



An  
Bord  
Pleanála

## Inspector's Report

ABP 317457-23

### Development

Permission for

- (i) Construction of 2 no. two storey five-bedroom detached dwellings.
- (ii) 2 no. on-site vehicular parking spaces for each house.
- (iii) Alterations to as granted vehicular entrance off Torquay Road.
- (iv) New access road to site on site of Ardenza off Torquay Road.
- (v) Landscaping, drainage and all associated works.

### Location

Ardenza and Glenarm (Protected Structures), Torquay Road, Foxrock, Dublin 18.

### Planning Authority:

Dún Laoghaire-Rathdown County Council

### Planning Authority Ref.

D23A/0001

### Applicant(s)

Leigh Connaughton and Amy Connaughton

### Type of Application

Permission

**PA**

Permission Refused

**Decision**

### Type of Appeal

First and

**Appellant**

Leigh Connaughton and Amy Connaughton

Third Party

Derek O'Leary (submitted by Brazil Associates, Architects)

### Observer

Submitted by Patrick Shaffrey Architect, on behalf of Lynette O'Sullivan, Pinehaven, Torquay Road.

**Date of Site Inspection**      11 March 2024

**Inspector**                      Vanessa Langheld

## **1.0 Site Location and Description**

- 1.1 The site (0.3389 ha) is in the established residential suburb of Foxrock, approximately 9 km south of Dublin City Centre, and within the Local Authority area of Dún Laoghaire-Rathdown County Council.
- 1.2 The site comprises two large back garden sites behind the two detached 19th Century houses, Ardenza and Glenarm, on Torquay Road. The frontal houses are Protected Structures of regional significance. The Application site includes the whole of the site of Ardenza (a house of 431 sq m and its gardens front and rear) and the back garden of the neighbouring house, Glenarm.
- 1.3 Planning permission was granted in respect of the frontal house, Ardenza (Reg. Ref.19A/1026), on a site stated as 0.3014 hectares, for the construction of a part-single, part-two storey flat roof extension to the side and rear and relocated new entrance to the westerly corner of the site. The Application sought permission for a new entrance to the side of the house with a timber gate, and the full refurbishment of the existing house. (The original cast iron gate was to be left in situ and closed off as the Applicants stated that it could not be extended and reused at the relocated access point.) The refurbishment work to Ardenza appears have been completed to a high standard; however, the residual site / rear gardens are unkempt and have the appearance of a construction compound.
- 1.4 The separation of the two houses, Glenarm and Ardenza, from their respective back gardens (i.e. the current appeal site) has already been provided in terms of the distinction of landscaping treatments. There are boundary fences and boundary planting resulting in the full separation of the appeal site from its former use as part of the back gardens of the two houses. A driveway (c. 4m wide) runs along the side of the house Ardenza and provides access to the appeal site.
- 1.5 The houses Glenarm and Ardenza are two of six houses built in the mid nineteenth century towards the north end of Torquay Road. They form a distinctive group of six detached houses designed by William Bentley. They are large two-storey houses, with projecting bays, have painted and rendered walls with decorative plaster window surrounds and natural slate roof

coverings. Much of the group retains their original random rubble granite walls with crenelated granite tops and mature hedging behind square profile rendered granite piers with wrought iron gates.

- 1.6 The site is bounded by: Tallon Lodge, a Protected Structure to the north east; the back garden of a bungalow (Curraheen) on its south-eastern boundary; by Torquay Road and the house Ardenza (which is part of the application site) on its south-western boundary; and the back garden of a detached house 'Pinehaven' on its western boundary.
- 1.7 The site is located within the Foxrock Architectural Conservation Area.
- 1.8 In terms of transport links, the site is located c. 20mins from the Central Park Luas stop. In addition, there is an infrequent bus service to Foxrock Village (10 minutes' walk) and an extensive bus route on the N11 (20 minutes' walk).

## **2.0 Proposed Development**

### **2.1 The proposed development as follows:**

- Construction of 2 no. part-single / part-two-storey five-bedroom detached dwellings (2 x 325 sq m, i.e. 650 sq m). The houses are identical (but 'handed'/mirrored) and will face each other on the two back garden sites.
- 2 no. vehicular parking spaces for each proposed house.
- Alterations to the vehicular entrance off Torquay Road. [Note: having regard to the plans and particulars permitted in the 2019 permission for Ardenza, the proposed alterations to the entrance appear to have been already undertaken.]
- Provision of a new access road to site on the site of Ardenza from Torquay Road. (I note this has already been constructed, as is evident on the site visit.)
- Landscaping, drainage and all associated works.
- Significant landscaping, boundary treatments.

No amendments to the frontal house Ardenza or to its landscaping are included in the statutory notices.

It is noted that the resultant three residential units would effectively form a 'compound' accessed by a single gate from Torquay Road. Within that compound, the three units would share a common access road with no delineation of individual boundaries apart from landscaping.

The following documents are included in the Application:

- An Architectural Heritage Impact Assessment.
- A Services' Report.

2.2 The proposal was altered at Further Information (FI) stage. The principal changes to the design were as follows:

- The footprint of each of the proposed dwellings was reduced by 21 sq m per house (each dwelling is now 301 sq m).
- The houses were moved an additional 1m away from the boundary to Tallon House to the north.
- The reduction in the footprint allowed the dwellings to be moved without increasing the proximity to the existing Protected Structures of Ardenza and Glenarm. The parapet height has also been lowered by 450 mm to limit the impact of the dwellings on the adjoining Protected Structures. The height of dwellings was reduced to 6.55m.

The Response to the FI was accompanied by the following:

- A Landscape Plan.
- Drawings and Report by Arborist.
- A Site Waste Management Plan.
- A Construction Management Plan.
- Letter and data sheet to outline Noise Performance of the heat pump and Noise Pollution Policy.

## **2.3 Revisions provided for in the First Party Appeal**

At appeal stage, the design was amended to address the concerns of the DL RCC Refusal of Permission with regard to the proximity of the development to the boundary of Tallon House, the Protected Structure to the north.

These Further Revisions now submitted to the Board for consideration in the appeal provide for an additional separation of House A from the northern boundary of the site.

House A has now been moved an additional 3m south from the northern site boundary than had been proposed at FI stage. This results in a separation distance from the northern boundary of 5.3m and 6.49m (an overall separation of House A from Tallon House of c. 40m).

These changes are submitted to the Board for consideration should the Board concur with the Planning Authority that the changes made as a response to the FI request are not adequate.

### **3.0 Planning History**

- 3.1 Reg Ref 19A/1026 – Planning Permission was granted for the demolition of the non-original sheds and extension to the south-east of the dwelling, new main entrance to the northwest elevation, restoration and alterations to roof, construction of extension at Ardenza, Torquay Road, Foxrock.

Condition No. 6 and 7 of that permission state as follows:

- '6. The Applicant shall close up the existing vehicular entrance and reinstate at the Applicant's own expense the existing footpath without dishing, and with a full height road kerb in front of the proposed redundant vehicular entrance including any moving / adjustment of any water cocks /chamber covers and all to the satisfaction of the appropriate utility company and Planning Authority. The Applicant shall contact the Road Maintenance & Control Section to ascertain the required specifications for such works and any required permits.*

*REASON: In the interest of pedestrian and traffic safety.*

7. *The proposed new gate to the new/relocated vehicular entrance shall not be an automatic electronic gate in accordance with Section 8.2.4.9 Vehicular Entrances and Hardstanding Areas (i) General Specifications of the current County Development Plan 2016-2022.*

*REASON: In the interest of pedestrian and traffic safety.'*

Examination of that application documentation showed that the original cast iron gates were to be left in place, and that entrance closed to allow for the relocated entrance. (It was noted on the site visit that the original gates were removed and replaced by a granite wall; the footpath remains dished, and the new entrance has electronic timber gates – indicating non-compliance with Condition No. 1 and Condition No. 6 of that Permission.)

- 3.2 Reg Ref. D18A/1189 / ABP 303967-19 – Refusal of permission for demolition of non-original sheds and extension, new entrance hall, restoration, alterations to roof and construction of two storey pitched roof extension etc. The reason for refusal related to the visual appearance of the proposed extension in the context of the Protected Structure status and location within the Architectural Conservation zone. The Board upheld the refusal decision.
- 3.3 Reg Ref. D23A/0640 / ABP 318754-23 – Permission refused by the Board for a 3-bedroomed house, rear of the Laurels, Torquay Road, Foxrock, Dublin 18 (a Protected Structure, one of the six William Bentley Houses located west of the application site).

The Board upheld the DLRCC Refusal decision for a single reason as follows:

*'Reasons and Considerations*

*Having regard to the pattern of development in the area, the Board considered that the proposed development would represent piecemeal backland development of a large rear garden (tennis court area). The Board considered that the proposed development was contrary to the Development Management standards for 'Backland Development' as set out in section 8.2.3.4 (vi) of the Dún Laoghaire-Rathdown County*

*Development Plan 2016 - 2022 which states that where there is potential to provide backland development at more than one site/property in a particular area, the planning authority will seek to encourage the amalgamation of adjoining sites/properties. The Board considered this reasonable. It is considered, therefore, that the proposed development would represent an unsustainable use of zoned serviced lands and would be contrary to the proper planning and sustainable development of the area.*

- 3.4 Reg. Ref. D22A0508 / ABP06D.315388: Chadsley House (a Protected Structure), Leopardstown Road, Foxrock – permission granted by the Board for four houses in the rear garden. The site had a stated area of 0.3 ha. Permission was granted citing the following reasons:

*‘Reasons and Considerations*

*Having regard to the Objective A zoning of the site and policies and objectives as set out in the 2023-2028 Dun Laoghaire Rathdown County Development Plan, it is considered that the development would not detract significantly from the amenities of the area and is generally consistent with the provisions of the current development Plan and is therefore considered to be in accordance with the sustainable development of the area, subject to the conditions set out below.*

(I note that a distance in excess of 22m is maintained between the proposed windows at first floor level and the rear elevations of Chadsley House, which the Board considered to be adequate.)

#### **4.0 Policy and Context**

##### **4.1 Architectural Heritage Protection Guidelines for Local Authorities**

These Guidelines were initially issued in 2004, and were since 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 the 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 principal 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.

## 4.2 Development Plan

The following policies and objectives from the 2022-2028 Dún Laoghaire-Rathdown County Development Plan are of relevance to the proposed development:

1. Zoning Objective A – *‘To provide residential development and improve residential amenity while protecting the existing residential amenities.’*
2. Record of Protected Structures Ardenza: (RPS No. 1612) and Glenarm (RPS No. 1606). The proposed development site is also close to two further Protected Structures, notably Glenshee (RPS No. 1614) and Tallon House (RPS No. 2045), respectively.
3. 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.'*

4. 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.
5. 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.'*
6. 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.'*
7. 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'.*
8. Policy Objective HER8: Works to Protected Structures –  
*'Protect from negative impact on special character and appearance;*

*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.'*

9. 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'.*

10. Section 12.8.7.1 Separation Distances [predates the 2024 Compact Settlement Guidelines]:

*'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'.*

11. Section 12.11.2.3 Development within the Grounds of a Protected Structure references the need to strike a balance between the protection of the Protected Structure and the need to densify existing built-up areas:

*‘Any proposed development within the curtilage, attendant grounds, or in close proximity to a Protected Structure, has the potential to adversely affect its setting and amenity. 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. Any development must be consistent with conservation policies and the proper planning and sustainable development of the area. Considering recent changes to National Policy, (including the County Development Plan 2022-2028 20128 DHPLG, ‘Urban Development and Building Heights Guidelines for Planning Authorities’, a balance must be struck between allowing compact development, while protecting the Architectural heritage and historic building stock within the County. The Historic Environment and Architectural Heritage are addressed in the following Sections:*

12. Section 2.8 states:

*“Historic environments can be sensitive to large scale and tall buildings. In that context, Planning Authorities must determine if increased height buildings are an appropriate typology or not in particular settings”.*

13. Section 2.10, states:

*“Notwithstanding the above, the provisions contained within Part (IV) Planning and Development Acts 2000, as amended, regarding architectural heritage and associated character/setting remain in place.*

....

The need for the balanced interpretation of policies and objectives is highlighted:

*The role of the Planning Authority is to have regard to National Policy, however, this must be done in tandem with other guidance and Policy, such as protection of the built heritage, which is*

*enshrined in Part IV of the Planning and Development Act, 2000, as amended, and the Ministerial Guidelines that were issued to complement the Act in the form of the Department of Culture, Heritage and the Gaeltacht's, 'Architectural Heritage Protection Guidelines for Planning Authorities', 2011.*

*Any proposal for development within the grounds of a Protected Structure will be assessed in terms of the following:*

The following considerations relate to the receiving environment:

*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. .."*

*"... Have regard to the development management criteria as set out in Chapter 3 of the Department of Housing, Planning and Local Government, (DHPLG), 'Urban Development and Building Height Guidelines'; and shall indicate how the proposed development responds to its overall natural and built environment, and make a positive contribution to the urban neighbourhood and streetscape; ensure the proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials/building fabric well considered; ensure the proposal positively contributes to the mix of uses, and/ or building/dwelling typologies available in the neighbourhood.*

*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.*

The Development Plan sets out the requirement for the input of an accredited conservation architect as part of the design process:

*Impact of associated works including street furniture, car parking, hard landscaping finishes, lighting, and services. These should be designed using appropriate mitigation measures, such as careful choice of palette of materials, and finishes, and use of screen planting. All planning applications for development in proximity to a Protected Structure must be accompanied by a design statement, with supporting illustrative material, demonstrating how it has been developed having regard to the built heritage, topography, and landscape character of the site. An accredited conservation architect or equivalent should be engaged at the outset of the design process to assist in determining the appropriate siting of the development in order to minimise the impact on the Protected Structure. It may be of benefit to discuss specific requirements, at pre-planning stage.'*

(My underlining.)

The Application documentation includes an Architectural Heritage Impact Assessment prepared by Ms Deirdre Conroy MUBC, Architectural Heritage Consultant.

#### **4.3 Architectural Conservation Area (ACA) Policy**

The site is located within the boundary of the Foxrock Architectural Conservation Area.

The Development Plan sets out a series of policy objectives regarding development within the ACA – principally relating to the need for an appropriate design response in terms of location, materials, scale, density etc.:

*'11.4.2 Architectural Conservation Areas 11.4.2.1 Policy Objective  
HER13:*

## *Architectural Conservation Areas*

*It is a Policy Objective to:*

- Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA). Please refer to Appendix 4 for a full list of ACAs.*
- 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.*
- 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.*
- 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.*
- Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.*
- 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.*

## **4.4 Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, January 2024**

In January 2024, the Government issued the Guidelines with a focus on sustainable residential development and the creation of compact settlements. [A complementary non-statutory Design Manual detailing best practice examples of how policies and objectives of the Guidelines can be applied has

yet to be published.] One of the principles of the Guidelines is to support, alongside National Building Standards, new homes that provide a high standard of amenity whilst also achieving sustainable and low carbon development.

On the issue of appropriate residential densities, the Guidelines state that development in the suburban areas (low density car-orientated residential areas) of Metropolitan Towns (>1,500 population), densities in the range 35 dph to 50 dph (net) shall generally be applied.

The Guidelines summarise a method for establishing appropriate density for the settlement size and area type as follows:

#### Step 1

Define Density - establish density based on accessibility to public transport services.

#### Step 2

Refine Density - with regard to surrounding built environment (including historic settings), impact on the environment and on protected habitats and species and on amenity.

As regards separation distances, the Guidelines state:

*'It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses....'*

The Guidelines include several illustrated examples of contemporary architectural schemes, designed to achieve higher residential densities. However, having regard to the site's location surrounded by a number of detached protected structures, such proposals would likely require a greater mass of development to achieve higher densities. In my opinion, given the characteristics of this site, the proposed 9 dph proposed is appropriate.



## **5.0 National Heritage Designations**

The appeal site is neither located in nor immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

## **6.0 Planning Authority Reports and Decision**

### **6.1 Decision**

Dún Laoghaire-Rathdown County Council issued a refusal of permission for the development on the 7 June 2023 for the following reason:

*'Having regard to the characteristics of the proposed development and in particular the size, massing and distance from the proposed House A to the boundary with Tallon House, a Protected Structure, and the anticipated dominant effect and overbearing impact on the character and the setting of the Protected Structure, it is considered that the proposal would have an unacceptable impact, contrary to the Policy HER8 of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.'*

### **6.2 Planning Authority Reports**

The Planning Officer requested Further Information citing 7 no. items, namely the requirement to:

1. Revise drawings setting the building back and also reducing the footprint to reduce the impact on Tallon House (Protected Structure).
2. Clarify ownership of other lands in the vicinity of the subject site.
3. Revise site boundary to encompassing the entirety of works proposed.
4. Submit a comprehensive Landscaping Plan and Arborist Report.
5. Provide details regarding drainage matters.
6. Submit a Construction Management and Noise Plan.
7. Engage with Uisce Eireann (Irish Water) on the issue of capacity and connection.

Following submission of the Applicants' RFI response, in terms of compliance with the issues raised in the RFI, the Planning Officer notes that:

*Whilst the Planning Authority is satisfied that House B would keep an adequate separation distance and would not impact on the setting of Tallon House, a Protected Structure, the concerns previously raised in relation to House A remain as the cumulative effects of the proposed alterations (15 sq m in footprint and 0.45m in parapet height; the relocation of the house, c. 0.5m from the party boundary) are not deemed sufficient to address the concerns raised by the Planning Authority in this regard. The proposed amendments are not deemed sufficient given the location of House A, within the Foxrock ACA and surrounded by Protected Structures and in particular by one of them Tallon House in which the landscaped area and the setting are a fundamental element of the character of the structure given the importance of the outward views from within the house placed on its design. The report from the Conservation Officer is noted.'*

The Planning Officer initially considered a split decision: to refuse House A: and permit House B.

This was considered appropriate on the basis that it was considered that House A remained too close to Tallon House, and therefore would impact negatively on its landscaped area and outward views from the house.

Conversely, the Council considered that House B would keep an adequate separation distance and not impact on the setting of Tallon House and should therefore be permitted. (The Conservation Officer recommended that following the RFI.)

However, despite the RFI requirement, the Applicants did not submit confirmation from Uisce Eireann regarding the feasibility of a connection to the public water and wastewater infrastructure for both houses. Accordingly, having expressed less concern regarding House B, the Planning Officer decided to refuse permission for both houses. (The Council did not exercise

the option to issue a Clarification Request for Further Information to the Applicants on the criterion of water provision.)

Other issues of concern raised in the Planning Officer's Report are as follows:

- Item 2 of the RFI sought clarification regarding ownership of the site (including back garden of Glenarm). The response submitted showed that Glenarm and its back garden are in the ownership of Majala DAC, whilst Ardenza is owned by Savitchi Construction of which only Savitchi has submitted a letter of consent. (See 10.1 below.)
- Item 4 of the RFI sought provision of a detailed Arborist's Report including plans for tree retention, tree protection and a detailed Arboricultural Method Statement. The Planning Officer notes that further clarification would be required regarding impacts on trees when works are carried out within the root protection area. It is considered that this issue can be clarified by Condition if permission is granted.
- It was noted by the Planning Officer that House A would encroach within the root protection area of 6 no. trees located on the boundary of the Tallon House site.

### **6.3 Other Technical Reports**

- Environmental Health Service – The Report states that EHOs do not comment on development of single houses where there is a foul sewer unless there are >3 units. A Construction Management Plan may or may not be required subject to the particular location / proposed development.
- Environmental Enforcement Section has recommended conditions should planning permission be permitted.
- Drainage Department – issued a report citing no objection to the proposed development subject conditions. On the issue of flooding, the Drainage Report states that applicant shall implement all flood

mitigation measures detailed in the FI response by Kavanagh Ryan & Associates Ltd.

- Transportation Department – issued a report citing no objection to the proposed development, subject to conditions.
- Conservation Officer – on 21<sup>st</sup>/2/23, the Conservation Officer issued a report requesting Further Information to clarify the scope of works, to reduce scale and mass of houses and to widen the separation distance to Tallon House to the north.
- Parks and Landscaping recommended permission subject to conditions.

Accordingly, all the Technical Reports had no objection to the proposal post RFI subject to the imposition of Conditions.

#### **6.4 Prescribed Bodies**

- Irish Water/Uisce Éireann – the Applicants were required to engage with Irish Water to determine the feasibility of connection to the public water / wastewater infrastructure. That response was not provided, and having regard to the known capacity constraints in the area, the Planning Authority is not satisfied that there is sufficient infrastructural capacity to cater for the proposed development.
- An Taisce – *‘A grant of planning permission for two such houses under the present application would create a regrettable precedent for inappropriate development in the curtilage of the Protected Structures and within the boundary of the ACA’.* (An Taisce did not comment on the issue of density.)

#### **7.0 Appeals**

##### **7.1 First Party Appeal against the DLRCC Refusal Decision**

The appeal submitted by Hughes Planning and Development Consultant is summarised as follows:

- The proposed development has been designed to have regard for the neighbouring Protected Structures in terms of design, scale and siting.
- The houses will not appear overbearing or dominant when viewed from the Protected Structures.
- The proposed development is in compliance with Development Plan Policy HER8 (relating to works to Protected Structures).
- The design approach responds to the need for infill development, retaining the existing dwellings and character of the ACA at the same time as accommodating two additional dwellings.
- The location of the site close to public transport etc and wide range of services make it appropriate for infill development.
- Review of planning history of the surrounding area and revealed that there are many similar developments permitted in the area, citing examples where distances between Protected Structures and new housing is 15-17m. The appeal site will be 38m from Tallon House, which is considerably further than permitted in other development.
- The size and scale of the proposed houses was reduced following the FI request, and addresses concerns regarding the location relative to Tallon House, Glenarm and Ardenza.
- Further revisions are proposed in the context of this appeal to House A and is now situated 3m south of the northern boundary. This results in a separation distance of between 5.3m and 6.49m from the northern boundary. This ensures no negative impact on the Protected Structure. (It is also noted that the House A was moved 1m south in response to the FI request and not 0.5m as stated in error in the Planner's Report.)
- The development is consistent with zoning. The design will provide a high standard of accommodation for the future occupants while respecting established residential amenity of the neighbouring Protected Structures.
- The design is contemporary, representing a clear definition between the modern and traditional housing in the area.
- In terms of size the proposed dwellings (301 sq m) are consistent with the area which is characterised by large houses.

- The dwellings are located at an appropriate distance from the existing adjoining houses. The dwellings will not negatively impact on daylight, sunlight, privacy and the general residential amenity of the existing houses.
- The existing boundary planting provides visual screening between Tallon House and the proposed dwellings, in particular House A. The height of the dwellings at 6.55m is significantly below the screening.
- The distance of over 35m will ensure that there is no negative impact on Tallon House.
- Accordingly, it is considered that propose houses accord with the Policy set out in Policy Objective HER8. They are subordinate to the two frontal Protected Structures and are sufficiently distanced from Tallon House to respect its setting. This is compounded by the existence of mature planting which will be retained and protected during the construction phase.
- A letter from Uisce Eireann, dated 28 April 2023, confirming that there is sufficient capacity for the two proposed houses to connect to the wastewater / water system is included in the appeal documentation.

(It is noted that the First Party Appeal predates the publication of the Compact Settlement Guidelines.)

## **7.2 Third Party Appeal supporting the DLRC Refusal Decision**

This was submitted by Brazil Associates Architects on behalf of the Derek O'Leary of Tallon House, Golf Lane, Foxrock, and is summarised as follows:

- Tallon House, designed by Ronnie Tallon, is on the National Inventory of Architectural Heritage. Designed in 1969, he received the RIAI Triennial housing medal for 1971-73. The main inspiration was the pavilion-like Farnsworth House in Illinois (1945-51) designed by Mies Van der Rohe. The house and its designed landscape are codependent and integral to the architectural significance of the site. Placing the proposed houses so close to the boundary will negatively affect this.

- The FI request was not addressed properly by the Applicants in relation to House A, which is located on a smaller site than House B, and yet both are the same size and scale.
- No plans of the new houses as viewed from Tallon House are included.
- An 11m setback from House A to the northern boundary is sought and a reduction of this house to a single storey.
- The opening of the back of the appeal site and the concomitant removal of trees has opened up the site to Tallon House and there has not been satisfactory screen planting consideration.
- The appellant concurs with the concerns of An Taisce and request that the proposed house be reduced in size and scale and be single storey. A minimum of 11m set back from the boundary with Tallon House and the reduction of House A to a single storey design.
- The appellant is not against the principle of development, but considers the two houses too great in scale and mass.

### **7.3 Observation from Neighbouring Property Owner**

Submitted by Patrick Shaffrey, Architect, on behalf of Lynette O'Sullivan, Pinehaven, Torquay Road. This Observation is summarised as follows:

- Concern with the flood risk arising from the two large houses, both during and post construction.
- There are already significant problems in this area with flooding due to run off from neighbouring the nearby grounds of Foxrock Golf Club.
- Development of these gardens will result in a reduction in area for absorption of excess water while also generating significant excess water. If the Board is minded to grant permission, a condition ensuring that the excess water is confined to the sites themselves is sought.
- There is also concern regarding the loss of mature planting, which has already occurred, and which is not in keeping with the Protected Structure status of the houses / their gardens. This is contrary to the intention of the ACA the purpose of which is to protect and maintain the special environment of Foxrock.

#### **7.4 Dún Laoghaire-Rathdown County Council Response to the First- and Third-Party appeals**

The Dún Laoghaire-Rathdown County Council response states that it is considered that the grounds of appeal do not raise any new matters which in the opinion of the Planning Authority would justify a change in attitude to the proposed development. The Board is referred to the previous Planner's Report.

#### **8.0 EIA Screening**

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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 and a screening determination is not required.

#### **9.0 AA Screening**

Having regard to the modest nature and scale of development, the location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **10.0 Assessment**

I have read the documentation attached to this file including the Appeals, Observations, the report of the Planning Authority and the further responses received.

In addition, I have visited the site.



It is considered that the main issues in this appeal are as follows, namely the:

- Effect of the development on the surrounding Protected Structures and on the Architectural Conservation Area generally.
- Issue of density of the development in terms of both the DL RCC Development Plan 2022-2028 and the 2024 Compact Settlement Guidelines.
- Other issues raised in the appeals.

The assessment grounds are considered under the following headings:

1. Sufficiency of legal interest.
2. Background Matters / Possible Unauthorised Development
3. Precedent for infill development.
4. Design, scale and layout of the proposed houses and the impact on surrounding houses, in particular the impact on the surrounding Protected Structures.
5. Compliance with 2022-2028 Development Plan, Zoning and Policy.
6. Compliance with the Sustainable Residential Development and Compact Settlements Guidelines (2024).
7. Impact on the Foxrock Architectural Conservation Area.
8. Drainage and Flooding Matters.
9. Unauthorised development.
10. Appropriateness of a single controlled entrance gate.

## **10.1 Sufficiency of legal interest**

10.1.1 Under Reg. Ref. 1026/19, the Applicants for Ardenza were stated as “Albert and Mary Connaughton”, the corresponding Planning Application Form stating the Applicants as owners. The total adjoining Glenarm site was delineated in blue, signifying the Applicants’ interest in it.

10.1.2 In the current Application Reg. Ref. D23A/0001 (which excludes the frontal house Glenarm, but now includes a depth of 28.34m of its former back garden,

together with all of Ardenza and its attendant grounds), the Applicants are identified as “Leigh Connaughton and Amy Connaughton”.

- 10.1.3 The corresponding 2023 Planning Application Form states that the Applicants are the owners of the site. The associated documentation, in particular the Site Layout Plan, does not identify the Applicants as now having any legal interest in the frontal part of Glenarm, including the house.

The Planning Authority’s RFI questioned the issue of sufficiency of legal interest. The Planning Officer addresses this issue in his assessment of the Applicants’ response, inviting the Applicants to clarify whether they had control over other lands in the vicinity (which would include the frontal element of Glenarm)?

*‘Item 2. The Applicants are requested to clarify whether they have control over other lands in the vicinity of the Application site.*

*“The Applicants have submitted a letter from their solicitors stating that ‘Glenarm’ together with the access road and the site to the rear of ‘Ardenza’ are in the ownership of Majala DAC, which does not appear to include the applicants among their directors. The solicitors letter also states that Savitchi Construction are the owners of ‘Ardenza’, from which a letter consenting to the lodgement of the application [sic]. However, no letter appears to have been submitted from Majala DAC, also owners of part of the site, according to this correspondence.”*

However, as the Officer was recommending refusal, he did not address the issue further.

- 10.1.4 Correspondingly, if the Board is minded to grant permission, the issue of sufficiency of legal interest should be addressed. The Board may consider the issuing of a request under section 132 of the Planning and Development Act

2000 (as amended) requesting the Applicants to clarify the issue of sufficiency of legal interest to carry out the development:

## **10.2 Background Matters / Possible Unauthorised Development**

10.2.1 Both Ardenza and Glenarm have been upgraded in recent years to a high standard. The house Glenarm was formerly in the then Applicant's ownership, as it was outlined with a blue line in the 2019 Application for the extension to and refurbishment of Ardenza (Reg Ref: D18A/1189 / ABP 303967-19).

10.2.2 I note at the outset that the back garden sites have already been separated from their frontal properties, and the access road constructed. The separation has occurred by way of fencing and planting, and provides a physical and visual separation between the sites and their original houses.

10.2.3 Most of the boundary planting to the north, east and west has been removed to clear the sites for the proposed two houses, and the appearance of a brownfield, construction compound created.

10.2.4 This results in the exposure of the gardens of adjoining houses, in particular that of Tallon House, the Protected Structure, to the rear of the site. It also opens up views of other adjoining back gardens, such as Pinehaven to the west and Curraheen to the east. Comparison of photos on this file and the historic file for Ardenza, illustrates the extent of the removal of boundary planting.

10.2.5 In the case of Ardenza, the house has undergone an extensive refurbishment and extension since planning permission was granted in 2019. As part of that programme of works, a separate access road to the back garden sites has been provided. Although already completed, the extended access roadway is proposed in the current Application, and was not permitted as part of the 2019 permission. The permitted access road did not extend beyond the house

Ardenza. In addition, the new parking arrangement at Ardenza corresponds with the proposed parking regime rather than that previously permitted. The difference in layout evident and on the proposed layout plan Ardenza are not referenced in the current Application's statutory notices. The parking was shown further into the site and fronted by landscaping, and therefore less visible than that which was seen on the site visit, somewhat at odds with the setting of the house Ardenza.

- 10.2.6 Such works would be unauthorised, particularly in the context of the Protected Structure status of Ardenza. The access road extends some 70m from the Torquay Road entrance to the site of the proposed new houses. It is c.4 m wide and appears to be constructed to a high standard. There is boundary planting in place to separate it from the front and back garden of Ardenza and a granite wall separating it from the adjoining property, Glenarm.

### **10.3 Revised Design provided for in the First Party Appeal**

- 10.3.1 I note that the Applicants have included a revised design as part of their Appeal by way of addressing the reason for refusal by the Planning Authority. I note that the revised design provides for both the relocation of House A further south, and for the relocation of the boundary of Ardenza further south. There are no changes to the size of the actual house proposed. The modifications proposed will result in House A being closer to the boundary of Ardenza and to the back garden of Ardenza being reduced.
- 10.3.2 Given, that Ardenza is also a Protected Structure, I do not consider that this a better option as it results in a mere 1m between the side of House A and the back garden of Ardenza.
- 10.3.3 I note in this regard that the revised design following the RFI provided for an additional distance of 1m (and not 0.5m as referred to the Planning Officer's Report) from the boundary, resulting in an overall separation distance of 2-3m

from the northern boundary to House A. I consider this acceptable, given the distance of Tallon House from the boundary (over 30m at its closest).

- 10.3.4 Accordingly, the design assessed in this appeal is that provided for in the Further Information response by the Applicants during the determination of the Planning Application by the Planning Authority.

### **10.3 Precedent for infill development**

- 10.4.1 There is a precedent for infill development in similar back garden sites along Torquay Road and on other similar roads such as Brighton Road and Westminster Road in Foxrock. Most recently, the Board granted four houses on a site of 0.3 ha to the rear of Chadsley House, a Protected Structure on Leopardstown Road. (ABP-315388-22; DLRCC Ref.22A0508).
- 10.4.2 Accordingly, it is considered appropriate in principle for the back gardens of these two houses to be separated from their frontal houses to provide new housing.
- 10.4.4 I note the previous refusal for a similar type of development at The Laurels, Torquay Road, which is located west of Ardenza. That application had a site area of 0.075 ha (the site boundary did not, however, include the frontal property). The Board refused permission in 2019 for a single house on a tennis court to the rear of the Laurels for reasons relating to the development being piecemeal development and too low density for its location. The Board suggested that the site could form part of a larger site if adjoining sites were amalgamated. This is still the case and is also applicable to the current appeal site in that it too could form part of a larger site if such amalgamation of site were to occur.

10.4.5 In terms of residential density, the additional two units the subject of this appeal would provide 3 no. units on a site of 0.3389 ha, equivalent to 9 no. dwellings per hectare.

10.4.6 It is noted, however, that it is now five years since the Board refusal on the site to the rear of The Laurels and that site remains undeveloped. Furthermore, there is no evidence on the appeal file that any amalgamation of sites to the rear of the houses other than that of Glenarm and Ardenza has occurred. Accordingly, I do not consider it appropriate to refuse the current application / appeal for this same reason.

#### **10.5 Design, scale and Layout of the proposed houses and the impact on surrounding houses, in particular the impact on the surrounding Protected Structures**

10.5.1 The Report by the Conservation Officer (dated 25/05/2023) considers that the principle of development is acceptable, but that the proposed development as originally submitted was over-scaled relative to its location beside the garden of Tallon House to the rear.

10.5.2 The Planning Officer did not consider that this issue was properly addressed by the changes made in response to the Further Information request, in particular the size and scale of House A to the rear of Ardenza. The development provides for two identical houses. The sites are, however, different, in that the site to the rear of the house Ardenza is smaller than that to the rear of the House, Glenarm. Accordingly, the Conservation Officer considered that House A required a bespoke design.

10.5.3 The proposed development provides for two large, detached houses (301 sq m each). The houses are primarily two-storey, with flat roofs and a contemporary design. The first floor is set back from the footprint of the ground

floor. The houses measure 18m in width, 15-24m in length and 6.55m in height.

10.5.4 I note that the Development Plan requires that an accredited Conservation Architect or equivalent should be engaged at the outset of the design process to assist in determining the appropriate siting of the development in order to minimise the impact on the Protected Structure. That requirement was neither addressed nor highlighted in the Council's determination of the Application.

### 10.5.5 Separation Distances

Separation distances from the ground floor of the proposed houses to the adjoining houses is proposed as follows:

Distance from the side of House A to Ardenza (Protected Structure) – 18-25m.

Distance from the side of House B to Glenarm (Protected Structures) – 25m.

Distance from the site of House A To Tallon House (Protected Structure) – 38m.

Distance from House B to Tallon House (Protected Structure) – 36m.

The separation distances from the proposed new houses to the boundaries are as follows:

House A

North-western boundary (to Tallon House) – 2-3m.

South-western boundary (to Ardenza) 2-10m.

House B

North-western boundary (to Tallon House) – 5-8.5m.

South-western boundary (to Glenarm) 3-11m.

(It is noted that the first floors of the houses are set back so the distance to the first floor of the houses is slightly increased, 3-5m from first floor of House A to the boundary of Tallon House and 7-9m from the first floor of House B to Tallon House.)

Back garden length of House A – 5-18m.

Back garden length of House B – 3-12m.

Open space provision of House A - 379 sq m.

Open space provision of House B – 476 sq m.

- 10.5.6 On balance, it is considered that the application provides sufficient distances between the proposed development and the surrounding adjoining properties, in particular those of the Protected Structures, Glenarm, Ardenza and Tallon House, particularly in light of the reduced distances now required following the publication of the Compact Settlement Guidelines.

#### **10.5.7 Impact on Tallon House**

Tallon House is located c.35 m from the boundary with the appeal site. The house fronts onto the appeal site, and the design is such that the front of the house is mostly glazed. It was designed to take advantage of its sylvan setting, screened from nearby buildings by significant planting along the boundaries to the appeal site, and by trees along its own boundary and within its own front garden. I note that the removal of boundary planting which has taken place on the site in order to clear the site for the current proposed development has exposed Tallon House to view from the appeal site and has exposed views from Tallon House of the appeal site.

I also note the Planning Officer's concern that the RFI response does not adequately address the concern that the houses (in particular House A) is



located too close to the boundary to Tallon House (2-3m to the boundary wall) in the modified design submitted following the RFI request.

Tallon House and its designed landscape are co-dependent and integral to its architectural significance and interest, and that is why the Conservation Officer sought that the proposed houses be reduced in scale and be set back from the boundary. The revised scheme provided for a reduction in the overall size of each house by 21sq m. The houses were also moved 1m further from the boundary and reduced in height by 0.5m. I consider that this addressed the concerns of the Conservation Officer and do not concur with the Planning Officer in this regard. There will be distances of between 35-37 m from the front of Tallon House to House A and further distances to House B.

A boundary planting scheme is also proposed. New tree planting has already taken place in the front garden of Tallon House and on balance I consider that these measures will adequately reduce the impact of the new houses when viewed from Tallon House.

#### **10.5.8 Overlooking of Adjoining Houses**

In terms of overlooking the houses have been designed so that their side elevations (which face the adjoining Protected Structures, Ardenza, Glenarm and Tallon House) have limited fenestration and there will be little or no overlooking or loss of privacy in this regard.

#### **10.5.9 Style and Finish of the proposed houses**

The style and finish of the proposed houses is contemporary, similar to the style and design permitted on the extension to the house Ardenza. This is in keeping the Development Plan policy, which seeks to provide high quality,

sensitive design for any new development in the ACA. Such designs are considered complementary or sympathetic to their context and scale.

#### **10.5.10 Conclusion on design, style and layout of the proposed development**

Having considered the merits of the proposed development, in my opinion the proposed development would not impact negatively on the adjoining Protected Structures.

I am, however, concerned with the substantial size of the proposed houses relative to the size of the site and the fact that it may be possible to provide a higher density development at this location, as considered below.

### **10.6 Compliance with 2022-2028 Development Plan, Zoning and Policy**

#### **10.6.1 Zoning**

The site is zoned A (residential). The policy of the Development Plan (2022-2028) encourages infill development on suitable sites and the consolidation of existing residential areas.

I note that the current development qualifies as infill development and not backland development by virtue of the size of the site (a large tract of undeveloped urban land within the curtilage of a large, detached house).

#### **10.6.2 Density**

The Development Plan encourages higher densities in appropriate locations and Policy RES 3 sets out the Council's policy in relation to residential densities. Policy RES 3 states:

*'It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing amenities and the established character of areas, with the need to provide for sustainable residential development.'*

- 10.6.3 The site is not particularly close to public transport links - an infrequent bus service in Foxrock Village (ten minutes' walk), a more frequent bus service on the N11 (20 minutes' walk), and a c. 20-minute walk to the Luas Central Park stop. This reduces the suitability of the site for a higher density development. In addition, the need for a sensitive design given the particular location of the site, surrounded as it is by Protected Structures and being located within the Foxrock ACA impacts on the suitability or not of the site for a higher density design.
- 10.6.4 If higher density development was permitted, the impact on the Protected Structures, Glenarm and particularly Ardenza would undoubtedly be affected by the increased traffic and pedestrian movements, passing between the two houses. This would also affect the streetscape character of Torquay Road in that it would lead to an increased use of the entrance off Torquay Road and may require a wider access and service road both of which would impact the character of the ACA.
- 10.6.5 The remaining back gardens for the two existing houses, Glenarm at 20m long (667 sq of remaining private open space) and Ardenza 15-20m long (753 sq m of private open space) appear to be adequate and in keeping with the Protected Structure status of the two sites.
- 10.6.6 On balance therefore the appeal site is considered more suitable for a low-density residential development as proposed rather than a higher density development.

## **10.7 Compliance with the Sustainable Residential Development and Compact Settlements Guidelines (2024)**

10.7.1 The Guidelines (2024) promote the concept of compact growth and particularly highlight the potential of infill development in urban areas to achieve this. I note that the site is in an urban area and is close to Foxrock Village, public services and amenities. Accordingly, it is a location where new residential development is expected to be of a higher density.

10.7.2 In addition to its location, the substantial size of the site could mean that it would be possibly to accommodate a higher density. The proposed houses are each 18m in width each so could possibly accommodate 2 no., maybe even 3 no. houses across the same width i.e. 4/6 no. houses for the whole site instead of 2 no. large houses as proposed.

10.7.3 However, as noted above, the site is not particularly well served by public transport and it is a sensitive site, including and surrounded by a number of Protected Structures of Regional Importance. In this regard, the Guidelines facilitate lower densities in situations where a high density would impact on the character, amenity and environment of an area as is the situation in this instance.

10.7.5 In addition, the location of the site with the Foxrock ACA further affects its suitability to accommodate a higher density development. This is considered in more detail below.

## **10.8 Impact on the Foxrock Architectural Conservation Area (ACA)**

10.8.1 The site is within the Foxrock Architectural Conservation Area. The overall visual character of the area is sylvan in nature characterised by low density

development. I consider that the proposed development of two substantial houses on a large site can be accommodated without negatively impacting on the character of the ACA. Policy AR12 requires that all development proposals protect the special character and special interest of the ACA, and that new development is of high quality that is complimentary and sympathetic to the scale and context.

- 10.8.2 The Character Appraisal for the Foxrock Architectural Conservation Area requires that new developments must not adversely affect the character of the streetscape. In terms of landscape protection, it notes as follows:

*‘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.’*

- 10.8.3 I note that although the site has already been cleared of much of its mature boundary planting; the proposed development provides for its replacement with new boundary planting.
- 10.8.4 An Arboricultural Impact Assessment has been submitted, which indicates that protection measures will be put in place to protect existing remaining boundary planting, in particular that outside the site.
- 10.8.5 The majority of the trees that have been removed are internal to the back of the site and thus have had a minimal impact on the sylvan character of Torquay Road given the distance from Torquay Road. The site cannot be seen from Torquay Road at present because the boundary of Ardenza is largely surrounded by trees and hedges and the new houses will be located c. 70m from the public road. It is therefore considered, that the proposed development will have a limited impact on the character of the ACA / character of the streetscape.

- 10.8.6 It is stated in the Conservation Report that the large timber gates to the site (to the three houses – Ardenza and to the two proposed houses), is out of character with the style of gates in the area. I concur that this has a negative impact on the ACA.
- 10.8.7 As part of the 2019 Application, the original gates were to be left in place and the new timber gates were permitted to the new entrance. However, the original gates were not left in place and were replaced by a granite wall. (The dishing of the footpath at the original gates was to be reinstated and this has also not taken place to date.)
- 10.8.8 I concur with the Conservation Officer that the timber gates obscure views of the house from Torquay Road and are not in keeping with the type of gates along this section of the road.

## **10.9 Drainage and Flooding Matters**

- 10.9.1 I note that the Planning Report points out that the Drainage issues were adequately addressed by the Applicant as part of the response to the Further Information Request, subject to Condition attaching to a permission.
- 10.9.2 Rainwater shall be discharged locally to the proposed rainwater planters as detailed in the FI response and this is considered will address issues relating to runoff to adjoining sites. A management team shall be appointed for future maintenance of the communal surface water drainage features for the lifetime of the development.

- 10.9.3 I note the owner of the neighbouring property is concerned with surface water runoff arising from the new houses and has indicated a problem with flooding of her property.
- 10.9.4 Flood mitigation measures that were set out in the FI response were considered adequate by the Drainage Department to address this issue and this can be ensured by way of Condition attaching to a permission.
- 10.9.5 I note also that Planning Officer was concerned that Item 7 of the FI Request (regarding a water / wastewater connection) was not adequately dealt with by the Applicants. This issue has now been addressed in the appeal documentation, with Confirmation from Uisce Eireann (Irish Water) that adequate water and wastewater exists in the area. A letter from Uisce Eireann states that both the water and wastewater connection are feasible without an infrastructural upgrade by Irish Water.

#### **10.10 Appropriateness of a single electronically controlled entrance gate**

- 10.10.1 The application drawings show a single entrance from Torquay Road to the three houses served by a timber gate. The Transportation Department has no objection to the application subject to Conditions. One of the conditions recommended refers to the gates. It states that the proposed gates shall be inward opening and not automatic in accordance with Section 12.4.8.1 of the current County Development Plan, 2022-2028. (I note that this condition also attached to the 2019 permission for the relocated entrance to Ardenza and despite this, electronic gates were fitted. I also note that a condition requiring the reinstatement of the existing footpath at the former entrance was required but did not take place.) The Transportation Department have sought these same conditions again if permission is granted i.e. manual gates and repair of footpath at location of the original gates.

10.10.2 I am, however, somewhat concerned with the single gated entrance design for the three houses i.e. Ardenza and the two proposed houses. The three units will share a single entrance and single access road with soft landscaping delineating the boundaries of each property. The Application documentation did not include swept path analysis of service vehicles or fire tender access, in particular to the new houses.

There is also no analysis of how cars entering and existing the 'manual gated' entrance will queue, open the gates etc or any evidence of the legal status of the shared access road should one or both of the new houses be sold.

I consider that the best option for the site would be the removal of the external entrance gate prior to occupation of the proposed houses. I note that no entrance gate is shown on the 'Architect Impression' illustrated on Dwg. No. 2018-62-FI-100. I also consider that a clear delineation of the boundaries of the three houses on the overall site should be agreed with the Planning Authority prior to commencement of development.

## **10.11 Options available**

10.11.1 The Planning Authority has refused permission. However, from review of the Planner's Report it is evident that the Authority had considered a split decision: refusal for House A due to its proximity, scale and massing in relation to Tallon House to the north; grant of permission for House B due to its larger site and greater separation from Tallon House to the north.

10.11.2 I concur with the Planning Authority's acceptance in principle of House B.

10.11.3 I do not, however, consider refusal of House A is warranted given that there is a separation distance of between 2-3m from the ground floor of the proposed house to the boundary of the Tallon House site and a further 35 m to the house



itself. The distance to the first floor with a separation of 3-5m. I consider that the concerns of the Conservation Officer were largely overcome by the RFI, and that the development as now proposed is acceptable in terms of its impact on the surrounding Protected Structures.

## **11.0 Recommendation**

I recommend a grant of permission for the reasons and considerations and subject to the Conditions set out below.

## **12.0 Reasons and Considerations**

Having regard to the scale and nature of the application site, it is considered that subject to compliance with the conditions set out below, the proposed development is compatible with the Dún Laoghaire-Rathdown Development Plan 2022-2028 A (Residential) zoning, and would be generally acceptable in terms of design, traffic safety and residential and visual amenity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **13.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as revised by the significant further information received by the planning authority on the 12th of May 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to

commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The timber entrance gates to Torquay Road shall be removed and the entrance shall remain open. This is in the interest of traffic safety. The details of the entrance and the delineation of the three individual site boundaries shall be agreed with the Planning Authority prior to commencement of development. The timber gates shall be removed prior to occupation of the new houses.

**Reason:** In the interest of the traffic safety.

3. An acceptable naming / numbering for House 1 and 2, in both Irish and English, shall be submitted for the written agreement of the Planning Authority prior to the commencement of development or the erection of any advertising hoardings on site. In this regard, the use of house name(s) reflecting local place names or local history would be acceptable.

**Reason:** In the interest of orderly development.

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

**Reason:** In the interest of visual amenity.

5. The proposed dwellings House A and House B shall individually be used as single dwelling units only and shall not be sub-divided in any manner or individually used as two or more separate habitable units.

**Reason:** To prevent unauthorised development.

6. Prior to commencement of development, the developer shall enter into a waste / or wastewater connection agreement with Uisce Eireann.

**Reason:** In the interest of public safety.

7. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority.

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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

9. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP

must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of sustainable waste management.

10. All service cables for the development, including electrical and telecommunications and communal television cables, shall be located underground. Ducting shall be provided by the developer to facilitates the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of visual amenity.

- 10 The four car parking spaces serving the residential units (2 No. per unit) shall be provided with functional electric connections to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

11. Any alteration to the public road or footpath shall be in accordance with the requirements of the planning authority and where required, all repairs to the public road and services shall be carried out to the satisfaction of the planning authority at the developers' expense.

**Reason:** In the interest of clarity, public safety and amenity.

12. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory completion of roads, footpaths, watermains, drains, 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 of any part of the development. The form and amount of security shall be as agreed with 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 of the development.

14. The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation

provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.

**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.

15. The developer shall pay to the planning authority a financial contribution a financial contribution in respect of Luas Line B from Sandyford Depot to Cherrywood, namely Luas Line B1 in accordance with the terms of the Supplementary Development Construction Scheme made by the Planning Authority under section 49 of the Planning and Development Act 2000. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 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.

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Vanessa Langheld

Planning Inspector

28 March 2023