



An
Bord
Pleanála

Inspector's Report

ABP-314540-22

Development	Demolition of dwelling, construction of 1 no. four-storey block, comprising 26 no. apartments and all associated site works
Location	Rockbrae, Westminster Road, Dublin 18 (D18 P9Y7)
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0411
Applicant(s)	Eoin Spring
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Eoin Spring
Observer(s)	Barry McAuliffe and Jeananne O'Brien; Michael Monaghan; Neil McHugh; Mehreen Hussain Gheewala; Joseph McCarthy; An

Taisce South County Dublin
Association; and Margaret Clerkin.

Date of Site Inspection

23rd February 2024

Inspector

Bernadette Quinn

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.3029 hectares is rectangular in configuration and contains a detached two storey dwelling served by an existing vehicular entrance off Westminster Road. The site boundaries are defined by a mixture of mature trees and hedgerows. Adjoining development to the west comprises a recently constructed 4 storey building containing townhouses which front on to Torquay Road and Westminster Road and the rear boundary of which adjoins the western boundary of the appeal site. To the east there are detached two storey dwellings fronting on to Westminster Road. The northern boundary adjoins rear gardens serving existing detached dwellings which front on to Torquay Road. The opposite side of Westminster Road is characterised by a mix of detached single and two storey dwellings.
- 1.2. The appeal site is located approximately 50 metres northeast of Foxrock Village. The N11 is approximately 1km to the east at the opposite end of Westminster Road and Sandyford Luas Depot is located approximately 2km north of the site.

2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority comprises the following:
- Demolition of existing 2 storey dwelling and ancillary structures on site;
 - Construction of 1 no. four-storey block (3-storeys with set-back penthouse level), comprising 26 no. apartments (3 no. one-bedroom units, 21 no. two-bedroom units and 2 no. three-bedroom units);
 - Communal amenity space, 30 no. vehicular parking spaces, bin store, bicycle store (48 no. spaces) and visitor bicycle parking (12 no. spaces) at surface level;
 - New vehicular and pedestrian entrance off Westminster road.

A revised proposal was submitted with the appeal which amended the proposed development as follows:

- Increased setback of building line by an additional 1.8m from 5.815m to 7.615m from front (southern) site boundary facilitating the provision of additional landscaping along Westminster road;
- Reduced floor level from +74.100 proposed at application stage to +74.000 and reduced parapet height by 1.225m from 13.7m proposed at application stage to 12.475m reducing the height to below that of the parapet of the adjoining building to the west;
- Reduction in car parking spaces from 30 to 28 to accommodate additional setback from Westminster Road;
- Incorporation of glazed screening to penthouse (fourth storey) level terraces on east, west and north elevations.

3.0 Planning Authority Decision

3.1. Decision

On 08th August 2022, the Planning Authority refused permission for the following 3 reasons:

- 1. The demolition of the existing house on site, which is habitable and serviceable, has not been sufficiently justified against the policies of the County Development Plan including Policy HER14, Policy CA6, and Section 12.3.9.*
- 2. The proposed scheme does not take due cognisance of the requirement to preserve the character of the Foxrock Architectural Conservation Area. A combination of height, massing, loss of trees, loss of soft boundary, building line, and the general character of the scheme is at odds with the prevailing building form and typology. As such, the proposed development, both in itself and by virtue of the precedent it might set, would be contrary to Policy HER13 of the County Development Plan.*
- 3. The proposed development would result in an undue loss of residential amenity to the house to the east by virtue of height and proximity to site*

boundaries, and as such would be contrary to Policy PHP20 of the County Development Plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report is consistent with the decision to refuse permission and noted the following main points

- The site location within the Foxrock ACA and the impacts of the development on its character is a key consideration.
- The proposed density of 85 units per hectare may be acceptable in principle noting the site's location in an urban area with good public transport accessibility (within 1km of N11 bus corridor).
- The development is not significantly taller (as defined in the development plan as more than 2 storeys taller than prevailing height for area) than prevailing building height in the area and does not require a height compliance report as required by the development plan building height strategy and Policy Objective PHP20 or assessment against performance based criteria in Table 5.1.
- Raises concerns in relation to
 - Height which should be no higher than the adjacent development to west.
 - Impact on residential amenity of property to the east due to four storey height in close proximity to the site boundary and position forward of the building line to the east
 - Overbearing impact on Westminster Road due to proximity of four storey building to road and lack of a landscape buffer.
- The scheme would be at odds with the prevailing character of the area, which it is an objective of the Foxrock ACA and the County Development Plan to maintain.
- The proposed demolition of the 1930s dwelling has not been adequately justified by the applicant in line with Policy HER14.

- The proposal would not give rise to undue levels of overlooking on surrounding residential amenities due to separation distances and use of obscure glazing and angled windows.
- The roof terrace and lack of screening facing west, north and east is of concern which can be addressed by condition if permission is granted.
- Serious concerns in relation to overshadowing, including on the property to the east at 16:00 on March 21st which appears to be significant.
- The daylight analysis submitted shows all proposed apartments comply with average daylight factor requirements, however, failure to provide information on Annual Probable Sunlight Hours (APSH) should be addressed.
- Principle of removal of some trees on the site is acceptable subject to further minimisation in line with concerns of the Parks Department. However, the removal of the existing sylvan boundary is not consistent with the site's location in the Foxrock ACA.
- Concerns in relation to proximity of the car parking to the front boundary of the site in terms of safety and in terms of the impact on the Foxrock ACA.

3.2.2. Other Technical Reports

Conservation Officer: Recommends refusal and raises the following concerns:

- Foxrock ACA is coming under considerable development pressure which threatens its distinctive built and landscape character and expresses concern with regards to the intensification of existing sites which alters the established morphology of the ACA noting a significant aspect of the character of the ACA is derived from its mature trees, shrubs and hedgerows, together with low density residential development.
- There is a presumption in favour of retaining any building which makes a positive contribution to the character of the ACA. The existing dwelling is in the Edwardian style with many characteristic features including wide overhanging eaves, canted bays and projecting timber and is considered to be of sufficient architectural merit to warrant its retention.

- The proposed development would see the creation of a more urban architectural style which is at odds with the domestic scale architecture of the ACA characterised by large detached dwellings set within their own grounds and considers any proposed development on the site should be designed to sit more comfortably and respectfully within its contextual setting and the wider character of the ACA.
- The existing dwelling should be retained and a more sympathetic scheme is achievable on the site to allow the successful integration of the existing building within any new development.
- The proposal fails to comply with the development plan Policy Objectives HER13, HER14, and Section 12.11.4 relating to demolition and new development within ACA.

Transportation Planning: Recommends further information be requested to provide for a Zebra crossing across the proposed vehicular entrance, an amendment to car parking layout, provision of EV parking, motorcycle parking, a cycle audit and a construction management plan.

Drainage Planning: Recommends further information be requested in relation to SuDS, details relating to soil type and soakway, and hydraulic modelling.

Parks Department: Refers to failure to incorporate existing trees and hedgerows as required in section 12.8.11 of the development plan and the requirement for new developments to have regard to objectives to protect and preserve trees and woodlands; failure to retain trees and provide appropriate mitigation measures; impact of development on trees that are to be retained; and impact of excessive surface carparking on proposed open space and play areas. Refusal recommended.

Environmental Health Officer: Further information required in relation to construction and operational waste management and noise survey.

Public Lighting Department: No objection subject to conditions.

Housing Department: No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water: Further information required in relation to water and wastewater connections.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are similar to those raised in the observations to the appeal and include concerns in relation to scale, height, design, visual impact, impact on ACA, no justification for demolition, impact on residential amenity, tree removal, sewerage capacity, issues with red line on eastern site boundary and transportation concerns.

4.0 Planning History

Appeal Site:

D02A/1097: Permission granted on 03/02/2003 for single storey extensions to side and rear, new entrance set back, pier and gates and retention and completion of garage.

Adjoining site to the West:

D08A/0166: Permission granted by the planning authority on 24/09/2008 for demolition of existing dwelling and construction of a mixed-use development comprising 11 apartments, office and retail units. This permission has not been implemented.

PL06D.249014 (D17A/0441): Permission refused by planning authority and granted on appeal by An Bord Pleanála to demolish house and construct 8 townhouses three storey's high with a setback fourth storey. In making the decision the Board considered that the site and the existing dwelling of Clonbur House, which are extensively screened by conifers from the public realm, did not currently contribute significantly to the character and setting of the Foxrock Architectural Conservation Area. The Board, therefore, considered that the proposed development would make a more positive contribution to this prominent corner site at the crossroads within Foxrock village and would not negatively affect the special character of the

Architectural Conservation Area that is characterised by larger houses sited within large landscaped gardens with more visibility from the public realm. The Board, therefore, considered that the proposed development was in accordance with the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. National Policy

The National Planning Framework - Project Ireland 2040 sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards.

5.2. Regional Policy

The Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 provides a framework for development at regional level promoting the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint.

5.3. Section 28 Ministerial Guidelines

The following ministerial guidelines are considered relevant to the appeal site:

- Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024) (the 'Compact Settlements Guidelines'). These guidelines outline appropriate density ranges for different area types. Table 3.1 'Areas and Density Ranges Dublin and Cork City and Suburbs' states that it is a policy and objective of the guidelines that residential densities in the range between 40 dph to 80 dph (net) shall generally be applied in suburban locations in Dublin and Cork, and that densities of up to 150 dph shall be open for consideration at 'accessible' suburban locations. Table 3.8 provides accessibility definitions with 'Lands within 500-1,000 metres (i.e. 10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services' defined as 'intermediate locations'. The guidelines state that while densities within the ranges set out will be

acceptable, planning authorities should encourage densities at or above the mid-density range at the most central and accessible locations in each area, densities closer to the mid-range at intermediate locations and densities below the mid-density range at peripheral locations. Densities above the ranges are 'open for consideration' at accessible suburban and urban extension locations to the maximum set out in Section 3.3.

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (the 'Apartment Guidelines') address density and include with the definition of 'Intermediate Urban Locations' at section 2.4, sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided. These sites are stated as suitable for smaller-scale, higher density development that may wholly comprise apartments.
- Architectural Heritage Protection Guidelines for Planning Authorities Department of Arts, Heritage, Gaeltacht 2011 provide guidance in relation to proposals for demolition within an Architectural Conservation Area stating that the onus should be on the applicant to make the case for demolition. The guidelines state that the planning authority should consider the effect both on the character of the area and on any adjacent protected structures. When it is proposed to demolish an undistinguished building in an ACA, the proposed replacement should not be of lesser quality or interest than the existing one and should not adversely affect the character of the area. The guidelines include criteria to consider regarding the material effect that the proposed demolition may have on the character of the ACA including whether the structure contributes to the character of the area; the effect its removal would have on the setting of other structures; and the impact on the character and special interest of the structure or the ACA. Section 3.10 outlines criteria for assessing proposals for development within an ACA. It states that the design of new development is of paramount importance. It is recommended that where there is an existing mixture of styles, a high standard of contemporary

design that respects the character of the area should be encouraged and that the scale of new structures should be appropriate to the general scale of the area and not its biggest buildings.

- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines');
- Design Manual for Urban Roads and Streets (DMURS) (2019);
- Housing for All – A New Housing Plan for Ireland to 2030 (2021);
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities', 2007.

5.4. Development Plan

- 5.4.1. Local Planning Policy is set out in the DLR Development Plan 2022-2028. The following are the main relevant applicable sections, policies and objectives of the Development Plan to the site (not an exhaustive list):

The site is within an area zoned A the objective for which is to provide residential development and improve residential amenity while protecting the existing residential amenities. 'Residential' use is permitted on this zoning objective.

The site is within the Foxrock Architectural Conservation Area for which a Character Area Appraisal Report has been prepared.

There are two protected structures located approximately 50 metres to the west of the site on the opposite side of Torquay Road identified as 'The Gables' and 'Telephone Kiosk'.

Chapter 3: Climate Action

Policy Objective CA6: Retrofit and Reuse of Buildings: It is a Policy Objective to require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction as set out in the Urban Design Manual (Department of Environment Heritage and Local Government, 2009).

Chapter 4: Neighbourhood – People, Homes and Place

Policy Objective PHP18: Residential Density It is a Policy Objective to:

- Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.
- Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.

Where a site is located within circa 1 kilometre pedestrian catchment / 10 minute walking time of a rail station, Luas line, Core/Quality Bus Corridor and/or 500 metres / 5 minute walking time of a Bus Priority Route, and/or 1 kilometre / 10 minute walking time of a Town or District Centre, higher densities at a minimum of 50 units per hectare (net density) will be encouraged.

Constraints to Higher Density: In some circumstances higher residential density development may be constrained by Architectural Conservation Areas (ACA) and Candidate Architectural Conservation Areas (cACA) designations, Protected Structures and other heritage designations. To enhance and protect ACAs, cACAs, Heritage Sites, Record of Monuments and Places, Protected Structures and their settings, new residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity.

Policy Objective PHP19: Existing Housing Stock – Adaptation:

It is a Policy Objective to: Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF. Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

Policy Objective PHP20: Protection of Existing Residential Amenity.

Ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

The following paragraphs in Chapter 4, page 85 are also relevant:

- On all developments with a unit per hectare net density greater than 50, the applicant must provide an assessment of how the density, scale, size and proposed building form does not represent over development of the site. The assessment must address how the transition from low density to a higher density scheme is achieved without it being overbearing, intrusive and without negatively impacting on the amenity value of existing dwellings particularly with regard to the proximity of the structures proposed. The assessment should demonstrate how the proposal respects the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring uses.
- On sites abutting low density residential development (less than 35 units per hectare) and where the proposed development is four storeys or more, an obvious buffer must exist from the rear garden boundary lines of existing private dwellings.
- Where a proposal involves building heights of four storeys or more, a step back design should be considered so as to respect the existing built heights.

Policy Objective PHP27: Housing Mix

It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.

Policy Objective PHP42: Building Design & Height

Encourage high quality design of all new development. Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5.

Chapter 11 Heritage and Conservation

Policy Objective HER13 - Architectural Conservation Areas

It is a Policy Objective to:

i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA). ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area. iii. Ensure that any new development or alteration of a building within an ACA or immediately adjoining an ACA is appropriate in terms of the proposed design, including scale, height, mass, density, building lines and materials. iv. Seek a high quality, sensitive design for any new development(s) that are complementary and/or sympathetic to their context and scale whilst simultaneously encouraging contemporary design which is in harmony with the area. Direction can also be taken from using traditional forms that are then expressed in a contemporary manner rather than a replica of a historic building style. vi. Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.

Section 11.4.2 states: While the purpose of ACA designation is to protect and enhance the special character of an area, it should not be viewed as a means of preventing new development but rather to help guide and manage change to ensure developments are sympathetic to the special character of the ACA.

Policy Objective HER14: Demolition within an ACA

It is a Policy Objective to prohibit the demolition of a structure(s) that positively contributes to the character of the ACA.

Any such proposals will be required to demonstrate that the existing building is incapable of viable repair and reuse and should be accompanied by an Architectural Heritage Impact Assessment, photographic survey and condition report.

Chapter 12 Development Management

Section 12.3.5 outlines requirements relating to Apartment Development, including dual aspect, internal storage and external storage, minimum floor areas and additional design requirements.

Section 12.3.7.7 Infill

In accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

Section 12.3.9 Demolition and Replacement Dwellings

The Planning Authority has a preference for and will promote the deep retro-fit of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement unless a strong justification in respect of the latter has been put forward by the applicant. Demolition of an existing house in single occupancy and replacement with multiple new build units will not be considered on the grounds of replacement numbers only but will be weighed against other factors. Better alternatives to comprehensive demolition of, for example, a distinctive detached dwelling and its landscaped gardens, may be to construct structures around the established dwelling and seek to retain characteristic site elements. Applications for replacement dwellings shall also have regard to Policy Objectives HER20 and HER21 in Chapter 11. In this regard, the retention and reuse of an existing structure will be preferable to replacing a dwelling, and the planning authority will encourage the retention of exemplar nineteenth and twentieth century dwellings on sites in excess of 0.4 hectares.

Section 12.4 outlines requirements in relation to Residential Parking, including cycle and motorcycle parking.

Section 12.8 outlines requirements in relation to open space for residential development, including requirements in relation to public open space, communal open space and private open space.

Section 12.8.11 Existing Trees and Hedgerows requires new developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. The retention of existing planted site boundaries will be encouraged within new developments, particularly where it is considered that the existing boundary adds positively to the character/visual amenity of the area.

Section 12.11.3 development management standards in relation to Architectural Conservation Areas states that in order to preserve and enhance the character of

ACAs the Planning Authority seeks to retain original features including windows, doors, roof coverings, boundary treatments (such as stone walls, hedges, and railing) and other features of interest that contribute to the streetscape character; encourage the reinstatement of lost architectural features and boundary treatments detailing (where there is physical or documentary evidence) to buildings of interest and townscape value; and retain any surviving kerbing/paving and items of street furniture that contributes to the character of the ACA in line with HER16, Section 11.4.2.4.

Section 12.11.4 New Development within an ACA: A sensitive design approach is required for any development proposals in order to respect the established character and urban morphology. Where development is appropriate, the Planning Authority are supportive of contemporary design that is complementary and sympathetic to the surrounding context and scale. All planning applications for development within an ACA shall have regard to the following criteria:

All developments within an ACA should be site specific and take account of their context without imitating earlier styles. New developments should be to a high standard of design and should have a positive contribution to the character of the ACA.

Demolition of structures that contribute to the streetscape character will not normally be permitted. Where demolition is proposed a key consideration is the quality of any replacement structure and whether it enhances/contributes to the ACA.

When considering development of a site within an ACA (including backland sites), proposals should be sympathetic to the existing character of the area and reflect or refer to the established environment in terms of design, massing, scale, established plot layouts and their relationship to historic streetscape pattern.

The Council will seek to encourage the retention of original features where appropriate, including windows, doors, renders, roof coverings, and other significant features of buildings and structures or otherwise whilst simultaneously encouraging a continued diversity of sensitively scaled contemporary and energy efficient designs.

Appendix 5 – Building Height Strategy

Policy Objective BHS 3 Building Height in Residual Suburban Areas: It is a policy objective to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between the reasonable protection of existing amenities including residential amenity and the established character of the area.

Residual Suburban Areas are areas not covered by an existing or forthcoming Local Area Plan or other guidance/policy as set out in this plan and not falling into objective F, B, G or GB.

Within the built up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.

Section 3.7 of Appendix 5 relates to Suburban Infill and supports increases in height at appropriate locations or on sites in excess of 0.5 hectare which set their own context. The general approach in terms of building heights on these sites had been to taper height from a high point in the centre of the site down to the site boundaries where the height of adjacent buildings can often be lower.

5.4.2. Foxrock Architectural Conservation Area Character Appraisal Report

The site is located within the Foxrock Architectural Conservation Area (ACA). A Foxrock ACA Character Appraisal Report has been prepared and provided for in the development plan. The ACA report outlines that a significant aspect of the special character of the ACA is informed by the layout of sites, the setting of buildings within sites and the surrounding landscaping and notes the importance of the sylvan character of the area. In relation to Westminster Road, the report states that this road is characterised by more varied plot widths and sizes, and irregular building lines than elsewhere in the ACA. The presence of a front garden at each property is stated as an important feature as it clearly distinguishes the private domain from the public realm and introduces a pleasing landscaped buffer zone between the building and the public thoroughfare. Section 9 of the report sets out guidance regarding new

buildings, including a requirement that new developments must not adversely affect the character of the streetscape; must respect the existing pattern of development in the area with regard to setting and should be appropriately set back from the public road; and that the scale, massing and height of proposed development must be generally consistent with neighbouring dwellings. Section 9 also refers to landscape protection stating that as the essence of what is Foxrock is to a great degree derived from its mature trees, shrubs and hedgerows, future developments within the area must include provisions to protect and maintain the sylvan character of the area and the sense of enclosure, which the tree canopy and hedgerows provide along the roads within the ACA. Maintenance of hedgerows must be reflected in any development proposals and piecemeal removal of hedgerows will be viewed in terms of the cumulative impact over time on the sylvan character of the ACA.

5.5. Natural Heritage Designations

South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA are located approx. 3.6km to the northeast. There are no NHA in the vicinity of the site. The closest proposed NHA is Dingle Glen which is approximately 2.8km south of the site.

5.6. EIA Screening

- 5.6.1. See Appendix 1 - Form 1 EIA Pre-Screening and Form 2 EIA Preliminary Examination attached to this report. Having regard to the nature and scale of the proposed development, to the established suburban nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal can be summarised as follows:

Compliance with Planning Policy

- The scheme is consistent with the objective and vision for lands zoned Objective 'A' and complies with national, regional and local policy and Section 28 Guidelines relating to delivery of new homes and increased heights and densities in existing built-up areas on serviced lands proximate to public transport.
- The proposed scheme accords with qualitative and quantitative standards in the development plan and will improve vibrancy of the area by making more efficient use of zoned and serviced lands within walking distance of the core of Foxrock village.

Design and Layout

- Proposal represents a high quality, appropriately scaled development which provides a high standard of accommodation for future residents.
- Respects character of the ACA and amenity and privacy of neighbouring residents.
- Requests the proposal as submitted to the planning authority be considered by the Board in the first instance and provides an alternative design option for consideration to address planning authority's refusal reasons. Revised scheme is subsidiary in height to development to west and with increased setback from southern boundary provides for an appropriate transition of building lines and building heights between existing developments to the east and west and provides additional space for landscaping to maintain sylvan character of the site.
- The appeal includes a Conservation report, Daylight, Sunlight and Overshadowing Assessment and photomontages of the proposed development as revised and submitted with the appeal.

Precedence for Development

- Development permitted under D08A/0166 on adjoining site to the west provided for demolition of a dwelling and permitted a higher density form of development within an ACA comprising a basement car park and three and four storey height.
- Permission on adjoining site to west D17A/0441 (PL06D.249014) refused by planning authority and overturned on appeal by An Bord Pleanála. The Board considered the proposed demolition of the dwelling and siting, height, design and scale of the development acceptable and would not seriously injure the architectural heritage character of the ACA. Considers this an important precedent for contemporary residential development of increased building height on a prominent corner site within Foxrock ACA.
- Refers to precedents in area for infill development of a similar scale which were permitted by the planning authority and An Bord Pleanála, including D21A/0051 (ABP 311671-21); D15A/0839 (PL06D.246304); D07A/1434 (PL06D.229353).

Justification for Demolition

- Justifies the demolition of the existing Edwardian structure built in 1930's which retains little of its original character. Includes Preliminary Conservation Report which finds:
 - ACA designation does not preclude the demolition of an unremarkable and dated building which is of no architectural merit.
 - Dwelling makes little or no contribution to the Foxrock ACA and is screened from view from Westminster Road and as such its removal would be no loss to the character of the area.
 - The building has been altered with unsympathetic additions which have diminished the integrity of the original structure and it is strongly refuted that the existing dwelling contributes positively to the Foxrock ACA.
 - There is no recorded architect, the building is a cement rendered building of derivative design with no notable features nor any historical

associations, is not a building of distinction that would warrant its preservation and its replacement would be no loss.

- Includes arguments relating to difficulties and costs associated with renovating the house.
- Suitability Assessment submitted concludes that the energy and environmental benefits of constructing a new building far outweigh the downsides of remedial works and upgrades.
- Structural Environmental Report submitted concludes that the existing building is unsuited to retrofit and continued functional life and unviable to upgrade.
- Disputes the planning authority assessment that the dwelling has many characteristic features of its Edwardian Style including wide overhanging eaves, canted bays and projecting timber and that it is of sufficient architectural merit to warrant its retention.
- The house does not address its location, occupy its site, nor make any contribution to the ACA and is completely screened by trees to the detriment of the urban nature of the centre of Foxrock.

Impact on ACA

- Proposed development will integrate well with adjoining scheme to west which comprises similar building heights and will positively contribute to the existing and evolving character of the Foxrock ACA, will make a positive contribution to Westminster Road's streetscape, takes due cognisance of the requirement to preserve the character of the ACA, and is in line with Policy HER13 of the development plan.
- The character of the ACA has been significantly altered by development to the immediate west of the appeal site which provides for an increase in residential density and building height and represents an appropriate evolution of the ACA.
- Development plan policy supports new buildings within ACA, stating ACA designation should not be viewed as a means of preventing new development

but rather to help guide and manage change to ensure developments are sympathetic to the special character of the ACA.

- Conservation Report submitted by applicant finds that the height, scale, mass, density and building lines are appropriate in conjunction with the adjoining properties.
- Policy Objective HER14 prohibits demolition of structures that positively contribute to the character of the ACA and is not relevant to the dwelling on site to be demolished. Conservation Report, Suitability Assessment and Environmental Structural Report provide a robust justification for demolition of the existing structure on site which is considered to be of no particular architectural merit to warrant its retention.
- Outlines relevant considerations contained in the Foxrock ACA: Character Appraisal and Recommendations and outlines that as a result of the contemporary design and similar scale to adjoining development to the west, the proposed development will positively contribute to the existing and evolving character of the ACA.
- Conservation report finds that the development complies with the provisions of the development plan in relation to development in ACA.
- Includes photomontages to demonstrate visual impact which will not be overbearing and will integrate with the local landscape of Foxrock and Westminster Road.

Impact on adjacent property to east

- Separation distances and mitigation measures have been implemented to ensure no impact on residential amenity of adjacent properties due to appropriate height proposed and set-back at third floor level.
- Design and scale proposed to avoid appearing visually obtrusive whilst mitigating against dis-amenity by overlooking and overshadowing.
- Daylight and Sunlight Assessment finds that the proposed development would not cause an unacceptable overshadowing impact on adjoining properties, will provide excellent levels of daylight and sunlight for future inhabitants, all habitable spaces pass the Average Daylight Factor BRE guideline levels and

communal open space will provide for good levels of daylight access in excess of BRE guideline levels for overshadowing.

- A revised Daylight and Sunlight Assessment including an assessment of Annual Probable Sunlight Hours (APHS) and revised photomontages and CGI's have been prepared in relation to the Alternative Design Option submitted with the appeal.

Drainage Planning

- Engineering Report submitted with the planning application provides for SuDS measures allowing storm water to be managed on-site with no connection to sewers.
- Requests that a condition be attached if permission is granted that the required modelling be agreed with the planning authority.
- Confirmation of Feasibility letter from Irish Water that water and wastewater connection is feasible without infrastructure upgrade.

6.2. Planning Authority Response

Response dated 28th September 2022 states no new issues raised which justify a change of attitude to the proposed development.

6.3. Observations

Observations have been received from Barry McAuliffe and Jeananne O'Brien, Michael Monaghan, Neil McHugh, Mehreen Hussain Gheewala, Joseph McCarthy, An Taisce South County Dublin Association and Margaret Clerkin. The issues raised can be summarised as follows:

Justification for demolition

- Non-compliance with development plan provisions including Policy Objective HER20 (i), Policy Objective CA6, Policy Objective PHP19, and Section 12.3.9.
- No Architectural Heritage Impact Assessment, detailed Condition Survey or Condition Report prepared as required by Section 11.4.2.2.

- Conservation Report does not provide robust case or adequate justification for the removal of the existing dwelling and fails to assess the proposed development against the policies of the current development plan (referring to expired development plan).
- Failure to demonstrate exceptional circumstances to support demolition with justification focused on costs rather than structural grounds.
- Permission should be refused on sustainability grounds.

Impact on ACA

- Proposed development is at odds with the prevailing building form and typology in the Foxrock ACA and fails to comply with policies in development plan relating to new development in ACA, including Policy Objective's HER13 and HER14
- Existing dwelling and trees contribute to the character of the ACA by reinforcing the consistency among buildings in height, form, scale, massing, site coverage, building line and coherence of space between buildings.
- Contrary to principles of Foxrock ACA Character Appraisal.
- Contrary to Guidelines for Planning Authorities: Architectural Heritage Protection which state that the scale of new structures should be appropriate to the general scale of the area and not its biggest buildings.
- Local Authority Conservation Division report recommends refusal
- No visual impact assessment was submitted with the planning application to assess impact on ACA.

Design and Layout

- Non-compliance with development plan provisions including that it is contrary to zoning objective to protect residential amenity and contrary to Policy Objective PHP20 and Section 4.3.1 relating to the protection of existing residential amenity and Policy BHS3 of Appendix 4.
- Concerns in relation to design and layout which is inappropriate due to scale, overdevelopment, overbearing, breaks building line and is out of character with the existing context.

- Revised design submitted with appeal due to its scale, massing and siting forward of the established building line by 15.0 metres would exert a domineering and overbearing impact.
- Impacts on Residential Amenity of existing and future residents, including:
 - Overbearing impact, overlooking and loss of privacy for adjoining property to the east from windows and balconies on east elevation
 - Overbearing on dwellings to south on opposite side of Westminster Road
 - Height and proximity to site boundaries
 - Extent of surface car parking compromises open space areas which are residual as a result.
 - High proportion of north facing apartments
 - Impact on residential amenity of the unoccupied development west of the appeal site.

Precedent

- Development to west should not be used as precedent to justify proposed development and further damage ACA
- Permission granted for four storey development on adjoining site to the west on the basis that it is a prominent corner site within the commercial/service core with a different land use planning context which is not applicable to the appeal site.
- Neighbouring house to the east is more important in assessment of the character of the area than the new building to west.
- The principle of development should respect the building line and height established to the east on Westminster Road. Concerns in relation to the precedent that would be set by granting permission for the proposed development and the impact on the character and setting of the ACA.

Infrastructure

- Premature pending water and wastewater infrastructure upgrades. Refers to Irish Water report requesting additional information regarding infrastructure capacity.
- Recently permitted developments in the area placing additional strain on infrastructure.
- Existing parking and traffic issues in Foxrock will be exacerbated.
- Traffic and pedestrian safety concerns arising from layout of proposed car parking.
- Vehicular entrances elsewhere on Westminster Road have been refused permission by the planning authority on traffic safety grounds.

Site Ownership

- Appeal site encroaches on land outside applicant's ownership. Proposed development is dependent on the layout submitted to deliver sufficient car parking and vehicle manoeuvres which cannot be accommodated as applicant does not have control of all the land required.

Other Issues

- No Ecological Impact Assessment or bat survey submitted in relation to proposal to demolish building and remove mature trees.
- Inaccuracies in documents submitted with planning application including in relation to trees to be removed (inconsistencies between various documents relating to landscaping) and references to previous development plan.

6.4. Further Responses

None received.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the

site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as set out below:

- Principle of Development
- Density
- Design and Impact on Character of Area
- Impact on Residential Amenity
- Infrastructure and Drainage
- Other

7.2. Principle of Development

- 7.2.1. The site is within an area zoned A, the objective of which seeks to protect and/or improve residential amenity. Within such a zone residential use is permitted in principle.
- 7.2.2. The planning authority's first reason for refusal states that the demolition of the dwelling has not been sufficiently justified against the policies of the development plan, including Policy HER14, Policy CA6, and Section 12.3.9. The Conservation Officer in their report considered the dwelling of sufficient architectural merit to warrant its retention, noting it is of Edwardian style with characteristics including wide overhanging eaves, canted bays and projecting timber. The observers also raise concerns in relation to demolition.
- 7.2.3. The first party appeal includes a Conservation Report from a consultant in architecture and historic buildings and a Suitability Assessment and Structural Environmental Report outlining arguments in favour of demolition over retrofit. The Conservation Report outlines that the building is a cement rendered building of derivative design with no notable features nor any historical associations, is not a building of distinction that would warrant its preservation and its replacement would be no loss. Whilst the subject dwelling is located within an Architectural Conservation Area (ACA), it is not a protected structure. I agree with the first party that the existing dwelling on site is not of sufficient architectural importance to merit its retention and as such I do not consider its demolition contravenes Policy Objective HER14.

- 7.2.4. In relation to concerns that the proposal has not been sufficiently justified in accordance with Policy CA6 and Section 12.3.9, having regard to the submission by the first party I am satisfied that a refusal on these grounds is not warranted.
- 7.2.5. I note that a number of infill developments have been permitted in the wider Foxrock area on lands zoned objective A which also included demolition of an existing dwelling and the principle of this form of development has been established in the area, including on the adjoining site to the west.
- 7.2.6. The housing stock in the area is mainly comprised of large detached houses. The introduction of an alternative form of development (comprising a mix of one, two and three bed units) provides more choice for would-be residents and would be in accordance with policy objective PHP27 which encourages the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County.
- 7.2.7. Having regard to the proposal to replace the demolished dwelling with 26 residential units on this zoned and serviced site adjacent to Foxrock neighbourhood centre which will provide for a greater intensification of residential use on the lands and a more sustainable use of the site, I consider sufficient justification has been provided in relation to the demolition.
- 7.2.8. I consider the principle of demolition is justified and is in accordance with national, regional and local policy and Section 28 Guidelines which seek to increase housing supply and promote compact urban growth through the consolidation and re-intensification of accessible infill sites and is in accordance with the proper planning and sustainable development of the area.

Precedent

- 7.2.9. Observers raise concerns in relation to the precedent that would be set by permitting the proposed development and the potential erosion of the character of the ACA arising from such a precedent. Any further applications on adjacent lands would be subject to a separate planning application and would be considered and adjudicated on their own merits and as such I do not have concerns in relation to precedent.

Conclusion regarding Principle of Development

- 7.2.10. Having regard to the foregoing, it is considered that the principle of the demolition of the existing dwelling and development of apartments is acceptable in principle.

7.3. Density

- 7.3.1. The site is located 1,000m from a Core Bus Corridor, bus stop and cycle lane on the N11 and approximately 50 metres east of Foxrock Village. Immediately west of the site the recently constructed town house development provides for a density of 32 dph which is higher than the prevailing pattern of low density detached houses in the area. Bus services along the N11 provide for less than 10 minute peak hour frequency on this route. In accordance with the Compact Settlements Guidelines definitions, I consider the site to be an 'intermediate' suburban location. The proposed development has a density of 86 units per hectare. This is marginally higher than the density range provided for such locations in Table 3.1 of the Compact Settlements Guidelines which recommends densities in the range between 40 dph to 80 dph (net) in intermediate suburban locations.
- 7.3.2. Development plan policy encourages increased density in existing settlements through a range of measures, including infill development in existing built up areas subject to protection of existing residential amenities. No maximum density is set out in the development plan however Section 4.3.1 states that in accordance with the Sustainable Residential Development in Urban Areas Guidelines a minimum density of 50 units per hectare (net density) will be encouraged on sites within circa 1 kilometre of a core bus corridor.
- 7.3.3. Whilst the site is within what is termed an 'intermediate' location in the Compact Settlements Guidelines, I consider the proposed density is appropriate having regard to proximity and accessibility considerations in accordance with development plan Policy Objective's PHP18 and PHP19 noting its location adjacent to Foxrock Village and within 1000m of a Core Bus Corridor. I consider the proposed development also provides for an appropriate transition between established low density development to the east and an existing development of increased density adjacent to the west and adjoining Foxrock Village.

Conclusion regarding Density

- 7.3.4. I am satisfied that the principle of the density proposed is acceptable, however consideration is still required of wider matters to determine the acceptability of the scheme as set out below.

7.4. Design and Impact on Character of the Area

- 7.4.1. The Planning Authority's second reason for refusal considers that the proposed scheme fails to preserve the character of the Foxrock ACA due to its *height, massing, loss of trees, loss of soft boundary, building line, and the general character of the scheme which is considered to be at odds with the prevailing building form and typology*. Observers raise similar concerns regarding the proposed development and the consequent impacts on the character of the area and the ACA. The site is located within the Foxrock Architectural Conservation Area (ACA). The ACA extends from the northern end of Torquay Road to the southern end of Brighton Road and east along the full extent of Westminster Road. A Foxrock ACA Character Appraisal Report has been prepared and provided for in the development plan in Policy Objective HER13.

Height and Massing

- 7.4.2. Existing building heights within Foxrock are comprised largely of detached two storey dwellings. Within the core of Foxrock the three storey Gables building and the recently constructed 4 storey development at the junction of Torquay Road and Westminster Road provide for increased heights. The definition of increased height in the development plan is defined as 'buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area' and as such the development is not a 'taller building' as defined in the development plan.
- 7.4.3. In relation to building height for new development within ACA's the Architectural Heritage Protection Guidelines recommend that the scale of new structures should be appropriate to the general scale of the area and not its biggest buildings. The development for which permission was sought has a proposed parapet height of 13.7m which is approximately 1.5m higher than the existing 4 storey building to the west. Having regard to the site's location between this established 4 storey building

adjacent to Foxrock Village and existing two storey dwellings to the east, I have some concerns with the height of the proposed development included in the planning application.

- 7.4.4. The first party appeal included a revised proposal which amends the development submitted to the planning authority for consideration. The revised proposal reduces the proposed height with the set back fourth storey having a height of 12.475m at fourth floor parapet level (with the lift overrun extending to 13.475m). This is marginally below the parapet height of 12.480 at the recently constructed infill development of town houses to the west. The fourth floor is set back from a third floor shoulder height of approximately 10m (varying in height between 10m and 10.4m). The floor level of the fourth floor is indicated as 9.5m above ground level, approximately 0.9m above the ridge height of the two storey dwelling to the east of the appeal site, Carrckshinnagh, which has a ridge height of 8.65 m.
- 7.4.5. Having regard to the reduction in height proposed as submitted with the appeal I am satisfied that the proposal for three storeys with a fourth storey set back will not detract from the existing suburban skyline and is not of a height and scale that is overbearing in its immediate context or in the wider context. Proposed material finishes include a mix of stone cladding and brick at lower floors and standing seam metal cladding on the fourth storey. The design of the facades is of a high quality, including variation in sections and material finishes to break up the bulk and massing. I consider the height proposed is acceptable at this location having regard to the pattern of development in the vicinity of the site and to the proximity to Foxrock Village and complies with Policy Objective BHS 3 Building Height in Residual Suburban Areas which seeks to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County.

Building Line

- 7.4.6. The built character of the ACA comprises largely of detached two storey dwellings on large plots with variations in set back and building line. There are a number of existing large houses situated on large plots to the east of the appeal site with large front gardens. To the west the recently constructed town house development provides for a building line with a limited setback from the public footpath. Within the

core of Foxrock Village 50 metres to the southwest the building line is comprised of commercial premises with parking to the front and limited soft landscaping.

- 7.4.7. The building line along the section of Westminster Road where the subject site is situated is generally consistent, with properties setback approximately 23m from the road. However, noting the nature of development, that being detached houses on large sites, this building line is not highly visible.
- 7.4.8. I consider the set back of approximately 5.8 m included in the planning application as assessed by the planning authority along with the height proposed fails to provide for an appropriate transition at this location noting the existing pattern of development surrounding the site.
- 7.4.9. The revised layout submitted with the first party appeal proposes a minimum separation distance of 7.6 m between the nearest point of the front of the building and Westminster road which extends approximately 13m in width and this distance from the road edge increases along the front elevation where the building is stepped back. Provision is made for a 4 metre wide landscaped green area in front of the building which will help to soften the appearance in line with existing boundaries further east and provide for a transition on approach to the village centre where soft landscaping is limited between buildings and the road edge.
- 7.4.10. I consider the proposed setback from Westminster Road as provided for in revised drawings submitted with the appeal is sufficient and allows for the provision of replacement soft landscaping and is appropriate for this location. I consider the building line to the proposed development is acceptable and does not adversely impact the character of the area.

Removal of Soft Boundaries

- 7.4.11. The proposal will require the removal of trees and hedgerows from the south and southwest boundary as shown on the Tree Works Plan 210419-P-11 drawing submitted with the planning application. The trees to be removed are identified as of low quality. It is proposed to provide replacement hedges and specimen tree planting along these boundaries as well as on the eastern boundary towards the rear of the site. The development plan includes an objective 'To protect and preserve Trees and Woodlands' at various locations throughout Foxrock with a concentration of such objectives further east along Westminster Road and to the south on Brighton

Road. There are no such symbols on the appeal site. The ACA Character Appraisal Report refers to the tree canopy and hedgerows along the roads within the ACA.

- 7.4.12. I consider the proposed landscaping between the apartment building and the public road will provide for a clear distinction between the private domain and the public realm and will not adversely affect the character of the streetscape and I am satisfied that the removal of the existing hedgerow and its replacement with new landscaping at this location will not detract from the sylvan character of the ACA and that the replacement planting will provide for an appropriate boundary treatment in keeping with existing soft boundaries in the ACA.

Visual Impact

- 7.4.13. Photomontages of the proposed development were submitted with the planning application which represent the main views towards the site from the east on Westminster Road and west from Torquay Road. As noted in section 7.4.3 above, I have some concerns in relation to the height of the proposed apartment block which extends above existing buildings to the west closer to Foxrock Village. I concur with the planning authority assessment that development on this site should not be higher than the adjacent development to the west, and I consider the height proposed unacceptable in terms of visual impact.
- 7.4.14. Revised photomontages relating to the reduced height development submitted with the first party appeal show the main views towards the site from the east on Westminster Road and west from Torquay Road.
- 7.4.15. Noting the existing development to the west and the setback fourth floor as well as proposed landscaping along the southern and southwestern boundary and the proposed material finishes which include brick at lower levels and metal standing seam on the recessed top floor, I am satisfied that the revised development submitted with the appeal will not result in an unacceptable visual impact. As noted previously, the site location provides for a transition between established lower density development and increased height in Foxrock Village and I consider the visual impact of the revised design submitted with the appeal is acceptable.

Conclusion regarding design and impact on character of the area

7.4.16. I consider the revised proposal submitted with the first party appeal provides for a high-quality contemporary design solution, that the height and mix of house types is appropriate for this location, and that the design is visually acceptable and will not detract from the special character of the area or negatively impact on the Foxrock ACA. I am satisfied that the development will be appropriately set back from the public road and that the scale, massing and height of the proposed development is acceptable. Whilst the development will alter the appearance of the street I do not consider it will materially impact on the character of the ACA or undermine its character.

7.5. Impact on Residential Amenities

- 7.5.1. The Planning Authority's third reason for refusal relates to loss of residential amenity to the house to the east by virtue of height and proximity to site boundaries and as such the development would be contrary to Policy PHP20 of the County Development Plan which aims to ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments. Concerns in relation to impact on residential amenity are also raised by observers.
- 7.5.2. The site is surrounded by low density residential development to the north, south and east comprising detached dwellings on relatively large plots. To the west a recently constructed development of eight townhouses on an infill corner site provides for a higher density form of development. I consider that the proposed separation distances to the west (24 m between existing and proposed upper floors at the closest point) and north (11 m between the proposed development and the site boundary at the closest point), are adequate to protect adjacent residential amenities from overbearing impacts and to provide an appropriate buffer and I concur with the Planning Authority's assessment that the development will not impact on residential amenity to the north and west as a result of design, layout and separation distances. I am satisfied that the dwellings to the south on the opposite side of Westminster Road are sufficiently separated from the appeal site such that no impacts on existing residential amenity will arise.

Overbearing

- 7.5.3. I consider the most noticeable impact on existing residential properties will be on Carrickshinnagh, the neighbouring dwelling to the east. The design of the apartment building massing is broken up in to three main sections of three storeys plus a setback fourth storey. These comprise a northern section, central section and southern section. The central section of the proposed block is 13m in width and located 3.4m from the eastern site boundary at its closest point. The side elevation of this central section is in line with the side elevation of Carrickshinnagh which is approximately 9 m from the appeal site boundary resulting in a separation distance of approximately 13m at the closest point between the side elevations. The distance of the proposed building from the eastern side boundary increases towards the front of the site to 24m and to the rear of the site to 15m.
- 7.5.4. In relation to overbearing impacts I consider the separation distance proposed in the planning application to the east of the appeal site is acceptable noting its position in line with the side elevation of Carrickshinnagh with the distance increasing towards the front and rear. I consider this provides for an obvious buffer from the rear garden boundary lines with Carrickshinnagh as required in the development plan on sites abutting low density residential development where the proposed development is four storeys or more.
- 7.5.5. As noted in Section 7.4.3 and Section 7.4.13 above I have concerns in relation to the height of the proposed development as submitted to the planning authority for consideration as a result of the visual impact on the streetscape. The revised design submitted with the first party appeal provides for a reduction in overall height by 1.3 m. The revisions include a reduced shoulder height of 10.4m at the eastern side elevation such that any overbearing impact arising will be reduced. This is in line with the development plan requirement for a step back design to respect the existing built heights where a proposal involves building heights of four storeys or more. Whilst the development will be visible from Carrickshinnagh I do not consider it would cause any significant overbearing and there is sufficient distance between the proposed building and Carrickshinnagh to allow for the proposed redevelopment of the site without unduly compromising the residential amenity of the adjoining property.

Overlooking

- 7.5.6. The Compact Settlement Guidelines state in SPPR 1 that separation distances of 16m are required between opposing windows serving habitable rooms at the rear and side of houses. There is no specified minimum separation distance at ground level or in front of houses. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.
- 7.5.7. There would be in excess of 16m between opposing first-floor (and above) directly facing windows with the exception of the eastern elevation of the central portion of the block facing the side elevation of Carrickshinnagh. There is one window at first floor on the western side elevation of Carrickshinnagh facing the appeal site and located 13m from the proposed western elevation of the apartment building. This window is not obscured and likely serves a bedroom.
- 7.5.8. The proposed development provides undercroft car parking at ground floor along this section of the east elevation. At first and second floor windows serve bedrooms which are angled with opaque glazing on the angle facing Carrickshinnagh and clear glazing on the north facing angle to avoid undue overlooking. No windows are proposed at fourth floor on this section of the eastern elevation. Private open space serving third floor apartments has the potential to result in overlooking. However, the revised proposal submitted with the first part appeal provides glazed treatment on the balcony's on the east, west and north elevations to prevent overlooking.
- 7.5.9. Having regard to the design and layout proposed I do not consider the proposed development will result in an unacceptable level of overlooking on existing properties.

Daylight and Sunlight

- 7.5.10. The observers raise concerns in relation to adverse overshadowing effect from the proposed development upon the neighbouring property to the east. The planners report states that overshadowing to the east on March 21st at 16:00 appears significant. In relation to the proposed apartments the planners report considers information on Annual Probable Sunlight Hours should be provided for the proposed apartments.

- 7.5.11. A Daylight Analysis and Overshadowing Report submitted with the planning application assesses Average Daylight Factor (ADF) of the proposed development, amenity overshadowing within the site, and overshadowing on neighbouring amenity areas. ADF results show all proposed units exceed the BRE required guideline levels and provide for an acceptable standard of amenity in respect of daylight. The report finds the proposed communal open space analysed exceeds BRE guideline level for overshadowing, and that minor additional overshadowing will occur on the amenity areas of the neighbouring properties to the east and west which is considered negligible due to the area of amenity available.
- 7.5.12. The first party appeal includes an updated Daylight Analysis and Overshadowing Assessment relating to the revised development proposed. This includes an assessment of Annual Probable Sunlight Hours (APSH) as well as an updated assessment of ADF of the proposed development, overshadowing of amenity spaces within the site, and overshadowing on neighbouring amenity areas.
- 7.5.13. APSH carried out for 17 living room windows facing south and west show 10 windows within 90 degrees of due south meet the BRE level of 25% total including at least 5% winter hours. The report notes that although some windows failed this analysis, all units achieve good levels of daylight so residents will experience well daylighted internal spaces. The revised assessment of overshadowing of proposed amenity spaces within the site finds that the communal spaces analysed exceed the BRE guideline level for overshadowing with at least half of the amenity areas receiving at least two hours of sunshine on March 21st.
- 7.5.14. For daylight provision in buildings, ADF is now no longer the recommended methodology. For daylight provision in buildings, BRE Guidelines Site Layout Planning for Daylight and Sunlight in Appendix C recommends either calculating target illuminances from daylight or alternatively calculating the total daylight factors achieved. The Apartment Guidelines and the Compact Settlements Guidelines recognise that a discretionary approach should be taken with regard to compliance with daylight provision in certain circumstances. I am satisfied that such an approach is reasonable for the subject development scheme having regard to the design and layout proposed, the extent of dual aspect units, and the generous provision of communal amenity space.

- 7.5.15. The revised Daylight Analysis and Overshadowing Assessment also illustrates overshadowing on adjoining properties arising from the proposed revised development. The report demonstrates an increase in overshadowing on the rear amenity space serving Carrickshinnagh to the east as shown in 21st March at 16:00 but outlines that at least half the garden will receive at least two hours of sunlight on this date as per BRE guidelines.
- 7.5.16. Having reviewed the report I note that the extent of landscaping in the “existing scenario” and the resulting overshadowing appears to be inaccurate, noting that during my site inspection in February the extent of existing landscaping along the eastern boundary is less than that indicated on the report and the trees were bare and as such unlikely to result in overshading to the extent indicated. Notwithstanding this, I am satisfied that the amenity space serving Carrickshinnagh will continue to receive adequate sunlight in accordance with BRE standards and I am satisfied that adjacent dwellings and amenity spaces will not be adversely affected by the proposal in terms of a loss of daylight or sunlight.
- 7.5.17. I am satisfied that the proposed development will not significantly detract from the level of amenity in terms of daylight, sunlight and overshadowing for future residents and that existing resident will not be adversely impacted.

Compliance with Apartment Standards

- 7.5.18. The proposed development includes a housing mix comprised of 3 no. 1 bed units, 20 no. 2 bed four person units, 1 no. 2 bed three person unit and 2 no. three bed units. This amounts to 11.5% one bed units and as such complies with SPPR 1 of the Apartment Guidelines. I consider the provision of 1 no 2 bed three person apartment as proposed to be acceptable noting the provision in Section 3.7 of the apartment guidelines which allow for up to 10% of the total number of units to comprise this category.
- 7.5.19. The planning application includes an assessment of the proposed floor areas, storage space requirements, number of dual aspect units, and private and communal open space requirements as required in the Apartment Guidelines which demonstrates compliance with the standards set out in the Apartment Guidelines.
- 7.5.20. A revised schedule of compliance with the Apartment Guidelines has been submitted with the revised drawings submitted with the appeal to reflect amendments proposed

to the footprint of the building and associated modifications to the internal layout. Having reviewed the schedule and drawings submitted I am satisfied that the revised proposed development complies with the required minimum apartment floor areas and standards set out in SPPR 3 and Appendix 1 and that 14 apartments exceed the minimum floor area standard by a minimum of 10% as required by section 3.8 of the guidelines. 18 no. of the proposed apartments are dual aspect thereby complying with SPPR 4 which includes a requirement for a minimum of 50% dual aspect apartments. Ground level floor to ceiling heights comply with the minimum of 2.7m as required in SPPR 5 and the maximum number of apartments per floor per core complies with SPPR 6.

Conclusion regarding impact on residential amenities

- 7.5.21. I consider that the design and scale of the proposal would avoid unacceptable overlooking, overbearing or overshadowing impacts on existing residents and I consider that the intensification of the residential use on the site is acceptable having regard to the established residential character of the area and the proposal to provide for increased residential density at this location. I am also satisfied that the proposal will provide for an acceptable level of amenity for future residents in terms of design, layout, and access to daylight and sunlight. I consider the proposal complies with Policy Objective PHP20 in the development plan in relation to impact on existing residential amenity adjoining proposed higher density infill development.

7.6. Infrastructure and Drainage

Transport

- 7.6.1. The Planning Authority Transportation Planning Section report raises concerns in relation to proximity of parking spaces to the vehicular entrance and states that the nearest car parking space should be offset a minimum of 6.0 metres from the proposed entrance. I concur with these concerns noting the offset distance of 2.1m proposed from the car parking space to the site boundary and the resulting potential for conflict with users of the footpath and road.
- 7.6.2. A revised site layout plan submitted with the first party appeal provides for a total of 28 car parking spaces and amendments to car parking proximate to the proposed vehicular entrance with an offset increased to 5.6m. Noting the increased setback

proposed in the revised drawings submitted, I consider the matter of increased setback beyond that proposed can be addressed by condition if permission is granted.

- 7.6.3. In relation to observers concerns regarding the impact of the development on the road network I agree with the Transportation Planning Section that the scale of traffic generated by the proposed development will not have an impact on the road network.
- 7.6.4. In relation to car parking, the site is within car parking zone 3 as defined in the development plan with a car parking rate of 1 space per 1 and 2 bedroom apartments and 2 spaces per 3+ bedroom apartment plus 1 in 10 visitor parking for apartments in this zone. Section 12.4.5 of the development states within parking zone 3 maximum standards shall apply to uses other than residential where the parking standard shall apply. The site is in an 'intermediate' location as defined in the Compact Settlements Guidelines. SPPR 3 of these guidelines state that it is a specific planning requirement that in intermediate locations the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling. I agree with the Planning Authority that the proposal to provide 30 spaces to serve the proposed development for which permission was applied for is acceptable.
- 7.6.5. The revised layout submitted with the first party appeal proposes 28 spaces for a total of 26 residential units which is the required number of spaces for apartments set out in the development plan for zone 3 but fails to provide for visitor parking. Whilst this could be considered a material contravention of the development plan, I am satisfied that it can be considered under Section 37(2)(a) of the Planning and Development Act, 2000 (as amended) having regard to Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued under section 28. The rate of car parking is below the maximum rate as required by SPPR 3 in these Guidelines. I note the planning authority was satisfied with the extent of car parking proposed in considering the application and I am satisfied that the proposal for 28 car parking spaces is acceptable at this location.
- 7.6.6. In relation to cycle parking and storage, SPPR 4 of the Compact Settlements Guidelines states that a minimum of 1 cycle storage space per bedroom should be

applied for residential units that do not have ground level open space. Visitor parking should also be provided. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement/enlargement etc. The guidelines go on to state in SPPR 4 that it will be important to make provision for a mix of bicycle parking types including larger/heavier cargo and electric bikes and for individual lockers.

- 7.6.7. The site layout plan submitted with the appeal indicates a covered bike store with 50 spaces for long stay parking as well as 12 external spaces for short stay/visitor bicycle parking. The proposed development of 26 apartments comprising of 3 no. 1 bed, 21 no. 2 bed and 2 no. 3 bed apartments will result in a total of 51 bedrooms. I consider the extent of bicycle parking proposed is acceptable having regard to SPPR 4 which allows for some flexibility and noting the potential on the site for the provision of additional bike parking if required.
- 7.6.8. In relation to provision of a pedestrian crossing across the proposed vehicular entrance, provision for EV parking and motorcycle parking, if the Board decides to grant permission for the proposed development. I recommend a condition be attached in relation to compliance with the requirements of the planning authority in relation to transportation requirements. If permission is granted I recommend a condition be attached to provide for secure lockers for bulky items.

Drainage Planning

- 7.6.9. The report of the Drainage Planning Section requested further information in relation to the provision of a green roof and details relating to same; clarity in relation to soil type and run off rate; hydraulic model output results and clarity in relation to soakaway overflow arrangement. The first party appeal refers to the Engineering Services Design Report submitted with the planning application which clarifies that surface water is to be managed on site through SuDS, rain gardens, permeable surfaces and a soakaway with no connection to sewers. The appeal also confirms the soil type is type 1. I consider the proposal provides for an appropriate treatment of surface water and that outstanding matters relating to hydraulic modelling be dealt with by condition in the event of a grant of permission.

Landscaping

- 7.6.10. The proposed development will result in the removal of the full extent of existing trees and hedgerow along the southern boundary and removal of trees on the southwest boundary as well as a number of trees throughout the site. The majority of trees and hedgerow along the north, west and east boundary are to be retained. The trees to be removed are identified on a Tree Works Plan Drawing and are either Category C (trees of low quality with an estimated life expectancy of at least 10 years or young trees with a stem diameter below 150mm) or Category U (those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years). Two Category U trees have also been identified for removal for arboriculture reasons.
- 7.6.11. I note the development plan seeks to retain the physical character of areas including trees and landscaping where infill development is proposed and provides that new development should be designed to incorporate, as far as practicable, existing trees and hedgerows, particularly where these contribute to the character of the area. The development plan also seeks to promote compact urban growth through intensification of infill sites having regard to proximity and accessibility considerations. As noted in Section 7.4.11 above, there are no objectives on or adjoining the site to protect and preserve trees and woodlands.
- 7.6.12. Whilst I consider the trees and hedgerow to be removed contribute to the character of the area, I note 'Landscape Masterplan' drawing ref. PP347-01-01 proposes replacement soft landscaping with boundaries proposed to be lined with hedges and trees to provide for site enclosure and screening. Having regard to the findings of the tree survey, to the quality of the trees to be removed, and to the proposal to provide for replacement planting, I consider the proposed removal of existing trees and hedgerow to facilitate the intensification of development on this site is acceptable. I recommend a condition in relation to agreement of a landscaping plan be attached if the Board decides to grant permission for the proposed development.

Water Services

- 7.6.13. Uisce Eireann's report on the planning application recommended further information in order to determine the feasibility of a connection to water and wastewater infrastructure. The first party appeal includes correspondence from Uisce Eireann

dated 18th February 2022 in relation to a housing development at Rockbrea, Westminster Road which states that a proposed connection can be facilitated without infrastructure upgrade. I am satisfied that development on the site will require confirmation of feasibility in relation to water and wastewater prior to any works commencing and if permission is granted a condition can be attached in this regard.

7.7. Other Matters

- 7.7.1. In relation to concerns that a bat survey has not been submitted, I note that if bats are present on site the developer will be required to obtain a derogation licence for their removal.
- 7.7.2. An observer has raised concerns that the appeal site identified on plans submitted encroaches on Carricksannagh, the dwelling to the east, which is in separate ownership. The observer notes that the proposed development is dependent on the layout as depicted on the site plan to provide for vehicular manoeuvres and parking and that consent from the landowner has not been provided. No drawings or further details have been submitted by the observer and the matter was not referred to the first party for comment. Having reviewed the drawings and visited the site I see no evidence that the application site encroaches on land outside of the site boundaries and I am satisfied that the Board can consider the development as proposed. I note that it is not the role of the Board to adjudicate on matters relating to title and that section 34(13) of the Planning Act provides that a person is not entitled solely by reason of a permission to carry out any development and as such I am satisfied that that this is a matter between the parties concerned.
- 7.7.3. Public open space is not provided for within the development. Section 12.8.3.1 of the development plan provides that where public open space is not provided on site a development contribution may be applied. A section 48 Development Contribution Scheme has been prepared by Dun Laoghaire-Rathdown County Council which includes provision for a contribution in lieu of public open space. Should the Board decide to grant permission I recommend the inclusion of a development contribution in this regard.
- 7.7.4. I am satisfied that the modified development submitted with the first party appeal can be considered by the Board and that the amendments proposed do not result in a

form of development that is materially different from that adjudicated on by the planning authority.

8.0 Appropriate Assessment

- 8.1. Having regard to the nature and scale of the development, the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to 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

- 10.1. The proposed development is located on lands zoned 'A - To provide residential development and improve residential amenity while protecting the existing residential amenities' and is within the Foxrock Architectural Conservation Area designated in the Dún Laoghaire-Rathdown County Development Plan 2022 to 2028. Having regard to the unexceptional architectural quality of the existing house on site and to the proposal to provide for the intensification of residential use on this zoned site, the nature and scale of the proposed development, the pattern of development in the area, and, subject to compliance with the conditions set out below, it is considered that the proposed development would comply with Policy Objective HER13 which seeks to ensure development proposals within an Architectural Conservation Area (ACA) be appropriate to the character of the area, would not significantly detract from the character of the Foxrock ACA, would not seriously injure the residential amenities of property in the vicinity or the visual amenities of the area, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the provisions of the current Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The proposed 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 with the appeal on the 05th September 2022, 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 proposed 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 development, revised plans shall be submitted to the planning authority for agreement in writing illustrating the following:
 - (a) provision of secure external storage space for each apartment for storage of bulky items.
 - (b) a minimum of 6 metres offset between car parking spaces and the proposed vehicular entrance.
 - (c) provision of a pedestrian crossing across the proposed vehicular entrance.

Reason: In the interest of residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. 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. 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, shall be replaced within the next planting

season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual and residential amenities.

5. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

6. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

7. The applicant or developer shall enter into water and waste water connection agreement(s) with Uisce Eireann, prior to commencement of development.

Reason: In the interest of public health.

8. (a) The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters.

(b) The internal road serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of pedestrian and traffic safety and the proper planning and development of the area.

9. A minimum of 10% of the communal 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 developer shall submit such proposals to be 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

10. Proposals for an estate name, apartment 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 signs, and apartment 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.

11. Public lighting and any works to public roads / footpaths adjoining the site, shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting/works to public roads and paths. Such lighting/works shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

12. The demolition and construction of the development shall be managed in accordance with a Demolition and Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

Reason: In the interests of public safety and residential amenity

13. Construction and demolition waste shall be managed in accordance with a final 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 0800 to 1900 hours Mondays to Fridays inclusive and 0800 to 1400 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

15. 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.

16. No additional development shall take place above the apartment block’s roof parapet level, 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.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

17. (a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 ' Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.'

(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

18. Prior to commencement of development, the developer 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.

19. 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.

20. 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 for Monaghan County Council 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.

21. The developer shall pay to the planning authority a financial contribution in lieu of the public open space requirement 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 for Monaghan County Council 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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Bernadette Quinn
Planning Inspector

26th March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-314540-22			
Proposed Development Summary	Demolition of existing 2 storey dwelling, construction of a residential development comprising 1 no. four-storey block, comprising 26 no. apartments and all associated site works			
Development Address	Rockbrae, Westminster Road, Dublin 18 (D18 P9Y7)			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	X	Class 10(b)(i) and (iv) of Schedule 5 Part 2		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-314540-22	
Proposed Development Summary	Demolition of existing 2 storey dwelling, construction of a residential development comprising 1 no. four-storey block, comprising 26 no. apartments and all associated site works.	
Development Address	Rockbrae, Westminster Road, Dublin 18 (D18 P9Y7)	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Proposal for residential development on land zoned residential located in an existing suburban area is not considered exceptional in the context of the existing urban environment.</p> <p>No, the proposal will be connected to the existing water supply and waste water drainage infrastructure. Construction and demolition waste can be managed through standard waste management conditions.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted</p>	<p>The proposed development seeks permission for 26 apartments on a site measuring 0.3029 ha which is not considered exceptional in the context of the existing urban environment.</p> <p>No</p>	<p>No</p> <p>No</p>

projects?		
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>No, the site is in Foxrock Village located 3.6 km from the nearest European Sites, South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. There are no NHA in the vicinity of the site. The closest proposed NHA is Dingle Glen which is approximately 2.8km south of the site.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	No
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)