.0 Reasons and Considerations

Having regard to the following:

- (a) the provisions of the South Dublin County Council Development Plan 2016-2022, including the zoning objectives for the site',
- (b) the Housing for All-A New Housing Plan for Ireland (September 2021),
- (c) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013
- (d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020,
- (f) the nature, scale and design of the proposed development,
- (g) the availability in the area of a wide range of social, community and transport infrastructure,
- (h) the pattern of existing and permitted development in the area,
- (i) the planning history within the area,
- (j) the report of the Inspector and the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Prior to the commencement of any house unit in 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 house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses 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.

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.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

4. Proposals for an estate / street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. 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.

Reason: In the interest of urban legibility.

5. 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/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling unit. Reason: In the interests of amenity and public safety

6.

(a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS.

Reason: In the interest of orderly development.

7. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries with no ransom strips remaining to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted and agreed with the planning authority.

Reason: In the interest of permeability and proper planning and sustainable development.

8. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces

facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

10. (a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.

(b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

(c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

(d) A maintenance policy to include regular operational inspection and maintenance of the SUDS infrastructure and the petrol/oil interceptors should be submitted to and agreed in writing with the planning authority prior to occupation of proposed dwelling units and shall be implemented in accordance with that agreement.

Reason: In the interest of public health and surface water management.

11. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interests of clarity and public health.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- b) Location of areas for construction site offices and staff facilities.
- c) Details of site security fencing and hoardings.
- d) Details of on-site car parking facilities for site workers during the course of construction.
- e) A Construction Traffic Management Plan providing details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- f) Measures to obviate queuing of construction traffic on the adjoining road network.
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any footpath, cyclepath or public road during the course of site development works.
- i) Details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels.
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil. Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health, and safety.

13. Construction and demolition waste shall be managed in accordance with a construction waste 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 be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery, and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

15. 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.

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.

16. Prior to the commencement of development the applicant/developer shall submit in writing for approval by the Planning Authority, details of all trees for retention and tree protection measures.

Reason: In the interests of orderly development.

17. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the

planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Colin McBride
Planning Inspector

16th May 2022