



An
Bord
Pleanála

Inspector's Report ABP 318754-23

Development

The refurbishment of the existing accommodation and the construction of an extension to form a two-storey detached dwelling house with landscaping and all ancillary and associated works.

Location

Curraheen, Golf Lane, Torquay Road,
Foxrock, Dublin 18, D18 F9X4

Planning Authority

Dún Laoghaire-Rathdown County
Council

Planning Authority Reg. Ref.

D23A/0640

Applicant(s)

David Agar

Type of Application

Permission

Planning Authority Decision

Grant Permission with Conditions

Type of Appeal

3 no. Third Party Appeals

Appellant(s)

1. Colin and Catherine Barrett
2. Graham Rice
3. Albert and Mary Connaughton
(submitted by Hughes Planning and
Development Consultants)

Observer(s)

None

Date of Site Inspection

11 March 2023

Inspector

Vanessa Langheld

1.0 Site Location and Description

- 1.1. The site of 0.12 ha is located off Golf Lane in the established suburb of Foxrock, Dublin 18. It is approximately 9km south of Dublin City Centre.
- 1.2. Golf Lane is a cul-de-sac off Torquay Road. There are established houses on either side of Golf Lane, and at the end of the road is the main entrance to Foxrock Golf Club.
- 1.3. The site comprises the property Curraheen, a single storey 3-bed detached bungalow, which is accessed via a relatively narrow entrance off Golf Lane. The boundaries of the site are heavily planted, and the house and site are largely screened from surrounding properties.
- 1.4. The house is an infill house, c. 25 years old. It is located on a 'p-shaped' backland site. The larger part of the site is adjoined to the side and rear by two Protected Structures on Torquay Road: Glenshee (RPS No. 1614); and Ardenza (RPS No. 1612). Map 6 inch Last Edition (Geohive) shows that the larger part of the appeal site was formerly part of the back garden of the house Glenshee (formerly Feldburg and now a Protected Structure). The site is bounded to north-east by Brentwood, a house on Golf Lane.
- 1.5. The access road to the site is located between Foxrock Villa and Brentwood on Golf Lane. Neither Foxrock Villa nor Brentwood are Protected Structures.
- 1.6. The existing house is run down and in appears to be in poor condition. (The Application includes an illustrated report detailing the wall cracking and water damage to the existing structure.)
- 1.7. Albeit an established area, Golf Lane and the surrounding roads in Foxrock are effectively in transition. Traditionally, the road comprised large, detached houses on large sites. However, considerable infill development has occurred over the last thirty years (the subject house being one such development) and accelerating more recently with planning permission being sought and granted for large infill houses, and more recently for higher density developments in the area.
- 1.8. It is noted that planning permission has been granted for four 5-bed two storey houses with attic accommodation on Foxrock Villa, the adjoining site to the

south (D22A/0555). Two of the permitted houses will front and be accessed from Golf Lane, while the other two will front and be accessed from Torquay Road.

- 1.9. Planning permission has also been sought for infill development (2 no. large contemporary single / two storey flat roofed houses of 301 sq m each) on the site to the rear of the application site in the back garden of Ardenza and the adjoining property Glenarm. (That application is currently on appeal to the Board ABP 317457-23 and it is owned by one of the Appellants to this current application, Albert and Mary Connaughton, Ardenza, Torquay Road.)
- 1.10. Overall, Golf Lane is characterised by a mix of houses old and relatively new. Most houses, in particular the newer ones, are large two storey family homes. The appeal site is, however, adjoined by single storey houses on Golf Lane.
- 1.11. The adjoining property Brentwood is a contemporary style, single-storey house with a high pitched roof. Tallon House is another single storey house that is accessed along this section of Golf Lane. (Protected Structure (RPS No. 2045), designed by renowned Architect, Ronnie Tallon.)

The houses Glenarm and Ardenza that adjoin the appeal site to its side and rear (south and west) 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. They are built on large sites with large private gardens. Their setting is integral to their design and special status.

- 1.12. It is noted that the appeal house, which is largely screened from Golf Lane is visible (its roof) from Torquay Road and in particular from the back garden of the Protected Structure, Glenshee.
- 1.13. It is noted also that Torquay Road is located within the Foxrock Architectural Conservation Area (ACA), but Golf Lane is not.

2.0 **Proposed Development**

2.1. The development is described as follows in the planning application documentation:

- Refurbishment of existing accommodation at ground floor.
- Construction of an extension at ground floor (46.3 sq m).
- Construction of an extension at first floor (64.4 sq m).
- Provision of roof space with accommodation of 69.5 sq m.
- Landscaping and associated ancillary works.

Overall, the development will result in a two storey dormer detached dwelling of 392 sq m (effectively three storey as it includes attic level accommodation with dormer windows to the front and rear).

It will increase the existing house from 212.7 sq m (including the attic storage) to 392 sq m (accommodation on three levels) i.e. from a 3-bed bungalow with attic storage to an 2 storey dormer five bed house with attic level accommodation.

Although the works are described in the statutory notices as 'refurbishment and extension', the development effectively envelopes the existing bungalow. This is best illustrated with reference to Drawing No. FFP 08 2023 Rev PL20 'Proposed Dwelling Approach South East Elevation' where the faint A-shaped profile of the existing bungalow is superimposed on the proposed façade. The corresponding 'Proposed Garden (southwest) Elevation illustrates a similar contrast between the A-shaped bungalow profile and the proposed two-storey with dormer dwelling.

The application documentation includes the following Reports:

- Engineering Services' Drawings and Site-specific Flood Risk Assessment.

- Tree Condition Survey, (including Tree Constraints and the Tree Protection Plan).
- Landscape Design Plan.
- Daylight and Sunlight Assessment.
- Photographic Study showing condition of the existing bungalow.

3.0 **Planning Authority Decision**

3.1. **Decision**

Dún Laoghaire-Rathdown County Council granted Planning Permission by Order dated 28 November 2023, subject to 12 no. conditions.

The First Schedule of the permission states:

‘Having regard to the objective A zoning of the site, and policies and objectives as set out in the Dun Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that the development would not detract from the amenities of the area, is consistent with the provisions of the current Development Plan, and is therefore considered to be in accordance with the proper planning and sustainable development of the area Subject to Conditions.’

The 12 no. conditions attached are considered to be standard type conditions for this type of development, with the exception of Condition Nos. 3 and 4 that relate to the windows on the north-eastern elevation and aspects of the design.

These two Conditions are as follows:

‘3. The glazing proposed throughout the first-floor north-east facing window shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

REASON: In the interest of residential amenity.

4. Prior to commencement of development, the Applicant shall submit revised elevation drawings for written approval with the Planning Authority, outlining the omission of the proposed sweeping roof hip-ends, and replacement of circular fenestration with rectangular at first-floor level. Particular consideration should be given to how the proposed development will prevent pastiche design measures, thereby upholding and contributing to the visual amenity of adjacent sites and structure. Consideration should also be given to how the development complies with Section 11.4.3.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features and by association Section 12.3.9 Demolition and Replacement Dwellings of Dun Laoghaire-Rathdown County Development Plan 2022-2028.

Reason: In the interest of visual amenity.'

The design changes required by Condition 4 - although more usually addressed by a Further Information Request - can be appropriately addressed as the Condition requires that these changes be agreed with the Planning Authority prior to commencement of development

3.2. Planning Authority Reports

3.2.1 Planning Reports

The Planning Report is summarised as follows:

- The site is adjoining the Foxrock Architectural Conservation Area but is not within it.
- That planning permission was refused on the same site (D21A/0939) for a similar type of development involving a replacement development (424 sq m).

- The site is zoned A under which residential extensions are permitted in principle.
- The former proposal on this site did not include any form of reuse or retrofit and was ultimately refused as it did not comply with Section 12.3.9 of Demolition and Replacement Dwellings and by association Policy Objective AC6: Retrofit and Resue of buildings as the building was not assessed to be beyond repair.
- The current proposal is however acknowledged to utilise much of the ground floor of the existing footprint. The degree of difference between the existing and proposed was however such that it was not considered to constitute retrofitting but rather a replacement dwelling.
- Under Section 12.3.9 Demolition and Replacement Dwellings, the Dún Laoghaire-Rathdown County Development Plan 2022-2028 states that:
 - *‘The Planning Authority will assess single replacement dwellings within an urban area on a case-by-case basis and may only permit such development where the existing dwelling is uninhabitable.’*
- A Report detailing the wall cracking and water damage to the existing structure was accepted as demonstrating the existing house is uninhabitable and therefore adherence to the Development Plan was considered to have been met.
- Separation distances to adjoining houses were considered acceptable.
- The Planning Authority has specific regard to the Development Plan Section 11.4.3.3 Policy Objective HER 21 Nineteenth and Twentieth Century Buildings, Estates and Features and the need to ensure that the visual character of these areas remain unharmed.
- In the current application, the location adjoining the ACA and surrounding Protected Structures was noted. In this regard it was considered by the Conservation Department that the somewhat pastiche design resulted in a structure, which is somewhat visually incongruous in the area, but that that could be addressed by Condition.

3.3 Other Technical Reports

Drainage – as there was a previous application on this site which was refused for non-drainage reasons this application was considered acceptable. Given also that this application relates to the extension and refurbishment of an existing house it was considered that the application would not give rise to an unacceptable impact on drainage, subject to Conditions attaching to a permission.

Conservation – The existing dwelling was not considered to be of any architectural merit and therefore there was no objection to its replacement. The architectural design was however considered somewhat pastiche and therefore not good conservation practice. It was suggested that the applicant should be asked to simplify the design without imitating earlier styles.

4.0 Planning History

D21A/0939 - Planning Permission refused on the site a replacement dwelling of 424 sq m.

The Reason for Refusal was as follows:

‘The Planning Authority is not satisfied that on the basis of the information provided by the Applicant the existing dwelling is beyond repair due to structural defects. Therefore, the requirements of Section 12.3.9 Demolition and Replacement Dwellings, Policy Objective CA5: Energy Performance in Buildings, Policy Objective CA6: Retrofit and Reuse of Buildings and Policy Objective PHP19: Existing Housing Stock – Adaptation of the DLR County Development Plan 2022-2028 have not been adequately met. The proposed development would, therefore, not be in accordance with proper planning and sustainable development of the area.’

D23A/0001 (Currently on appeal to the Board ABP 317457-23) - Neighbouring property, Ardenza, Torquay Road.

Permission refused by the Planning Authority for the construction of 2 large houses on a back garden site. The DLRCC Refusal was for the following:

‘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.’

D22A/0555 – Foxrock Villa – Neighbouring property on corner of Torquay Road and Golf Lane.

Permission granted for four 5-bedroom 2 storey plus dormer houses to the side and rear of the existing house, Foxrock Villa.

5.0 Policy and Context

5.1 Dun Laoghaire-Rathdown Development Plan, 2022-202 - Zoning of the Site

The site is zoned A *‘To provide residential development and to improve residential amenity while protecting the existing residential amenities’* in the Dun Laoghaire-Rathdown Development Plan, 2022-2028. Residential development is *‘Permitted in Principle’* within this zone.

5.2 Dun Laoghaire-Rathdown Development Plan, 2022-2028 - Policies Relevant to this Type of Development

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

5.2.1 Policy Relating to Replacement Dwellings:

Improvement and adaptation is encouraged:

‘4.3.1.2 Policy Objective PHP19: Existing Housing Stock –

Adaptation. It is a Policy Objective to Conserve and Improve existing housing stock through supporting improvement and adaptation of homes consistent with NPO 34 of the NPF.’

.....

Deep retrofit is favoured over demolition and replacement:

‘12.3.9 Demolition and Replacement Dwellings

The Planning Authority has a preference for and will promote the deep retrofit of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement unless a strong justification in respect of the latter has been put forward by the applicant. (See Policy Objective CA6: Retrofit and Reuse of Buildings and Policy Objective PHP19: Existing Housing Stock - Adaptation) Demolition of an existing house in single occupancy and replacement with multiple new build units will not be considered on the grounds of replacement numbers only but will be weighed against other factors. Better alternatives to comprehensive demolition of, for example, a distinctive detached dwelling and its landscaped gardens, may be to construct structures around the established dwelling and seek to retain characteristic site

elements. The Planning Authority will assess single replacement dwellings within an urban area on a case-by-case basis and may only permit such developments where the existing dwelling is uninhabitable. Applications for replacement dwellings shall also have regard to Policy Objectives HER20 and HER21 in Chapter 11.'

(I note that Policy Objective HER20 relates to 'Buildings of Vernacular and Heritage Interest' and Policy Objective HER21 relates to 'Nineteenth and Twentieth Century Buildings, Estates and Features'. These are not considered relevant to the current application / appeal.)

5.2.2 Policy relating to Protected Structures

As noted in Section 1.4 above (Site Location and Description), the appeal site is located in the former rear garden of a Protected Structure. Although accessed from Golf Lane and no longer part of its original site, Development Plan policy relating to Protected Structures is considered relevant.

This is set out in Policy Objective HER8 of the Development Plan, which states:

'Work to Protected Structures

It is a Policy Objective to:

- i. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.*
- ii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' published by the Department of the Arts, Heritage and the Gaeltacht.*
- iii. Ensure that all works are carried out under supervision of a qualified professional with specialised conservation expertise.*
- iv. Ensure that any development, modification, alteration, or*

extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.

- iv. Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.
- v. *Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.*
- vi. *Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.*
- vii. Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure.
- viii. *Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.*
- ix. *Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development (consistent with NPO 17 of the NPF and RPO 9.30 of the RSES). All works are to be carried out to the highest standards in accordance with the guidelines and specific guidance set out in Section 12.11 of Chapter 12 'Development Management'. The curtilage of a Protected Structure is often an essential part of the structure's special interest. In certain circumstances, the curtilage may comprise a clearly defined garden or grounds, which may have been laid out to complement the design or function. However, the curtilage of a structure can also be expansive. The traditional proportionate relationship in*

scale between buildings, returns, gardens and mews structures should be retained. A garden size appropriate to that of the structure should also be retained. Historic landscapes and gardens are also an important amenity and contribute to the setting and character of Protected Structures. These can include both built and natural features such as walled gardens, views/vistas, tree-lined avenues, decorative tree-clumps, woodlands, or plant collections.'

(My underlining.)

5.3 Development Standards (Dún Laoghaire-Rathdown Development Plan, 2022-202)

Relevant Standards for Additional Accommodation in built up areas are as follows:

12.3.7.1 Extensions to Dwellings

The following Section provides guidance with respect to porches, front extensions, side extensions, rear extensions, roof alterations, attic conversions and dormer extension.

Front extensions, particularly at first floor level, should reflect the roof shape and slope of the main dwelling. A minimum driveway length of 6 metres should be maintained.

....

(ii) Extensions to the Rear:

Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. The extension should match or complement the main house. First floor rear extensions will be considered on their merits, noting that they can have potential for negative impacts on the amenities of adjacent properties, and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual

amenities. In determining applications for first floor extensions the following factors will be considered:

- Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries.
- Remaining rear private open space, its orientation and usability.
- Degree of set-back from mutual side boundaries.
- External finishes and design, which shall generally be in harmony with existing.

(iii) *Extensions to the Side: Ground floor side extensions will be evaluated against proximity to boundaries, size, and visual harmony with existing (especially front elevation) and impacts on adjoining residential amenity.*

.....

(iv) Alterations at Roof/Attic Level: Roof alterations/expansions to main roof profiles - changing the hip-end roof of a semi-detached house to a gable/ 'A' frame end or 'half-hip' for example – will be assessed against a number of criteria including:

Careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures.

- Existing roof variations on the streetscape.
- Distance/contrast/visibility of proposed roof end.

Harmony with the rest of the structure, adjacent structures, and prominence. Dormer extensions to roofs, i.e. to the front, side, and rear, will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties.

....

Excessive overlooking of adjacent properties should be avoided.'

(My underlining.)

5.4 Architectural Conservation Area (ACA) Policy (Dun Laoghaire – Rathdown 2022-2028 Development Plan)

The site is located on the boundary of the Foxrock Architectural Conservation Area, and given its backland location and potential to be visible from the Architectural Conservation Area, it is considered appropriate that the design of the proposed development should be cognisant of the ACA.

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. It states as follows of relevance to the current appeal:

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

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.*

5.5 Architectural Heritage Protection Guidelines for Local Authorities

The Guidelines relates to development of a protected structure and development within the curtilage of a protected structure. Given that the appeal site is a backland site and part of the former back garden of a Protected Structure it is considered necessary to address the potential impact of the development in the context of the adjoining gardens of the Protected Structures.

These Guidelines were initially issued in 2004 and were since re-issued in 2011 by the Department of Arts, Heritage & Gaeltacht. Part of the remit is to address consideration of the potential impact of development on the character of the Protected Structures as follows:

- 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.

(My underlining.)

5.6 Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, January 2024

In January 2024, the Government issued the above 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.

One of the six key characteristics of low-rise compact forms of ‘own door’ housing is the provision for ‘*Reduced separation and privacy measures.*’

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. The current application which is effectively for a single replacement house on a large site could, in theory, therefore accommodate a higher density development.

The single house as proposed is however considered acceptable in the current circumstances as the opportunity to provide a higher density development is constrained by the backland location of the site, the proximity to Protected Structures, and to its relatively narrow access road.

5.7 Natural 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.

5.8 EIA Screening

Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 Third Party Appeals

There were three third party appeals against the decision to grant permission for this development. These are considered below.

6.1 Appeal by Graham Rice, Brentwood, Golf Lane, Foxrock, Dublin 18 (i.e. neighbouring property to the north on Golf Lane)

The appeal is accompanied by the original letter of objection to the application and the main issues are set out in this objection. In addition, the Appellant

points out that when they built their own extension, designed by renowned Architect Ronnie Tallon, they were prohibited from building a second storey and from having windows overlooking neighbouring properties. Windows were permitted were limited at attic level however they had to be frosted.

The issues in the objection are as follows:

- The description of the development is not accurate in that the development that is described as 'an extension' is really a completely new house. At the very least, the description of the development is misleading.
- The concerns relating to the previous application for a replacement house still pertain. These included height, bulk, overlooking, overshadowing, noise and nuisance, increased occupancy, impact on transport and traffic.
- The current application is only a slightly reduced version of the previous application which was refused.
- Blind windows to the Brentwood elevation do not address the concerns about overlooking as there is no guarantee they will be maintained as such.
- The increased height and bulk will overshadow the neighbouring side garden of Brentwood. It will result in a dwelling which is visually incongruous with the adjoining single storey character along this section of Golf Lane.
- There is no proper information about heating, insulation etc, all of which may impact on the existing adjoining house in terms of noise etc.

- Foul drainage capacity has not been adequately demonstrated and no environmental assessment has been provided.
- There will be undue disruption due to the extensive building program which will occur, and which will undoubtedly include demolition as the existing building can't realistically be maintained.
- Flood risk has not been properly assessed.
- Shadow casting and effect on sunlight has not been adequately addressed.

6.2 Appeal by Albert and Mary Connaughton, Ardenza, Torquay Road, Foxrock, Dublin 18 (i.e. neighbouring property to the rear / west of the application site)

This appeal was submitted by Hughes Planning and Development Consultants and is summarised as follows:

- It is contended that the proposed development would negatively impact the residential amenity of all surrounding properties in the vicinity of the development.
- The site was constructed as a backland house to the rear of Glenshee Protected Structure on Torquay Road.
- The proposed development is considered to be largely the same as that previously refused. Although the applicant has now demonstrated that the existing house is not habitable, the former concerns regarding height, scale and design remain.
- There is particular concern regarding this development because of its location relative to surrounding Protected Structures. In this regard there is serious concern regarding the scale of this development relative to these structures in terms of their residential and visual

amenity, and the concomitant change in the character of the Protected Structures.

- It is considered that the proposed development directly contravenes Development Plan Objective PHP20, which relates to the protection of existing residential amenity in the built up area.
- It appears that DLRCC has assessed this development as a replacement dwelling due to the scale of development proposed.

Accordingly, the proposal should comply with Policies HER20 and HER21. Condition No. 4 requires amendment to the pastiche design. It is considered that the significant scale of the building as referred to the Planning Officer's Report has not been addressed.

- The site adjoins the Foxrock ACA and a number of important Protected Structures. In this regard concern is raised regarding the impact of the development on the setting and character of the surrounding area. It is considered that the development is conflicts with Policy HER8 relating to works to Protected Structures. (See Section 5.2.2 above.)
- The current proposal has not been sensitively designed to ensure the protection of the special character and appearance of its location.
- The design is pastiche and out of character with its surroundings. Indeed its mass and scale contravenes Policy PHP35 (relating to h. quality design), which requires that Applicants:

'...Ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.'

- Concern is raised regarding the proposed development's impacts on the setting and character of the adjoining Protected Structure and significantly detracting from the architectural heritage and contributions made.

- Considering the proximity to the ACA, the proposed development should respect the established scale and character of the existing structures.
- In this regard the site is visible from Torquay Road to the south and will be visually obtrusive and out of character when viewed from Torquay Road.
- Non-compliance with the 2009 Sustainable Residential Design Guidelines which require that a balance be struck between the reasonable protection of the amenities and privacy of adjoining dwellings and need for infill development.

6.2.1 The grounds of appeal are further summarised as follows:

- Contravention of zoning.
- Loss of residential and visual amenity of the adjoining Protected Structure, Ardenza and other neighbouring properties due to its overbearing nature and proximity to these houses.
- The architectural form is inappropriate on this site.
- The permission is premature due the requirement to revise the design (Condition No. 3).
- An example of planning permission which were refused a large extension to a bungalow in Dalkey for reasons relating to its design, scale and massing of the two storey extension is cited as similar to that now proposed. (D18A/0592)

6.3 Appeal by Colin and Catherine Barrett, Glenshee, Torquay Road, Foxrock, Dublin 18 (neighbouring house to the south on Torquay Road)

As noted in 1.4 above, the appeal site was formerly part of the back garden of Glenshee, albeit now accessed from Golf Lane. The existing bungalow would appear to have been constructed c. 25 years ago.

This First Party Appeal is summarised as follows:

- The proposal is for a large effectively three storey house which will look directly into their property and completely undermine the privacy of the house.
- A new 393 sq m house will be visually overbearing and completely out of character with the existing buildings in the vicinity (many of which, including theirs, are Protected Structures).
- A large construction would aggravate the existing local surface water flooding and adversely affect their property.

6.4 Applicant's Response

- 6.4.1 The Applicants Response is submitted by Kieran O'Malley + Company Ltd. on behalf of the Applicant.
- 6.4.2 The Board is asked to read the Applicant's cover letter from Fergal Fitzpatrick Architecture and Planning in conjunction with the Planning Appeal Response document.
- 6.4.3 The Board is also referred to the Refusal Reason for the former application on this site.
- 6.4.4 It is submitted that the application now under appeal addresses the former reason for refusal on the site in that the proposal now provides for the extension and upgrading of the existing house, which is in accordance with Policy Objective PHP19.
- 6.4.5 Attention is drawn to Section 7.14 of the Development Management Guidelines, which states that refusal reasons should be clearly stated so that prospective developers are aware of the fundamental objections to their proposals if they are considering whether to amend a scheme or to relodge it.
- 6.4.6 Applying this principle, it is reasonable to infer that DLRCC was satisfied with the former application and considered no adverse impacts on residential or

visual amenity or on the setting and character of Protected Structures or the Foxrock ACA.

- 6.4.7 The Planning Officer's Report addresses the design and bulk of the house and concludes that the separation distances from the proposed first floor of the house, coupled with the use of obscured glazing on the northeastern-facing fenestration adequately addresses concerns of neighbours. In addition, the ridge height has been lowered by 1m. The submitted Shadow Casting Analysis outlines an appropriate level of impact on neighbouring dwellings.
- 6.4.8 Regarding impact on the ACA, the Planning Report has addressed this and concludes that the setback and location off Golf Lane are significant enough to ensure that the development not would negatively impact or detract from the nearby ACA. This conclusion is also reflected in the DLRCC Conservation Report.

The response to the individual appeals is as follows:

6.5.1 *Colin and Catherine Barrett – their property, Glenshee, is located south/southwest of the appeal site.*

- The only windows facing this house are two bedrooms, an en-suite and a bathroom.
- There is 7m separation between from the boundary to Glenshee and a further 25m from the back of the house. The proposal will therefore not cause a negative residential impact due to overlooking or loss of privacy.
- The mature tree coverage along this boundary will also mitigate against overlooking.
- There are no dormer windows facing this property.
- The proposal is to upgrade and extend an existing house and it is not a new building.

- Recent surrounding development includes a 2019 permission for an extension to Ardenza of 210 sq m increasing its floor area to 550 sq m. In addition, there is a concurrent appeal to the rear of Ardenza for two 321 sq m houses (reduced to 301 sq m in response to the FI request) within the curtilage of Ardenza and the neighbouring house, Glenarm. Planning permission has also been granted (D22A/0555) for four new two storey 5 bed houses in the side and back garden of the neighbouring property Foxrock Villa.
- Accordingly, the quantum of development proposed is not out of keeping with the existing / permitted buildings in the vicinity.
- The Planning Report states that the flood risk was considered in the assessment of the development proposed and the Drainage Department has concluded that there is no objection to this development subject to three conditions.
- Finally, it is noted that there was no objection to the former application by the owners of Glenshee, and the Planning Report on the former application did not consider the residential amenity of this property an issue.

6.5.2 *Response to Appeal on behalf of Albert and Mary Connaughton, owners of Ardenza on Torquay Road (submitted by Hughes Planning)*

It is noted that this appeal fails to note the concurrent application/appeal for the Appellant's own site, an application for two large houses (301 sq m each) to the rear of Ardenza and its neighbouring property Glenarm.

The appeal also neglects to mention the precedent set by the permission for four 5-bed houses in the gardens of Foxrock Villa.

It is also noted that the Appellants did not object to the previous application on this site.

The response to this appeal is summarised as follows:

- The current proposal has a reduced floor area and height to that previously applied for and yet Hughes Planning did not comment on this.
- The height 9.7m to ridge is comparable to that approved by the Council for four houses at Foxrock Villa.
- In terms of scale, the footprint is largely that of the existing house. Given the setbacks to adjoining properties it is considered that the scale can be accommodated without a negative impact on the nearby Protected Structures and the ACA generally.
- The new works are located over the existing footprint.
- It appears from the Planning Report that the only concern is the design, which the Planning Authority considers can be addressed by condition. Neither the Conservation Officer nor the Planning Officer consider that the development should be refused on design grounds.
- There is no evidence that the residential amenity of Ardenza will be compromised.
- Figure 2 of the response document illustrates the footprint of the first floor of the appeal house and surrounding properties including the four houses at Foxrock Villa and the two houses at the rear of Ardenza and Glenarm, currently under appeal to the Board.
- It is noted that the setback from House A to the boundary of Tallon House is 3.3-4.7m on the north and 4.6 m from the boundary to Ardenza.
- House A has a larger site.
- In comparison, Curraheen (the appeal site) provides for a setback of 7m from Glenshee and 5.6m from Brentwood (at first floor level).
- Also Curraheen is neither on the list of Protected Structures nor within the ACA whereas Ardenza and Glenarm are.

- On balance, it is therefore considered that there is an inconsistency in the argument put forward by the Appellants' agent regarding insufficient setbacks.
- Curraheen is located 65 m from Torquay Road and accordingly will not affect the character of the ACA.
- The relevance of a refusal for a house in Dalkey is questioned as a precedent for this type of development on surrounding properties in Foxrock clearly exists. The case in Dalkey is not comparable to the case at Curraheen.

6.5.3 *Graham Rice – Brentwood (neighbouring property, located adjoining the appeal site to the north)*

- The Applicant's agent considers this appeal to be vexatious, frivolous and without foundation and accordingly the Board are asked to dismiss it. (This relates to 'defamatory' remarks about the Applicant and his various consultants that were in a submission to the Local Authority 12.11.2021 and 01.07.22.)
- The Appellant's house has a larger footprint than the proposed house at Curraheen.
- The proposed extension occupies the same footprint as the existing house and therefore the description of the development is accurate.
- The detailing of the proposed first floor windows ensures that there will be no overlooking of the Appellant's property with the provision of blind windows and obscure glazing.
- The Shadow Casting Analysis concludes that the impact in terms of sunlight and shadow casting at Brentwood is negligible.
- The site can accommodate the extra bulk and mass proposed.
- A drainage and watermain design statement is included in the application documentation.

6.6 Planning Authority Response

The Planning Authority has referred the Board to the previous Planner's Report. It is considered that the grounds of appeal do not raise any new matters, which would justify a change of attitude to the proposed development.

6.7 Observations

None received.

6.8 Further Responses

None received.

7.0 Assessment

Having inspected the site and examined the application and the appeal documentation on the file, I consider that the main issues are as follows:

1. Description of the development and validity of the application.
2. Design of the development in respect of whether it addresses the previous Refusal for a replacement house on the site.
3. Principle of the development / policies of the Dún Laoghaire-Rathdown County Development Plan, 2022-2028.
4. Suitability of the design in terms of scale of the development, proximity to adjoining existing housing.
5. Impact on the adjoining Foxrock Architectural Conservation Area.

Each of these issues is considered in turn below.

7.1 The description of the development and validity of the application

The Statutory Notice for the application describes the development as ‘refurbishment’ and construction of an extension of the existing accommodation to form a two storey plus dormer detached house.

The notices state as follows:

‘David Agar intends to apply for permission for the refurbishment of the existing accommodation at ground floor levels and the construction of an extension at ground floor (46.3 sq m) and first floor (64.4 sq m) with roofspace over (69.5 sq m) to form a two storey plus dormer detached dwelling house (392.9 sq m total floor area) together with landscaping and all ancillary and associated works on a 0.12 ha site at Curraheen, Golf Lane, Torquay Road, Foxrock, Dublin 18, D18 F9X4.’

Examination of the application drawings indicates, however, that although internal walls and layout retain elements from the existing dwelling, the resultant house will bear no resemblance to it.

The Planner’s Report takes this view and assesses the application as a replacement dwelling. In this regard the Planning Officer’s Report states the following:

‘While it is welcomed that the parent footprint is substantially maintained, the Planning Authority considers the degree of

difference between the receiving and proposed bulk, internal configuration, height and vernacular, to not constitute retrofitting, and must therefore be assessed as a replacement dwelling.'

The Planning Authority did not, however, require the Applicant to readvertise the development, revising the description of the development.

This issue is complicated by the fact that the existing dwelling is located on a backland site in the former back garden of the Protected Structure (Glenshee, Torquay Road).

Although, the site has been separated from that Protected Structure for many years (upward of 25), I still consider the development on the site might impact on that Protected Structure and therefore the inaccuracies in the description of the development is important.

I note however that the current owners of that Protected Structure are First Party Appellants and so appear to have had an opportunity to comment on the proposal.

On balance, therefore, I am satisfied that all surrounding properties are aware of the extent of the development, and I am satisfied in this regard that the application as advertised is satisfactory in this instance.

7.2 Design of the development in respect of whether it addresses the previous Refusal for a replacement house on the site

The Applicant's Agent has stated that the current application addresses the previous refusal reason for development on this site, and that accordingly planning permission should be granted.

The former refusal related to non-compliance with the Development Plan policy requiring reuse of existing buildings rather than their replacement.

The current application purports to provide an extension and refurbishment of the existing house and therefore to be in compliance with the Development Plan policy on the issue of replacement dwellings. The Planning Officer does, however, not accept that the development now proposed is actually an extension / refurbishment.

The Application includes a Photographic Report on the condition of the existing house. Its findings are that the dwelling is structurally unsound. The Planning Authority accepts the findings of the Report, and considers that the development now complies with Development Plan policy, which allows for replacement dwellings '*where the existing dwelling is uninhabitable*'.

I note in this regard, however, that it is not that the application has addressed the former refusal reason, but rather that the circumstances have changed and that the house is now deemed structurally unsound.

I note also that in the former application (2021), the design of the house had a different orientation to that now proposed. The front of that house faced the northeast i.e. the Brentwood boundary. It had one first floor window, three attic level windows and one ground to first floor window facing the Brentwood

side garden. The rear of the building (facing Glenshee) had three smaller bedroom windows and a circular window.

The current proposed house, however, is facing Glenshee, with the back of the house now facing Brentwood. Although there are windows facing Brentwood, all will have opaque glazing on the first floor elevation. The revised design, however, has the effect of increasing the level of overlooking of the private open space to the rear of Glenshee (Protected Structure). I consider this problematic.

On the basis of the above, it is considered that assessment of the suitability or otherwise of the proposed development is not as straightforward as simply addressing the former reason for refusal.

7.3 Principle of the development / policies of the Dún Laoghaire-Rathdown County Development Plan, 2022-2028

Under the Dún Laoghaire-Rathdown County Development Plan, 2022-2028, the site is zoned A (Residential), and therefore residential development including extension and refurbishment is 'permitted in principle'.

However, the site is part of the former back garden of a house on Torquay Road, Glenshee, which is a Protected Structure. In my opinion, this needs to be addressed when assessing the suitability or otherwise of development of the appeal site. The back of the site also adjoins the back garden of another Protected Structure: Ardenza, also located on Torquay Road.

Furthermore, the site adjoins the boundary of the Foxrock ACA.

The Foxrock ACA Report states that the sylvan atmosphere of Torquay Road is quite vulnerable to future development.

The Development Plan states *‘any development, modification, alteration, or extension affecting a Protected Structure and / or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, layout, and materials’..*

On the above basis, the extension and or refurbishment of the dwelling on the appeal site is acceptable in principle. However, I consider that the design of the dwelling as it relates to the adjoining Protected Structures (south-western and north-western boundaries) needs to be exceptional in order to take account of the sensitivity of its location relative to the Protected Structure status of the surrounding properties and the Foxrock ACA generally.

7.4 Suitability of the design in terms of scale of the development, proximity to adjoining existing housing

7.4.1 Size of the proposed house

The size of the extended house will be 392 sq m. The frontal house Glenshee (Protected Structure) on Torquay Road is 318 sq m, the neighbouring house Brentwood is 372 sq m and the four new houses permitted adjoining the appeal site at Foxrock Villa are c. 250 sq m each. (Floor areas sourced online from the planning application for this development.)

Ardenza was recently extended (2021) by 210 sq m, increasing its floor area to 550 sq m. The two proposed houses (currently under appeal to the Board)

are located on similar sites to the current appeal site to the back of Ardenza and the neighbouring house Glenarm and are 301 sq m each.

In terms of size, therefore, the extended house will be somewhat larger than adjoining houses (with the exception of Ardenza, which is also not on a comparable site) but subject to design is generally in keeping with the size of houses in the vicinity.

7.4.2 *Overlooking of adjoining gardens*

The submitted elevation drawings (2015 P20 and 2015 P21) show the proposed southeastern elevation of the 'extended and refurbished' house.

At a distance of 7m from the back garden of Glenshee at first floor level there will be three large windows (two bedrooms and a bathroom) and one small circular window (ensuite bathroom). These will directly overlook the private open space of the Protected Structure, Glenshee.

On the northeastern elevation (facing Brentwood), the first floor of the appeal house is set back so that it will be 5.6m from Brentwood. On that elevation there will be two windows, and both of these will have obscure glazing.

Therefore, there will no overlooking of Brentwood (not a Protected Structure) but a high degree of overlooking of Glenshee (a Protected Structure).

In this regard, it was noted on the Site Visit that the private garden / setting of Glenshee is an integral part of its design and undoubtedly contributes to its special status. In my opinion, it should therefore be maintained.

7.4.3 Visual Impact of the development

The roof of the existing bungalow on the appeal site is visible from the back garden of Glenshee and from Torquay Road. It is proposed to add an additional floor of accommodation and a new pitched roof at this location and to orientate the house in the direction of the back of Glenshee - i.e the front of the house will face the back of Glenshee and not Golf Lane.

Despite the existing boundary planting, it will be highly visible from the existing back garden of Glenshee. Although the house will be visible from the adjoining house, Brentwood, there will be no overlooking from this elevation as there are fewer windows on this elevation they are to be obscurely glazed.

Furthermore, this elevation borders the side garden of Brentwood and not its back garden.

Accordingly, it is considered that the design of the proposed extension / refurbishment will result in a negative visual impact when viewed from the gardens of Glenshee both front and back.

It will also substantially reduce the existing privacy of the gardens, which is considered to be an integral part of the original design of the house as was evident on the site visit.

7.4.4 *Separation distances and orientation*

There is a concurrent appeal for two houses in the back gardens of Ardenza and Glenarm (Ardenza being located on the north-western boundary of the appeal site).

The Site Location Map, attached to the First Party Appeal response, shows the existing site layout with the permitted houses at Foxrock Villa and the houses under appeal at Ardenza and Glenarm overlain on the map. It also illustrates the similarity between the rear garden site at Ardenza and Glenarm to the current appeal site on which Curraheen (the current appeal house) is located.

In contrast, however, the proposed houses (at Glenarm and Ardenza) are orientated to face each other on the site. They do not face the back of the frontal properties on Torquay Road.

It is also noted that they have a flat roofed two storey design to reduce their visual impact. The first floor is set back from the ground floor footprint and an examination of the application documentation shows that the houses have limited fenestration on their side elevations facing the back gardens / private open space of the frontal Protected Structures, Ardenza and Glenarm, and that of an additional Protected Structure, Tallon House, to their rear (and to the north of that application site).

The houses permitted at Foxrock Villa, follow its building line and that of Glenshee, Ardenza etc. on Torquay Road, and Foxrock Villa on Golf Lane. The two houses permitted on Golf Lane front the road with limited overlooking to the rear. There is 29 m between the front of the new Curraheen and the

back of the new houses. Neither of these two houses are Protected Structures, so this is an adequate separation distance.

In contrast, Curraheen is effectively a backland site and the proposed 'extension' to the existing house will result in a large two storey plus dormer dwelling which will front the back of Glenshee.

Although accessed via Golf Lane, its road frontage to Golf Lane is limited.

7.4.5 *The suitability of the 2 storeys dormer dwelling (effectively 3 storey to the front and back)*

The appeal design is for a two storey house with a habitable attic, dormer windows to the front and back and 69 sq m of accommodation at attic level (i.e. it is effectively a three storey house).

The height of the building to the ridge is 9.7m. The front of the house is located 7m from the boundary of the back garden of the Glenshee (Protected Structure).

When viewed from Golf Lane, the two storey with dormer level dwelling will have no noticeable impact. The Golf Lane elevation of the changed dwelling is effectively three storeys, two storeys plus a dormer addressing the street but will still be relatively unproblematic.

The back of the proposed house, which is bordering the back of Ardenza on Torquay Road (Protected Structure), is more problematic.

It is considered that the dwelling would be very visible from the back garden of Ardenza and introduces two new floors of overlooking (first floor and dormer level) of this rear garden site.

As noted above, there is concurrent application for a two storey flat roofed dwelling of 301 sq m in the back garden of Ardenza. If permitted this will introduce a second floor which will overlook Curraheen.

The distance of 29-33m (between opposing back windows) is however considered appropriate at this location, however, an attic level dormer window (as proposed now at Curraheen) is not considered appropriate as it will introduce considerable overlooking of the private open space of all the adjoining properties, a number of which are Protected Structures.

Condition No. 4 requires that the design be revised to change the sweeping pitched roof profile and the circular windows. This amendment will, however, not address the concerns regarding the impact on Glenshee. A more suitable design as regards this boundary and that of Ardenza to the rear would be a flat-roofed contemporary style dwelling, designed to reduce overlooking of both adjoining properties.

7.4.6 Overshadowing

As regards the concern by the Appellant that the proposed dwelling will overshadow surrounding gardens, the Applicant's Sunlight and Overshadowing Analysis, shows little effect arising from the proposed two-storey dwelling in terms of overshadowing of neighbouring properties.

7.4.7 Bulk of the proposed extended dwelling

In terms of design, I am concerned that the additional floor with pitched roof and dormer windows is an unsuitable design for the appeal site. The raised height - when viewed from Torquay Road - will compete with the frontal property Glenshee whereas it should in my opinion be subservient to it.

The two storey plus attic does not present an appropriate transition from the two storey Glenshee, to the single storey Brentwood. A flat roofed two storey design, with the first floor suitably recessed, may indeed fit in more appropriately and not appear overly bulky or overbearing when viewed from the Protected Structures on Torquay Road.

7.4.8 Drainage and Flooding Matters

I note the Appellants' concern with flood risk arising from the 'extended' house, and note also that the Drainage Department have indicated no concern with this, subject to Conditions.

Given that there is an existing house on this site, I concur that subject to the Conditions recommended by the Drainage Department that the increased flood risk arising from the proposed house is negligible and has been adequately addressed.

7.5 Impact on the adjoining Foxrock Architectural Conservation Area

Of relevance to the current appeal, the Foxrock ACA Report states:

‘There is a distinctive group of six detached houses which are considered amongst the finest architecturally in the ACA, and have been attributed to the developer William Bently. These relatively large two-storey houses, with projecting bay have painted and rendered walls with decorative plaster window surrounds and natural slate roof coverings. The majority of the group retain their original random rubble granite walls with crenelated granite top and mature hedge behind and square profile rendered granite piers with wrought iron gates.’

As regards the Landscape Character of Foxrock the Report states:

‘The architectural character of the area is created not just by the design of the individual structures. A significant aspect of its character is informed by layout of the sites and the surrounding landscaping.’

(Foxrock Architectural Conservation Area Report, Dún Laoghaire-Rathdown County Council.)

The designation of Torquay Road within the Foxrock ACA is part of the context of the proposed dwelling even though the application site itself is not located within the ACA.

The imposition of the sizeable two storey house with attic level accommodation which will be visible from Torquay Road and from Glenshee and its attendant grounds is inappropriate. It will in my opinion negatively

affect the ACA designation of Torquay Road, especially given that the ACA Report states that the Sylvan nature of Torquay Road is 'quite vulnerable to future development'.

8.0 Recommendation

In the context of the above, it is recommended that permission be refused.

9.0 Reasons and Considerations

1. The proposed development does not fully comply with Policy Objectives HER8 (Protected Structures), HER13 (Architectural Conservation Zones) and Section 12.3.7.1 (Extensions to Dwellings) of the Dún Laoghaire-Rathdown County Development Plan, 2022-2028, specifically it is considered that the two storey plus dormer level design would:
 - (a) Result in a house that would be bulky and visually obtrusive when viewed from the back gardens of the Protected Structures on Torquay Road, in particular Glenshee; and
 - (b) Introduce an unacceptable level of overlooking of the open space to the rear of Glenshee and also of Ardenza.

Accordingly, the setting of the Protected Structures would be adversely impacted upon in terms of the permanent loss of their privacy and original setting.

2. It is considered that the proposed house facing the back of Glenshee Protected Structure would compete with views of the Protected Structure

from Torquay Road, which would therefore harm the character of the Foxrock Architectural Conservation Area.

Accordingly, this proposal would fail to accord with 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.

Vanessa Langheld

Planning Inspector

22 April 2023