



An
Bord
Pleanála

Inspector's Report ABP-315388-22

Development

Development consisting of demolition of a car port, indoor swimming pool and outdoor tennis court.

Construction of four, two storey dwellings, and all associated site works on an infill site.

Location

Chadsley House, Leopardstown Road, Foxrock, Dublin 18 (A Protected Structure)

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D22A/0508

Applicant(s)

Tiejun Hui

Type of Application

Planning Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Andrew and Naoisha Maher

Foxrock Manor Residents

Thomas and Helen Greene

Observer(s)

An Taisce

Date of Site Inspection

19th October 2023

Inspector

Conor Crowther

1.0 Site Location and Description

- 1.1.1. The site measures approximately 0.3 ha at Chadsley House, Leopardstown Road, Foxrock, Dublin 18. The site is located in the established residential suburb of Foxrock, approximately 9km south of Dublin City Centre within the Local Authority area of Dún Laoghaire Rathdown County Council.
- 1.1.2. The site is characterised by a large detached 19th century period dwelling, Chadsley House, which is a protected structure of regional significance. Additional elements were added over time which have extended the footprint of the building, including both a car port and an indoor swimming pool. The site also includes a hard surface outdoor tennis court, a dilapidated shed and gardens to the rear. An existing vehicular entrance serves the site from Leopardstown Road.
- 1.1.3. The site is bounded by Leopardstown Road to the northwest, large detached dwellings to the east and south, and a greenfield site to the west. The Foxrock Architectural Conservation Area is located further to the west of the site.

2.0 Proposed Development

- 2.1.1. The proposed development is described as follows:
 - Demolition of an existing car port, indoor swimming pool (both extensions to a protected structure), dilapidated shed and outdoor tennis court.
 - Construction of 4 no. two storey, four bedroom detached dwellings within the curtilage of and to the rear of Chadsley House.
 - Retention of the vehicular and pedestrian access from Leopardstown Road.
 - Significant landscaping, boundary treatment, and ground level change of +1m towards the rear of the site.
- 2.1.2. It should be noted that the proposal was altered at Further Information (FI) stage to include a turning head to allow access for emergency vehicles, cycle parking and the installation of electrical vehicle charging facilities. This resulted in the removal of visitor parking included in the original proposal.
- 2.1.3. The application is accompanied by:

- An Architectural & Built Heritage Impact Assessment.
- Design Statement.
- Tree Protection Plan (FI).
- Tree Impacts Plan (FI).
- Tree Constraints Plan (FI).
- Landscape Design Masterplan (FI).
- Cycle Statement (FI).
- Daylight & Sunlight Analysis (FI).
- Design Stage Construction & Demolition Management Plan (FI).
- Arboricultural Report (FI).

2.2. Scope of Proposed Development

- 2.2.1. It should be noted that works to Chadsley House itself have been permitted separately to this proposal (Ref. D22A/0827) but were, it appears, mistakenly included as part of the original proposal. This was remedied in the FI response by amending the Architectural Heritage Impact Report to align with the public notices. However, the scope of the proposed development in this application includes an element of the development permitted under Ref. D22A/0827, as both include for the demolition of the existing car port and indoor swimming pool (now removed).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dún Laoghaire-Rathdown County Council (The Local Authority) issued a GRANT of permission for the above-described proposed development on the 24th November 2022, subject to 33 no. conditions. Conditions of note include:
- Condition 3 relates to the use of each proposed house as a single-use dwelling and not to be sub-divided in any manner.
 - Condition 19 relates to the supervision of any works on the protected structure by an accredited architect.

- Condition 23 requires the developer to engage the services of a qualified arborist as an arboricultural consultant for the entire period of construction activity.
- Condition 25 relates to post construction and requires the arborist to conduct a tree survey and assessment on the condition of the retained trees.

3.2. **Planning Authority Reports**

3.3. Planning Reports

3.3.1. The Planning Officer's Report dated 2nd September 2022 requested further information on 9 items, namely:

1. Clarification of the scope of works.
2. Engagement with Irish Water/Uisce Éireann.
3. Undertake a Daylight and Sunlight analysis to assess the potential of overshadowing.
4. Submit a comprehensive Tree Report comprised of a detailed Tree Survey and Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement.
5. Submit a preliminary Landscape Masterplan with cross-sections.
6. Submit a revised Landscape Drawing showing a turning head at the end of the access road.
7. Submit revised details showing compliance with Electric Vehicle charging infrastructure.
8. Submit a Cycle Statement.
9. Submit a Construction Management Plan.

3.3.2. A second Planning Officer Report was subsequently issued on the 24th November 2022, upon receipt of the further information, indicating that the further information items above were addressed and recommending a GRANT of permission for the proposed development, subject to 33 no. conditions.

3.4. Other Technical Reports

- 3.4.1. Environmental Enforcement – On the 26th July 2022 and on the 3rd November 2022 a report issued citing no objections to the proposed development, subject to 5 no. conditions.
- 3.4.2. Parks Department – On the 29th July 2022 the Parks Department requested Further Information relating to trees and arboricultural issues. On the 22nd November 2022 a report issued from the Parks Department recommending the imposition of 2 no. conditions in the event of a grant of permission.
- 3.4.3. Drainage Department – On the 16th August 2022 the Drainage Department issued a report citing no objection to the proposed development subject to 2 no. conditions.
- 3.4.4. Transportation Department – On the 31st August the Transportation Department issued a report requesting Further Information relating to 4 no. issues. On the 21st November 2022 the Transportation Department issued a further report citing no objection to the proposed development, subject to 3 no. conditions.
- 3.4.5. Conservation Officer – On the 10th August 2022 the Conservation Officer issued a report requesting Further Information to clarify the scope of works. After reviewing the Further Information submitted, the Conservation Officer indicated that she had no objection to the proposed development subject to the imposition of 1 no. condition.
- 3.4.6. Environmental Health Officer (EHO) – On the 14th November 2022 the EHO issued a report on the Further Information received, suggesting the imposition of 3 no. conditions in the event of a grant of permission.

3.5. Prescribed Bodies

- 3.5.1. Irish Water/Uisce Éireann (17th August 2022 & 6th November 2022) – Upon review of the Further Information received, Irish Water had no objection to the proposed development, subject to 3 no. observations.
- 3.5.2. An Taisce (15th August 2022 & 10th November 2022) – Concern about the removal of visitor parking from the proposed development and about the impact that the proposed development would have on the protected structure. Inconsistency in the scope of works. No Arboricultural Assessment undertaken of the trees proposed to be removed.
- 3.5.3. The Heritage Council – No response received.

3.5.4. An Chomhairle Ealaíon – No response received.

3.5.5. Department of housing, Planning & Environment – No response received.

3.6. Third Party Observations

3.6.1. 4 no. 3rd party observations were received:

- Andrew & Naoisha Maher.
- Thomas & Helen Greene.
- Michael Conlon.
- Foxrock Manor Residents.

3.6.2. The issues raised by observers are generally reflected in the grounds of appeal.

4.0 Planning History

Subject Site:

4.1.1. D22A/0827 – Permission GRANTED on the 2nd February 2023 for demolition of modern conservatory and 2 No steps to the south west elevation, single storey carport, and swimming pool house. Removal of external spiral metal staircase, external door and window to south east elevation, partition walls, doors, sanitary ware and furniture. Proposed retention, repair, refurbishment, restoration and conservation of brickwork, floors, roof slates, timber, down pipes, soffits and fascia boards. Installation of new entrance door, canopy and 2 no. steps to the south west elevation, new door and window to the south east elevation, inner glazing to all existing windows, new window to the north east elevation and blocking of external door opening to the south east elevation.

Neighbouring Sites of relevance:

4.1.2. D23A/0377 – Permission REFUSED on the 28th July 2023 for 4 no 2-3 storey, 4 bedroom, terraced houses on a cleared site measuring circa 0.147 hectares to the southwest of the subject site. Refusal on the same grounds as D22A/0590 below. Potential amalgamation with adjacent site suggested in refusal.

4.1.3. D22A/0590 – Permission REFUSED on the 4th October 2022 for 4 no. 3 storey, 4 bed, terraced houses, located on a cleared site measuring circa 0.147 hectares to the southwest of the subject site. Refusal on the following grounds:

- Lack of visibility entering and exiting site;
- Design not in keeping with the existing pattern of development; and
- Significant overlooking and overbearing of adjacent properties.

4.1.4. D22A/0572 (An Bord Pleanála Ref. 314920-22) – Permission REFUSED on the 28th September 2022 by the Local Authority for the demolition of a detached two storey dwelling, a semi-detached two storey Doctors surgery and a single storey shed on a site approximately 60m northeast of the subject site. Construction of 7 no. dwellings consisting of a mix of housing units and associated site development works. Refusal by Local Authority on the following grounds:

- Traffic impacts on Leopardstown Road;
- Poor mix of housing;
- Insufficient public amenity space; and
- Separation distance from existing dwellings.

I note, at the time of writing, that the decision is currently under appeal to the Board.

4.1.5. D21A/0294 – Permission REFUSED for the demolition of a detached two storey dwelling, a semi-detached two storey Doctors Surgery and a single storey shed on a site approximately 60m northeast of the subject site; The construction of 7 no. dwellings consisting of a mix of housing units and associated site development works. Refusal grounds are similar to that of D22A/0572 above.

4.1.6. D17A/0347 (An Bord Pleanála Ref. PL06D.248803) – Permission REFUSED on the 2nd June 2017 for demolition of existing dwelling and shed, construction of 7 no. dwellings comprising of a mixed development of housing units on a site approximately 80m northeast of the subject site. Refusal on the following grounds:

- Traffic impacts on Leopardstown Road;
- Lack of open space; and
- Separation distance from existing dwellings.

- 4.1.7. D17A/0039 - Permission REFUSED on the 13th March 2017 for demolition of existing dwelling on a site approximately 80m northeast of the subject site. Construction of 7 no. dwellings comprising of a mixed development of 4 bed semi-detached dwellings and terrace dwellings. Refusal grounds are similar to that of D17A/0347 above.

5.0 Policy Context

5.1. Architectural Heritage Protection Guidelines for Local Authorities

- 5.1.1. These guidelines were initially issued in 2004 and have since been re-issued in 2011 by the Department of Arts, Heritage & Gaeltacht. The following guidance relates to the proposed development of a protected structure and development within the curtilage of a protected structure:

- Promote the consideration of the potential impact of proposed development on the character of the protected structure.
- Encourage the smallest possible loss of historic fabric.
- Consider whether partial demolition of a protected structure would impact the special interest of the whole structure i.e. whether or not the part of the structure proposed to be demolished is original to the structure.
- Partial demolition of a protected structure may be permitted where it does not adversely affect the structure.
- Avoid adversely affecting the principle elevations of the protected structure.
- Assess the reversibility of proposals to allow for the future correction of unforeseen problems without causing damage to the structure.
- Consider the impact of development within the curtilage of a protected structure on the character and setting of said structure.

5.2. Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009

5.2.1. Although significantly dated at the time of writing, these guidelines serve to implement the principles of sustainable residential development in urban areas. The guidelines encourage the following approaches:

- Encourage increased densities on residentially zoned land, particularly on land within 500m of a bus stop or 1km of a light rail stop.
- Utilise the capacity of existing social and physical infrastructure.
- 'In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill'.

5.3. Dún Laoghaire Rathdown County Development Plan 2022-2028

5.3.1. The following are policies and objectives of relevance to the proposed development from the Dún Laoghaire Rathdown County Development Plan:

- Zoning Objective A – 'To provide residential development and improve residential amenity while protecting the existing residential amenities'.
- Record of Protected Structures No.2055 – Chadsley House.
- Policy Objective PHP18: Residential Density – '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... 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.'

- Section 4.3.1 Delivering and Improving Homes – This section sets out a minimum density for new residential development at 35 units per hectare but notes that this may not be suitable in all circumstances.
- Policy Objective PHP19: Existing Housing Stock – Adaptation – ‘Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods’.
- Section 4.3.2 and Policy Objective PHP27 promote a variety of housing types and tenure types whilst having regard to existing housing tenures and types.
- Policy Objective GIB25: Hedgerows – ‘retain and protect hedgerows in the County from development, which would impact adversely upon them...promote the protection of existing site boundary hedgerows and where feasible require the retention of these when considering a grant of planning permission for all developments’.
- Policy Objective HER8: Work to Protected Structures –
 - Protect from negative impact on special character and appearance;
 - Have regard to guidelines detailed in section 5.1 of this report;
 - Ensure any development affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of scale, mass, height, density, layout and materials;
 - Ensure that new and adapted uses are compatible with the character and special interest of the protected structure;
 - Protect the curtilage of protected structures and ensure that there is no adverse impact on the special character of said structures; and
 - Ensure the retention of the form and structural integrity of the building.
- Chapter 12 Development Management: Section 12.3.7.7 Infill – ‘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 12.4.5.2 Application of Standards – states that the Planning Authority can deviate from parking standards within the parking zone of the proposed development subject to a number of criteria. It is noted that small infill sites may be likely to fulfil these criteria.
- Section 12.8.7.1 Separation Distances – ‘A minimum standard of 22 metres separation between directly opposing rear first floor windows should usually be observed, for new developments. This normally results in a minimum rear garden depth of 11 metres... In all instances, private open space should not be unduly overshadowed and where there is the potential for the proposed development to overshadow or overlook existing/future development adjoining the site, minimum separation distances to boundaries should be increased’.
- Section 12.11.2.3 Development within the Grounds of a Protected Structure – ‘The overall guiding principle will be an insistence on high quality in both materials, and design, which both respects and complement the Protected Structure, and its setting’.
- Section 12.11.2.3 Development within the Grounds of a Protected Structure – ‘Any proposal for development within the grounds of a Protected Structure will be assessed in terms of;
 - The proximity and potential impact in terms of scale, height, massing and alignment on the Protected Structure, impact on existing features and important landscape elements including trees, hedgerows, and boundary treatments. Any development should be sensitive of the relationship between the principal residence and its adjoining lands and should not sever this.
 - The retention of an appropriate setting for the Protected Structure to ensure the relationship between the building, associated structures, amenity value, and/or landscape features remain unaffected by the development’.

5.4. Natural Heritage Designations

- 5.4.1. The closest site of natural heritage interest to the proposed development is Fitzsimon's Wood proposed Natural Heritage Area (001753), which is approximately 2.8km from the proposed development.

5.5. EIA Screening

- 5.5.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage (see Appendix 2) and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. 3 no. 3rd party appeals were submitted to the Board by the following appellants:
- Andrew & Naoisha Maher, 34, Foxrock Manor.
 - Thomas & Helen Greene, 31, Foxrock Manor.
 - Foxrock Manor Residents
 - Odran Power, 30, Foxrock Manor.
 - Peter Douglas, 32, Foxrock Manor.
 - Michael Conlon, 33, Foxrock Manor.
 - Jim Goss, 35, Foxrock Manor.
- 6.1.2. The 3rd party appeals are summarised as follows:
- The proposed development would be seriously injurious to the visual and residential amenity of the properties on Foxrock Manor due to the height, scale, massing and proximity to the site. Overlooking from all four proposed dwellings onto Nos.30-34 Foxrock Manor.

- Endangerment of public safety by reason of a traffic hazard due to the impact on the free flow of traffic on Leopardstown Road.
- The proposed development would detract from the setting of Chadsley House.
- Submitted drawings are inaccurate and do not include correct topographical detail of the existing site. Furthermore, no cross-sections or contiguous elevations showing the impact on the properties at Foxrock Manor are provided.
- Separation distances indicated on the drawings are inaccurate due to the inclusion of incorrect detail pertaining to extensions to the rear of properties on Foxrock Manor.
- Significant intensification of use of the access onto Leopardstown Road.
- Precedent for refusal of permission for similar development in the immediate vicinity of the site.
- The substandard access width of the proposed development is not addressed in the application, nor is it addressed by the Local Authority Transportation Department.
- Separation distance from the proposed development to existing dwellings on Foxrock Manor is non-compliant with the Development Plan requirements.
- The proposed development constitutes 'backland development' and is non-compliant with the principles set out in the County Development Plan for 'backland development'.
- Design and finishes of the proposed development are not in keeping with the design of existing dwellings in the surrounding area and appears to be similar to a convenience store example cited by the appellant.
- Recommended alterations suggested by all of the appellants to the proposed development are summarised as follows:
 - Move the proposed dwellings approximately 3.8m closer to Chadsley House;
 - Set the ground floor levels at the existing site levels;

- Reduce floor to ceiling heights to 2.4m;
- Increase the height of the boundary wall between proposed dwellings no.3 and 4 and no.34 Foxrock Manor by approximately 800-900mm; and/or
- Omit the side passages between nos.1 and, and 3 and 4, creating two pairs of semi-detached dwellings achieving an increase in the minimum setback distance of 3.3m.

6.2. Applicant Response

6.2.1. The response of Manahan Planners and CDP Architecture, agents on behalf of the applicant, to the grounds of appeal can be summarised as follows:

- The Local Authority does not consider the proposed development to constitute 'backland development' having regard to the size, location and scale of the proposed development. The site is considered by the applicant and the Local Authority to be infill development.
- The proposed development will not result in any negative visual change to the overall area.
- The proposed development does not result in any directly opposing windows with neighbouring properties.
- A minimum separation distance of 12.5m from the proposed windows to neighbouring properties is proposed.
- A daylight & sunlight analysis was conducted as part of the response to a request from the Local Authority for further information. This analysis shows that adequate levels of internal daylight amenity would remain available to the windows of existing dwellings on Foxrock Manor, except for windows W116 – 205, W119 – 208 and W8 – 162 at No. 30 and 32 Foxrock Manor.
- The orientation of the proposed development on a northwest-southeast axis ensures that adjacent dwellings on Foxrock Manor are not impacted.

- The proposed development will have a negligible impact on existing traffic movements on Leopardstown Road. The lane width proposed is compliant with criteria set out in the County Development Plan.
- The proposed development will include the demolition of extensions to Chadsley House which are of no architectural merit, and the setting of the protected structure will be improved as a result.
- The proposed development has been sensitively located so as not to detract from the enjoyment of the existing amenity of the protected structure.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority refers the Board to the Planning Officer's Report as the grounds of appeal do not, in the opinion of the Planning Authority, raise any new matters which would justify a change of attitude to the proposed development.

6.4. Observations

- 6.4.1. An observation from An Taisce was received by the Board on the 23rd January 2023 and can be summarised as follows:

- The amenity value of the protected structure will be seriously impacted by vehicles passing its front entrance and disrupting its gardens.
- Creating a streetscape across the curtilage of a Protected Structure of Regional importance, immediately in front of its main entrance, would be inappropriate.
- The lack of any provision for visitor parking would lead to parking of vehicles within the immediate vicinity of Chadsley House. It is contended that the conservation impact of this has not been assessed.

- 6.4.2. The remaining issues raised in this observation are covered in the grounds of appeal.

6.5. Further Responses

1 no. further response to the other 3rd party appeals was received from Kiaran O'Malley & Co. Ltd., on behalf of Foxrock Manor Residents. This response can be summarised as follows:

- The other 3rd party appeals support and reinforce the contents of their appeal.
- The computer-generated images (CGIs) submitted with the other 3rd party appeals show that there should be a limit of no more than 2 no. single and/or dormer type dwellings permitted onsite.

7.0 Assessment

7.1.1. I consider the main issues in determining this appeal are as follows:

- Design & Layout
- Character & Setting of the Protected Structure
- Landscaping
- Access & Parking
- Other Matters

7.2. Design & Layout

7.2.1. The proposed development includes the construction of 4 no. four bed detached dwellings on a northwest-southeast axis. The proposed dwellings measure approximately 7.5m in width, 15.3m in length and 7.2m in height. A separation distance of approximately 12.5m is proposed between the proposed dwellings and the adjacent properties on Foxrock Manor. The ground level of the site is proposed to be raised by approximately 1m to the rear of the site.

7.2.2. Daylight & Sunlight:

7.2.3. I note that a daylight & sunlight assessment was undertaken by the applicant as a result of a Further Information request from the Local Authority. In addition to their appeal, the residents of Foxrock Manor have provided their own overshadowing analysis.

- 7.2.4. With regard to best practice on the matter of daylight and sunlight assessment, I am guided by the standards set out in the BRE Guidelines on Site Layout Planning for Daylight and Sunlight, as recommended by the Urban Development and Building Heights Guidelines for Planning Authorities.
- 7.2.5. The appellant's overshadowing assessment appears to apply the above standards for overshadowing by means of a shadow plan. The appellant's analysis shows overshadowing of the rear gardens of No. 30, 32 and 33 Foxrock Manor, particularly during the Equinox. I am satisfied that at least 50% of the rear gardens of the adjoining properties on Foxrock Manor will receive at least 2 hours of sunlight on the Equinox in the event that the proposed development is permitted, and that an adequate level of amenity will be achieved.
- 7.2.6. The applicant's daylight and sunlight assessment applied the abovementioned standards for daylight and sunlight by means of a computer simulated approach under appropriate sky conditions. I note that the applicant's analysis determines that there is no negative impact on neighbouring properties with regard to loss of daylight and/or sunlight as follows:
- Daylight – Adequate levels of internal daylight amenity remain available to all windows surveyed, except for two windows (w116 – 205 and w119 – 208). This is not considered to be significant due to the location of the affected windows in a fully glazed conservatory.
 - Sunlight – 2 no. windows fall below the standards for sunlight (w116 – 205 and w8 – 162) but this is not considered to be significant due to the location of the affected windows in a glazed conservatory.

I am satisfied that the BRE guidelines have been appropriately applied in this analysis, and that the amenity of neighbouring properties is not adversely affected by overshadowing or loss of daylight or sunlight as a result of the proposed development.

7.2.7. Overlooking:

- 7.2.8. Minimum separation distances mandated by the County Development Plan are not achieved by the proposed development. However, the proposed development does not include directly opposing rear first floor windows, which allows for a lesser

minimum separation distance to be implemented. I note that the Local Authority has considered a minimum separation distance of 12.5m to be acceptable in this instance.

- 7.2.9. I acknowledge the concerns of the appellants with regard to the omission of rear extensions from drawings submitted by the applicant. However, I am satisfied that the main rear elevations of adjoining properties on Foxrock Manor are accurately reflected in the drawings.
- 7.2.10. I note the Local Authority's conclusion that overlooking of adjoining properties is not likely to occur as a result of the proposed development and that the minimum separation distance proposed by the applicant is deemed to be acceptable. I am not of the view that this is sufficient to allay concerns of overlooking by means of oblique views. I am in agreement with the appellants with regard to the significant overlooking and loss of privacy that will be endured by the residents of No.31 and 34 Foxrock Manor.
- 7.2.11. Whilst the height of the proposed dwellings are generally reflective of the height of other such dwellings in the locality, the ground levels of the proposed dwellings do not reflect existing ground levels. I believe that this will be to the detriment of the adjoining properties on Foxrock Manor, as the raised ground floor levels facilitate overlooking of living spaces. In particular, I am of the view that the rear first floor windows of proposed dwelling no.3 will overlook the rear garden space and living area of no.34 Foxrock Manor, and that there will be an element of overlooking from the first floor windows of dwellings no. 2 and 3 onto the rear garden of no. 31 Foxrock Manor.
- 7.2.12. Notwithstanding the fact that the applicant has applied landscaping measures along the boundary of the proposed development, I do not consider that the level of screening provided by these measures will satisfactorily address overlooking concerns.
- 7.2.13. I have considered the suggestions within the 3rd party appeals with regard to amending the proposed development to reduce the impact on the residential amenity of the adjoining properties on Foxrock Manor. I do not consider these suggestions to be acceptable as they will reduce the separation distance between the proposed dwellings and Chadsley House, thereby impacting upon its character and setting. I

also do not consider that the identified overlooking impacts will be sufficiently mitigated by the suggested amendments as I am of the view that the orientation of the windows significantly contributes to overlooking of adjoining properties on Foxrock Manor. I have considered applying the concept of opaque glazing to the effected windows but this would lead to a significant negative impact on habitable rooms within the proposed dwellings.

7.2.14. Design:

7.2.15. I am of the view that the appellant has adequately demonstrated the exterior finishes of the proposed development to be of poor quality with respect to their comparison to convenience stores of a similar finish. I am of the opinion that such materials would not respect the character and setting of the protected structure nor would it be consistent with other similar development in the locality, and that more appropriate finishes would need to be applied to the proposed dwellings in order for them to be considered acceptable. I also consider the proposed flat roof design of the dwellings to be inconsistent with the pitched roof design of other similar developments in the locality, therefore constituting a negative visual impact on the amenities of the surrounding area.

7.2.16. Whilst, I consider that the material finishes can be amended by way of planning condition, in the event of a grant of permission, I do not consider that the roof design can be satisfactorily amended without materially altering the proposed development.

7.3. Character & Setting of the Protected Structure

7.3.1. I note that the protected structure itself is not proposed to be demolished or altered as part of this application. Rather, extensions to the protected structure are proposed to be demolished.

7.3.2. I note that the proposed demolition of the car port and indoor swimming pool (recreational building) has been permitted by Dún Laoghaire Rathdown County Council as part of a separate application. It was evident that said permission had been commenced upon the undertaking of my site visit and I note that both aforementioned structures had been demolished as part of this permission, thereby limiting my assessment of their significance in the context of the protected structure of Chadsley House. Notwithstanding this, I am satisfied with the conclusion of the Local Authority that the demolition of said structures will not adversely affect the

character or the setting of the protected structure or the residential amenity of the surrounding area. This is further confirmed from my analysis of the detail submitted as part of the planning application.

- 7.3.3. Given that these extensions have been demolished as part of a separate application, the remaining scope of my assessment with respect to the protected structure of Chadsley House relates to the impact of the proposed dwellings on the character and setting of said structure.
- 7.3.4. Whilst a separation distance of 27.1m is provided between the proposed dwellings and Chadsley House, a much lesser separation distance of 12.5m is afforded to the adjoining dwellings on Foxrock Manor. However, I do not consider it appropriate to reduce the separation distance to Chadsley House in order to increase the separation distance from Foxrock Manor, as this would negatively impact the character and setting of the protected structure of Chadsley House.
- 7.3.5. Given the proposed separation distance from Chadsley House to the proposed dwellings, and the level of proposed vegetation screening between both, I am satisfied that the character and setting of Chadsley House will not be significantly and/or adversely impacted by the proposed development. This aligns with the views of the Local Authority Conservation Officer who has indicated that she is satisfied with the proposed separation distance. I am also satisfied that the rear garden area and outdoor tennis court carry very little significance with regard to the setting of the protected structure, therefore I am of the opinion that the demolition of both will not significantly or adversely affect the character and setting of the protected structure.
- 7.3.6. With regard to the impact of an increased number of vehicles, passing directly by Chadsley House, on the character and setting of the protected structure, I am not of the opinion that this is an impact of significance given the low level of vehicle traffic likely to emanate from the proposed development. Additionally, I am not of the view that the extension of the access roadway will negatively impact the character and setting of the protected structure.

7.4. Landscaping

- 7.4.1. I have observed the following with regard to landscaping of the proposal site:

- The Landscape Design Masterplan, submitted as Further Information, shows the existing garden and planting, at the location of the car port and indoor swimming pool, to be retained in its current condition. I note from my site visit that both structures have been demolished and no garden or planting exists in this area of the site. In the event of a grant of permission, I am of the opinion that this area of the site should be conditioned to provide a garden and planting area consistent with the plans submitted.
- Approximately 2 no. category B trees (Tree 178 & 179) are proposed to be removed as part of the proposed development. I note that approximately 8 no. category B trees are identified onsite. Thus, approximately 25% of category B trees are proposed to be removed from site. This is not considered to be a significant and/or adverse impact, particularly given that significant tree planting of native species is proposed onsite.
- The Tree Impacts Plan, submitted as Further Information, shows the loss of a not insignificant amount of boundary hedgerow onsite, which is largely considered to be of poor-moderate value. Replacement boundary hedgerow is proposed which will utilise native species. I note the Arboricultural Report, submitted as Further Information, which determines that the layout of the proposed development does not allow for any realistic vegetation retention.

7.4.2. Whilst the layout of the proposed development will result in the loss of a not insignificant amount of vegetation, replacement native vegetation is proposed which will be, in my view, sufficient to mitigate the effects. The replacement vegetation will also serve to maintain the vegetated appearance of the surrounding area.

7.5. Access & Parking

7.5.1. From my analysis of the Proposed Road Layout Plan & Sightlines Plan provided by the applicant, I note that the widths of the site entry point, the vehicular access road and the sightlines are all of a sufficient standard to satisfy both the County Development Plan provisions and Transport Infrastructure Ireland (TII) guidelines. I am therefore satisfied that the form and layout of the access to the proposed development is compliant with relevant standards and will not cause a traffic hazard.

7.5.2. According to Table 12.5 of the County Development Plan, 2 no. car parking spaces is the standard number of car parking spaces permissible for this type of

development in this area. I note that Section 12.4.5.2 of the County Development Plan indicates that the Planning Authority can deviate from the Parking Standards, under certain circumstances. Whilst the site benefits from access to frequent public transport services and includes a generous parking provision, the County Development Plan does state that there is less value in restricting parking spaces in residential development for the purposes of encouraging sustainable travel. Thus, I am satisfied that the parking provision addresses the needs of the proposed development.

- 7.5.3. With regard to the provision of visitor car parking spaces onsite, I note the removal of such in order to address the Further Information requests from the Local Authority. I also note the observations of An Taisce in this regard. Given the limited scale of development and the close proximity to frequent public transport services, I am of the view that the needs of the development in this regard are accommodated by the proposal. In addition, I did not witness a proliferation of informal visitor parking in the area at the time of my site visit.

7.6. Other Matters

- 7.6.1. Development Type – I note that the proposed development qualifies as infill development by means of the following:

- Addition of more than one dwelling to a small tract of undeveloped urban land within the curtilage of a large detached dwelling.
- The scale of the proposal.

I am, therefore, minded to agree with both the applicant and the Local Authority on the matter of the type of development of which the proposed development should be considered. I do not see any justifiable reason for determining that the proposed development constitutes ‘backland development’.

- 7.6.2. The National Planning Framework (NPF) promotes the concept of compact growth and particularly highlights the potential of infill development in urban areas to achieve this concept. As such, the policy support very much exists for the principle of infill development on this site. In addition, the site is zoned for residential development which further supports this conclusion.

- 7.6.3. Housing Type & Density - I note that the proposed development is in an urban area well served by public transport, where new residential development is expected to be of a higher density. However, I note that the constraints of the subject site do not allow for a significantly higher density of development, therefore I consider it acceptable to propose a lower density of development on this site than would normally be expected of an infill urban development site. I note the density of the proposed development is 12.89 units per hectare.
- 7.6.4. The proposed development includes 2 no. types of dwellings within a 4 no. dwelling development. The 2 no. dwelling types differ slightly by way of layout and square meterage, and are otherwise similar in design and character, in that all 4 no. dwellings are four bed units. With this in mind, it is worth noting Policy Objective PHP27 of the County Development Plan which promotes the provision of a mix of housing types to address the need for smaller households in the area. I do not consider that this need is being addressed by the proposed development.
- 7.6.5. Whilst the proposed development increases the density of the site, the type of housing proposed does not add to the housing mix of the area. Although this type of housing mix may not be the most sustainable use of land in an area well served by public transport and with large employers located in the immediate vicinity, the development is in keeping with existing development in the area. Notwithstanding the type of housing proposed, I consider that the need for housing outweighs the need to diversify the type of housing in the area, taking account of the potential developability of the site.
- 7.6.6. Open Space - I note that the private open space provided as part of the proposed development is sufficient to comply with the County Development Plan provisions and national guidance. I also note that public open space provisions can be addressed by way of condition, therefore I am satisfied that the open space provision of the proposed development is commensurate with the County Development Plan requirements and national guidance.
- 7.6.7. Precedent – I note, from examination of precedent applications in the immediate vicinity of the site, that there are several other proposed similar infill developments that have been refused permission for a variety of reasons. This indicates a prevailing pattern of refusal of this type of development in the area. However, I have

considered the issues arising above and the case has been considered on its own merits.

7.7. Conclusion

- 7.7.1. Having considered the merits of the proposed development, I am of the opinion that the proposed development will adversely impact the residential amenity of adjoining properties by means of overlooking and loss of privacy. I am also of the view that the design of the proposed development does not respect the design of existing development in the area. I do not consider that the proposed development can be appropriately amended by way of planning condition to reduce these impacts without materially altering the proposal.

7.8. Appropriate Assessment Screening

- 7.8.1. I note that the application was not accompanied by a screening report for Appropriate Assessment. However, I note that the Local Authority undertook Appropriate Assessment Screening and concluded that the proposed development would not significantly impact upon a Natura 2000 site.
- 7.8.2. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.8.3. This determination is based on the following:
- The size and scale of the proposed development;
 - The location of the proposed development in an established urban area that is suitably serviced; and
 - The separation from and lack of connectivity to any European Sites.
- 7.8.4. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

8.0 Recommendation

- 8.1. I recommend that planning permission be REFUSED for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Having regard to the design and layout of the proposed development it is considered that the proposed development would seriously injure the residential amenity of adjoining properties by means of overlooking and loss of privacy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its design, would be out of character with the pattern of development in the vicinity and would constitute a visually discordant feature that would be detrimental to the architectural character of this area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.



Conor Crowther
Planning Inspector

22nd November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315388-22		
Proposed Development Summary	Demolition of an existing car port, indoor swimming pool, dilapidated shed and outdoor tennis court. Construction of 4 no. 2 storey, 4 bedroom dwellings within the curtilage of and to the rear of Chadsley House. Retention of the vehicular and pedestrian access from Leopardstown Road. Significant landscaping and boundary treatment, and ancillary development.		
Development Address	Chadsley House, Leopardstown Road, Foxrock, Dublin 18 (A Protected Structure)		
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	
		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) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			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)
No		N/A	No EIAR or Preliminary Examination required

Yes	✓	Class 10(b)(i) and (iv)/ min. 500 dwelling units and/or an area greater than 10 ha		Proceed to Q.4
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4. Has Schedule 7A information been submitted?				
No	✓		Preliminary Examination required	
Yes			Screening Determination required	

Inspector: Conor Crowther Date: 22nd November 2023

Appendix 2 - Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315388-22	
Proposed Development Summary	Demolition of an existing car port, indoor swimming pool, dilapidated shed and outdoor tennis court. Construction of 4 no. 2 storey, 4 bedroom dwellings within the curtilage of and to the rear of Chadsley House. Retention of the vehicular and pedestrian access from Leopardstown Road. Significant landscaping and boundary treatment, and ancillary development.	
Development Address	Chadsley House, Leopardstown Road, Foxrock, Dublin 18 (A Protected Structure)	
<p>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.</p>		
	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>No</p> <p>No</p>
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>		No

