



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320078-24

#### Development

Demolition of dwelling house;  
construction of 10 four bed dwellings  
and 14 apartments; widening of  
entrance, provision of access gate; 37  
car park spaces and associated site  
works.

#### Location

Rockall, The Birches, Torquay Road,  
Dublin 18, D18 Y0R6

#### Planning Authority

Dun Laoghaire Rathdown County  
Council

#### Planning Authority Reg. Ref.

D23A/0641

#### Applicant(s)

Glenveagh Homes Limited

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Party

#### Appellant(s)

Lucinda Coen & Others  
Theresa Murray & John Lynch  
Dermot Golden  
Jen Byrne

Foxrock Golf Club

**Observer(s)**

Paul Fallon

P & E McGorrian

Michelle Nolan

Alan McGinley

**Date of Site Inspection**

16<sup>th</sup> April 2025

**Inspector**

Bernadette Quinn

## **1.0 Site Location and Description**

- 1.1. The appeal site is located in The Birches, a residential development containing detached houses in a variety of architectural styles that are laid out in an irregular pattern. The site contains a single dwelling known as 'Rockall' and an ancillary outbuilding. At the time of site inspection the property was unoccupied and has the appearance of having been vacant for some time. The grounds of Rockall are densely overgrown with a variety of trees and planting. Vehicular access is via The Birches, at a point where it meets Barnagh Lane.
- 1.2. Site boundaries comprise mature trees and hedgerows. Foxrock Golf Club adjoins the sites eastern boundary and is separated from the appeal site by a metal fence and a drainage ditch along the sites eastern boundary. Detached two storey dwellings within the Birches adjoin the southern, western and northwestern boundaries. The pattern of development in the area around the appeal site comprises large detached two storey dwellings on generous plots. Foxrock Village is approximately 450m (by road) southwest of the site. The site is located 1km from the R113 road and 1.5km from the N11 road.
- 1.3. The appeal site includes a section of the existing roadway within the Birches to the northwest of the site. The overall site has a stated area of 0.715 ha. The developable site area is stated as 0.577 ha which excludes the area of public road along the Birches and a riparian setback from the ditch adjoining the eastern boundary.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the demolition of the existing Rockall dwelling house (c.215sqm) and single storey outbuilding (c.51sqm) and the construction of:
  - 10 no. four bed, three storey dwelling houses (c.163sqm each) with terraces facing north-west and south-east,
  - One no. three storey duplex apartment block (1,417 sqm) comprising 14 no. units (7 no. 2 bed units and 7 No. 3 bed units) with terraces facing north-east and south-west,
  - Widening and upgrading the existing entrance,

- Internal roadways and footpaths,
- Provision of a maintenance access gate to golf course lands to the east,
- 37 no. car parking spaces, bicycle parking, bin storage, boundary treatments, signage, lighting, hard and soft landscaping, changes in levels and associated site works above and below ground.

2.2. Following a request for further information the proposed development was amended to omit 2 no. duplex units and provide for 36 no. car parking spaces.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

On 18<sup>th</sup> June 2024 Dún Laoghaire-Rathdown County Council (DLR) granted permission subject to 19 conditions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The Planning Authority (PA) Planning Officers report dated 28/11/2023 can be summarised as follows:

- Demolition of existing dwelling is acceptable in principle
- The proposed density of 42 units per hectare is considered to accord with Development Plan provisions, including the transitional nature of the site.
- The relationship of houses 18 to 24 to the southern boundary is of concern as they may have an overbearing effect and result in overlooking on the adjoining property 'Weston' to the south and potentially stymie development potential at the adjoining site to the south.
- Clarity is required in relation to potential overlooking and above ground floor fenestration details on the western elevation of houses 15-17.
- Further information is required in relation to shadow analysis showing the impact of the proposal on adjoining properties; demonstration of minimum required floor to ceiling heights in apartments and duplex units; external

storage, private open space, details relating to public open space, communal open space, detailed aboriginal information; mitigation measures to protect existing bats and fox populations; part V; public lighting, surface water drainage and car and motorcycle parking.

- It is noted that an amount of tree removal was permitted under D15A/0839.
- The proposal would not have a negative visual impact, nor any negative impact on adjoining residential amenity.
- The three storey height proposed is considered compliant with the development plan and is acceptable having regard to the character of the site and surrounding area.
- It is not considered reasonable to require the applicant to provide a pedestrian/cycle link to the south to The Birches as indicated in the Transport Section Report.
- Third party concerns relating to the applicant's legal entitlement to discharge surface water onto an existing ditch to the east are deemed to be a civil issue and not a planning issue.

Following a request for further information the Planning Officers report dated 28/03/2024 can be summarised as follows:

- The revised proposal addresses concerns of the PA regarding impacts on the neighbouring property at No. 10 The Birches to the south. The amendments result in non-obscured windows above ground level being at least c.13m from the boundary and at least c.19m from the side elevation of No.10 to the south with proposed boundary treatment and planting resulting in the proposal being compliant with the Development Plan and Compact Settlements Guidelines.
- Increased separation distances from the existing property to the south are deemed to address overbearing concerns.
- Clarification is required in respect of accurate plan/elevation representations for house nos. 13 and 16 and plan drawings to reflect accurate areas of private open space. This matter can be addressed by condition.

- Communal open space is considered acceptable subject to a condition to limit use of the area to residents of the development only.
- A special Section 48 contribution is required in lieu of the shortfall of public open space.
- Revisions to address passive surveillance over the open space area, external storage space for apartments and floor to ceiling height are acceptable.
- The Daylight and Sunlight Report submitted is acceptable and the proposal would not materially impact the residential amenity of adjoining property.
- Clarification of further information is required in relation to drainage details and the Site-Specific Flood Risk Assessment.
- Proposed tree removal is acceptable subject to a condition relating to a tree replacement strategy.
- Mitigation measures relating to bat and fox activity are considered acceptable subject to a condition that the mitigation measures outlined in the Ecological Impact Assessment be implemented.

Following Clarification of Further Information the Planning Officers report can be summarised as follows:

- The Drainage Planning Section's report has no objection to the proposal and the response to clarification of further information is acceptable.
- There is a shortfall of 287 sq.m. in public open space provision. Based on the Development Contribution Scheme the development contribution for the public open space shortfall is calculated to be €215,250.
- It is recommended that permission be granted

### 3.2.2. Other Technical Reports

Transportation: Following a request for further information no objection subject to conditions.

Drainage: Following a request for further information and clarification of further information no objection subject to conditions.

Parks: Initial report recommends refusal. Following a request for further information the report states that the proposal is considered to constitute overdevelopment of the site. A condition is recommended requiring a special levy under section 48 2 (c) in lieu of the provision of sufficient public open space.

Housing: No objection subject to condition

Environmental Health Officer: No objection subject to conditions

Environmental Enforcement: No objection subject to conditions

### 3.2.3. Conditions

The following conditions of note were attached to the PA decision to grant permission (refer to Appendix 4 for details of all conditions attached by the PA):

Condition 2 requires revised architectural drawings that provide accurate plan/elevation representations for House Nos. 13 and 16 and plan drawings accurately reflect areas of private open space to the rear of houses.

Condition 3 requires details outlining how the communal open space will be managed.

Condition 4 relates to Transportation requirements.

Condition 5 relates to Drainage requirements.

Condition 8 relates to Parks and Landscaping requirements.

Condition 9 relates to compliance with the Ecological Impact Assessment.

Condition 13 requires a financial contribution in lieu of public open space shortfall.

Condition 17 requires payment of a tree bond.

### 3.3. Prescribed Bodies

None received

### 3.4. Third Party Observations

A number of submissions were received in relation to the planning application and in relation to significant further information objecting to the proposed development. The

issues raised are similar to the issues raised in the third party appeals and observations.

## 4.0 Planning History

### Appeal Site:

D15A/0839 / PL06D.246304 permission granted and extended under D15A/0839/E for the demolition of the existing Rockall dwelling house and the construction of 35 no. apartments in part 2-storey, part 3-storey, part 4-storey blocks and all ancillary site development and landscape works, a single level basement car park and a new pedestrian access on the southern boundary of the site where it adjoins The Birches.

This permission has not been implemented.

D15A/0525 Permission refused for the demolition of the existing Rockall dwelling house and the construction of 2 no. buildings accommodating 46 no. apartments. Refusal reason relates to the height, scale and limited separation distances which would be overbearing and unduly impact on the residential amenity of adjoining properties and over-development of the site.

### Adjoining Site to South:

D25B/0125 / ABP-322593-25: Permission refused by DLR and ACP for alteration and extension of existing ancillary accommodation on site, to provide for c.100.2 sqm of additional ancillary accommodation over two storeys. ACP refusal reason relates to the proposal being contrary to the provisions of Section 12.3.7.4 “Detached Habitable Room” of the Development Plan which provides that ancillary accommodation should be ancillary in use to the main dwelling on site and shall not provide an independent residential unit.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Dun Laoghaire – Rathdown Development Plan 2022 – 2028 is the relevant Development Plan for the subject site. The plan has regard to national and regional policies in respect of infill development within existing built-up areas. The following



are the main relevant applicable sections, policies and objectives of the Development Plan to the site (not an exhaustive list):

- 5.1.2. The site is zoned objective A - to provide residential development and improve residential amenity while protecting the existing residential amenities. Residential use is permitted in principle on A zoned land.
- 5.1.3. There is a map based objective 'To protect and preserve Trees and Woodlands' adjoining the sites northeastern boundary.
- 5.1.4. Chapter 3 relates to Climate Action and includes Policy Objective CA18: Urban Greening to retain and promote urban greening.
- 5.1.5. Chapter 4: Neighbourhood – People, Homes and Place

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

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

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

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

Policy Objective PHP19: Existing Housing Stock – Adaptation:

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

Policy Objective PHP20: Protection of Existing Residential Amenity.

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

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

- On all developments with a unit per hectare net density greater than 50, the applicant must provide an assessment of how the density, scale, size and proposed building form does not represent over development of the site. The assessment must address how the transition from low density to a higher density scheme is achieved without it being overbearing, intrusive and without negatively impacting on the amenity value of existing dwellings particularly with regard to the proximity of the structures proposed. The assessment should demonstrate how the proposal respects the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring uses.

Policy Objective PHP27: Housing Mix encourages the provision of a wide variety of housing and apartment types, sizes and tenures.

Policy Objective PHP42: Building Design & Height: Encourage high quality design of all new development. Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5.

Policy Objective PHP44: Design Statements relate to the building height and overall design.

- 5.1.6. Chapter 8 relates to Green Infrastructure and Biodiversity and includes Policy Objective GIB24: Rivers and Waterways to maintain and protect the natural character and ecological value of the river and stream corridors. Chapter 9 relates to

Open Space, Parks and Recreation. Chapter 10 relates to Environmental Infrastructure and Flood Risk and includes Policy Objective EI5: River Basin Management Plans To ensure the delivery of the relevant policies and objectives of the River Basin Management Plan.

- 5.1.7. Chapter 12 Development Management contains urban design policies and principles for development including public realm design, building heights strategy, and car and cycle parking.

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

**Section 12.3.7.7 Infill**

Infill: In accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings. This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban ‘Garden City’ planned settings and estates that do not otherwise benefit from ACA status or similar. (Refer also to Section 12.3.7.5 corner/side garden sites for development parameters, Policy Objectives HER20 and HER21 in Chapter 11).

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

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

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

#### 5.1.8. Appendix 5 – Building Height Strategy

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

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

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

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

#### 5.1.9. Appendix 7: Sustainable Drainage Systems Measures in Section 7.1.3 sets out stormwater management policy and sets out the level of detail in respect of drainage and flood risk that should be submitted as part of planning applications.

Objective EI9: Drainage Impact Assessment - It is a Policy Objective to ensure that all new development proposals include a Drainage Impact Assessment that meets the requirements of the Council's Development Management Thresholds Information Document (include see Appendix 3) and the Stormwater Management Policy (See Appendix 7.1). The relevant threshold in Appendix 3 is residential development of one or more units.

### 5.2. Section 28 Ministerial Guidelines

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

5.2.1. Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (Compact Settlements Guidelines) outline that in city urban neighbourhoods it is a policy and objective of the Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin and Cork. The following Specific Planning Policy Requirements (SPPR) are relevant:

- SPPR 1 requires a separation distance of at least 16 metres between rear opposing windows above ground floor level. Separation distances below 16 metres may be considered where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.
- SPPR 2 sets out minimum private open space requirements for houses with a 3 bed house requiring a minimum of 40 sq.m. and a 4+bed house requiring a minimum of 50 sq.m.
- SPPR 3 requires that in city centres car-parking provision should be minimised, substantially reduced or wholly eliminated.
- SPPR 4 relates to cycle parking and storage and states that a general minimum standard of 1 cycle storage space per bedroom should be applied.

5.2.2. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (the 'Apartment Guidelines') set out design related criteria to achieve high quality apartment development. The Guidelines also address density and include with the definition of 'Intermediate Urban Locations' at section 2.4, sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided. These sites are stated as suitable for smaller-scale, higher density development that may wholly comprise apartments.

### **5.3. Natural Heritage Designations**

- 5.3.1. The subject site is not within or immediately adjacent to any designated or Natura 2000 sites. South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) are located approx. 3.3km to the northeast of the site. Dalkey Islands SPA (Site Code: 004172) and Rockabill to Dalkey Island SAC (Site Code: 003000) are located approximately 6km east of the site.

### **5.4. EIA Screening**

- 5.4.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Five no. third party appeals have been received from Lucinda Coen & Others, Theresa Murray & John Lynch, Dermot Golden, Jen Byrne, and Foxrock Golf Club. The main issues raised are summarised as follows:

Concerns relating to design and layout and resulting impacts on residential and visual amenities of the area:

- Impact on the amenity of the area including the Architectural Conservation Area, Protected Structures, Garden City layout, adjoining open space zoned lands, and specific objective relating to trees and woodland character.
- Fails to comply with the Development Plan, including density provisions, Section 12.3.1 relating to quality design including use of tree coverage, consideration of impact on adjoining properties and variety of dwelling types

and sizes, and proposed height contradicts the building height strategy objectives for Foxrock.

- The impacts of site coverage, design, form and scale of proposed dwellings on adjoining homes, including inadequate separation distances and visual impact, would be visually obtrusive from adjoining properties and impact privacy, result in overlooking and overshadowing, and would materially contravene the zoning objective
- The proposal constitutes overdevelopment and would devalue adjoining properties.
- The site is not adequately served by public transport.
- Revisions in response to FI and CFI fail to ameliorate impact on neighbouring properties and result in reduced area of public open space.
- Underlying rock should be addressed through an appropriate design response in terms of scale and site coverage.
- The proposed houses will be c. 5.37m above the ridge height of no. 11 The Birches (ridge of c. 7m) and will be overbearing and out of context as indicated on image submitted with the appeal and will result in a detrimental impact on existing residential amenities.
- If permitted appropriate conditions should be attached to reduce the height, revise the roof design, and require opaque windows, screen planting and amendments to external elevations to integrate with the receiving environment and suitable boundary treatments.
- The proposal has increased in height and reduced separation distances from a previously refused application wherein permission was refused for reasons relating to height and proximity to adjoining properties and resulting impacts on residential amenity.
- Proposed unit no.'s 16-18 will look directly into the front elevation of No. 10 The Birches (Weston). Boundary planting at this location cannot be relied upon for screening as it will be located within private rear gardens. Separation distances are inadequate along this boundary resulting in overbearing and overlooking into No. 10. Trees are deciduous on the boundary and cannot be

relied on for screening and retained trees are likely to be removed by future occupants thereby increasing overlooking and overbearing on no. 10. A photomontage report is attached to an appeal to illustrate the proposed houses adjoining the southern boundary and their appearance from no. 10.

- Concerns in relation to the clarity, accuracy and validity of the results contained in the Sunlight and Daylight Assessment.
- Inadequate private open space and lack of sunlight available to gardens will result in poor amenity for future occupants of proposed units contrary to the zoning objective.
- Failure to comply with Section 28 Guidelines including Compact Settlements Guidelines SPPR 1 relating to overlooking and SPPR 2 relating to private open space.
- The accuracy and validity of CGIs is questioned.

#### Conditions attached to permission

- Conditions 2 and 3 leave matters undecided in relation to house nos. 13 and 16 and management arrangements relating to communal open space. These are material matters which the third parties must be able to lodge observations on.

#### Impact on Trees and Biodiversity

- Lack of detail in relation to impact on trees and the extent and variety of trees on the site have not been accurately represented. Concerns in relation to extent of tree felling and resulting impacts on wildlife and residential amenity. Proposal includes felling of trees outside the site boundary.
- Concerns in relation to proposed substitute tree planting on a narrow corridor and in private gardens.
- Requirements of the Council to protect trees within the public realm may not be implemented.
- The site hosts a variety of flora and fauna including bats and long-eared owls. Destruction of habitats and introduction of strong outdoor lighting would have a seriously damaging impact on bats and wildlife.



- The report of the local authority parks department which refers to the loss of trees was dismissed, the Board is invited to consider the Parks Department Report in their assessment.
- Mitigation measures relating to habitat loss are inadequate
- Proposal fails to consider Objective CA18, Objective GIB24, Objective EI6 and Section 12.1 of the Development Plan.

#### Traffic

- Inadequate car parking and inadequate access for bin trucks and emergency vehicles.
- Concerns relating to traffic safety issues identified in Quality Audit including width of access road and concerns relating to AutoTracking, width of visitor car parking spaces and incorrect location of pedestrian crossing.
- Proposal will result in parking on surrounding streets.

#### Appropriate Assessment

- AA conclusion that there would not be any significant adverse effects on any Natura 2000 sites was misdirected. The site is covered by a canopy of trees which deserves to form a central part of the assessment.

#### Surface Water & Flooding

- Concerns relating to surface water, including that underlying granite is close to the surface with a shallow cover of soil presenting difficulties for surface water run-off and increasing the burden on the existing surface water disposal system.
- Existing 300mm pipe does not have capacity to take the proposed 1 in 100 year storm event. The existing site provides natural storm water attenuation. There is potential significant fluvial flooding risk to proposed and existing properties as the potential natural attenuation volume of the site is significant.
- Proposed surface water drainage attenuation was not undertaken based on current requirements and proposed attenuation storage volume is undersized leading to risk of flooding on and off site.

- Modelling of the existing ditch shows disparity with the existing ditch geometry and conditions on the site and modelling information presented shows no consideration of surface water drainage runoff from the golf course or from catchment downstream of the site and therefore the modelling misrepresents the impact of the ditch on the site and on sites downstream.
- Concerns in relation to Microdrainage model results which indicate that the surface water drainage attenuation provision has been significantly undersized and is not in accordance with Development Plan Appendix 7. The proposed surface water attenuation tank has not been sized as per the development plan and appendix 7 requirements. Condition 5(b) lacks clarity.
- The interaction between the identified catchment 1 and lands under the control of the golf club should be confirmed. As the golf club lands have not been included in the modelling there are concerns that the modelled flow is greatly under projected. The golf club lands directly discharge into the existing ditch given the topography of terrain.
- The applicants model information does not include correct catchment areas, does not reflect actual geometry of the culverted section of the existing ditch and does not make proper provision for climate change effects. The modelling is flawed and it is not possible to confirm that there is no risk to the residents of the proposed development and existing development in the vicinity.
- A significant portion of the site appears to act as natural storm water attenuation storage and there is significant pluvial flooding risk as significant on-site natural storm water attenuation volumes will be lost if the development is permitted.
- Concerns in relation to surface water proposals and that the use of the stream increases the risk of flooding to the golf course, the site, and upstream houses. The stream is excluded from the areas to be taken in charge and no details of how the stream will be maintained are given.
- Surface Water management calculations do not take into account the importance of the stream for the drainage of adjoining lands. Trial pit results show solid rock with water ingress above. No soakaway or permeability tests were submitted to determine the capacity of the ground for natural filtration.

The stream provides the main drainage relief for the site with the rock being impermeable and it is concluded that any water that lands on the catchment will find its way to the stream and should be allowed for.

- The site appears to be acting as a natural flood plain with water appearing to lodge on the ground in periods of high rainfall. The development of the lands and raising the ground on the appeal site will displace naturally occurring water and its dispersion to other areas, including Foxrock Golf Course and houses south of the stream.
- There is considerable flow from Foxrock Golf Course into the catchment of the stream due to rock forming a natural barrier to infiltration.
- A comprehensive Flood Risk Assessment is required. There is a history of flooding in the area and part of Foxrock Golf Course is a natural flood plain.
- The stream should be adequately protected, cleaned and maintained and safety measures provided.
- The rights of adjoining owners should not be impinged upon by allowing developments to take place which do not cater for drainage and attenuation storage.

#### Other Issues

- There are inconsistencies in the site boundary with implications for density calculations and other considerations.
- Construction working hours should be reduced by condition.
- No letter of consent has been provided in relation to ownership of portions of Torquay Road and The Birches which are not in the Council's ownership. The application should be invalidated.
- Drawings are inaccurate, the site section indicates the height of No. 11 The Birches at 10m above datum, the actual height is c. 7m above datum.
- Previous permissions on site were refused and reduced in extent to take account of flooding and integration with area
- A section 48 contribution in lieu of open space is inappropriate for the site.
- No pressure or flow tests have been reported from the proposed water supply.

## 6.2. Applicant Response

The applicant has responded to the issues raised by the appellants. The responses can be summarised as follows:

### Design & Layout

- The assessment by the Planning Officer in DLR considered the proposal acceptable with regard to principle of demolition, density, separation distances, height, private open space, tree removal and concluded the proposal would not adversely impact residential amenity or detract from the character of the area and would be in accordance with the development plan.
- No. 16 will be located c.18m from No. 11 The Birches. The gables of houses 15 and 16 will not give rise to overlooking as windows serve stair cores and bathrooms, a condition requiring opaque glazing can be attached to provide additional privacy.
- Terraces at upper floors are located on the front elevations facing inwards thereby protecting third parties from residential amenity impacts.
- The proposal complies with Policy Objective BHS 3 'Building Height in Residual Suburban Areas' which promotes a building height of 3 to 4 storeys. The proposal is at the lower end of the height range for sites in residual suburban areas.
- The proposal was amended at further information stage to improve the relationship with neighbouring properties, including omission of 2 apartment/duplex units and increased setback of houses no. 16-22.
- The proposal complies with Compact Settlements Guidelines in relation to separation distances. In relation to No. 10 The Birches, clear glazed windows are located between 18-22m from this dwelling and opaque windows are provided where houses are between 8 – 11m from No. 10.
- No. 12 The Birches will overlook proposed open space and no. 13 The Birches has a separation distance in excess of 20 metres. No. 14 & No. 15 are in excess of 30m from proposed houses 13-15 with proposed upper floor glazing to these houses located 11m from the party boundary.

- The proposed Net density of 38.1 units per hectare (22 units on a Net site area of 0.577ha) is appropriate having regard to the development plan which seeks a minimum density of 35 units per hectare.
- The protection of residential amenity is not reliant on planting with generous separation distances provided.
- Drawings have been revised to show roof level of No. 11 The Birches at 84.460 as stated in the appeal instead of 87.320 as shown on drawings. This revision does not have any material impact on the decision.
- Drawings are provided with the appeal response to illustrate private open space associated with units 13-22 and rear elevations of units 13-16 as required by Condition 2.
- The Daylight and Sunlight Assessment Report assesses the proposal against the BRE Guidelines and finds the performance of the scheme very favourable.
- The CGIs submitted with the planning application are accurate. The accuracy of the CGIs submitted with the third party appeal is unknown and they are unfinished with no materials and therefore do not give a fair or true representation of the impact of the scheme.

#### Trees & Biodiversity

- In relation to removal of trees and vegetation, the site contains invasive and non-native species and is overgrown due to natural regeneration. In order to follow planning guidance and intensify the sites use, the proposal achieves the current density while still maintaining some trees and supplementing with proposed planting.
- Bat surveys carried out identified low levels of bat activity at the site. No roosts were discovered and the habitat currently on site does not provide significant habitat for foraging, commuting or roosting bats.
- The Appropriate Assessment screening concludes that there will be no significant adverse effects on any Natura 2000 site as a result of the proposed development. An Ecological Impact Assessment submitted with the planning application finds that while the woodland on site is of high local importance, its

value is diminished by dominance of non-native species. Retained trees and proposed landscaping will provide habitat for species.

## Transport

- Car parking proposed complies with development plan standards and New Apartments Guidelines standards for apartments in less accessible locations.
- Problems identified in the Stage 1 Quality Audit were addressed and DLR Transportation Section were satisfied that the further information response in this regard was acceptable. The internal streets are designed in accordance with DMURS with the surface proposed to act as a shared space and has been designed to ensure the safety of road users.
- Visitor car parking is provided in accordance with development plan standards.
- The letter of consent relating to Torquay Road and The Birches includes a standard caveat and has been accepted in relation to other development in the area and provides the appropriate and necessary consent

## Surface Water Drainage

- Surface Water Drainage will be attenuated on site and collected and piped to an attenuation tank along with SuDS elements provided with underdrains to ensure excess runoff enters the piped network and outflow controlled to greenfield rates which is what naturally drains into the stream at present. There will be no additional flow into the stream and no additional risk of flooding due to the proposal. By controlling the discharge there is betterment of the current scenario. The proposed design accounts for both 20% climate change and 10% urban creep ensuring the site is mitigated against future flood risk.
- Surface Water drainage from surrounding properties drains to a dedicated surface water network which discharges into a drainage ditch to the northeast of the appeal site. It would be expected that surface water in the surrounding area is managed through connections to the surface water network and is not reliant on the subject site.

- The proposal does not have any effect on the cross section or the banks of the ditch and will not affect its ability to convey surface water discharge into it. The modelling demonstrates that the proposed development would have an insignificant impact on the overall hydrology of the ditch. Potential blockages of the 300mm culvert could occur in the existing scenario. There is no evidence that the site provides attenuation as stated in the appeal. The site is not levelled or landscaped and will have natural ditches which would accumulate water after heavy rainfall which would be accounted for in the greenfield runoff rates calculated for the site.
- The drainage ditch is not a watercourse and is only affected by pluvial runoff which is calculated with rainfall intensities over the catchment and adjusted for climate change.
- Controlling discharge from the site will improve the current scenario and incorporation of climate change and urban creep ensures the site is mitigated against future flood risk.
- The Golf Course has a low point along the drainage ditch which is lower than the top of the bank along the drainage ditch, the ground falls from north to south, overland drainage from east to west would follow the natural topography of the ground running alongside the drainage ditch.
- A scenario was modelled to show the effects of a potential unknown catchment contribution from the golf course to the ditch which shows that the banks of the ditch will not be breached.
- Surface water drainage calculations are clarified in relation to climate change and urban creep and that all modifications to the model were included and run to produce the results included in the CFI response.

### **6.3. Planning Authority Response**

A response from the PA states no new issues are raised which would justify a change of attitude to the proposed development.

## 6.4. Observations

Observations have been received from Alan McGinley, Michelle Nolan, P & E Mc Gorrian and Paul Fallon. The issues raised can be summarised as follows:

### Residential and Visual Amenity

- Overlooking, overshadowing and overbearing on adjacent properties as a result of height and proximity to boundary.
- Impacts as a result of light, noise, pollution and smells.
- Concerns in relation to potential future attic conversions and ground floor extensions.
- Inconsistent with character of the area, excessive density and detracts from residential amenity and is therefore contrary to the zoning objective.
- Negative impact on amenity of area and property values.

### Traffic

- Concerns in relation to risk of fire from EV parking spaces.
- Construction and operational traffic impacts.
- Access constraints for service vehicles
- Inadequate parking

### Trees and Biodiversity

- Concerns relating to loss of trees and vegetation.
- Omission of no 13, 14 & 15 would allow for retention of trees at this location.
- Proposal includes retention of trees located in adjoining property.

### Surface Water & Flooding

- Concerns in relation to surface water disposal and flood risk.

### Other Issues

- Concerns raised by the PA were not addressed
- Inclusion of conditions to address matters denies public the opportunity to make observations



## 6.5. Further Responses

Responses received in relation to cross circulation of third party appeals reiterate the third party grounds of appeal and include the following additional points:

- Concerns in relation to the extent of the error relating to the height of No. 11 The Birches on drawings acknowledged by the applicant which is a material deviation from the original application permitted by DLR. Concerns in relation to impacts of the increased height including visual impact, overshadowing and overbearing and concern in relation to the accuracy of measurements.
- Proposed house no. 16 is 5.371m higher than the ridge of No.11 and the proposal does not comply with the development plan which requires infill development to respect the height and massing of existing residential units.
- Concern in relation to justification for the development under Compact Settlements Guidelines which were not in place at the time the application was made.
- Concerns relating to density, height, removal of trees, and sunlight and daylight analysis, have not been addressed.
- Concern in relation to reliance on opaque windows to address overlooking arising from inadequate separation distances.
- Concerns that the proposal is relying on neighbouring properties to mitigate the impact on their own properties through landscaping.
- The proposal will be closer to No. 10 than the stated 13m separation with distances as close as 5.4m at ground level and 8m in some cases.
- Drawings lack clarity in relation to separation distances from no. 10 The Birches.
- The height and location of no. 10 The Birches is queried, it may be closer to the boundary and smaller than indicated on drawings.
- Traffic safety concerns have not been addressed.
- The amount of runoff entering the drain is significantly undercalculated, a statement is attached from a long term resident in this regard.

- The stated 2.6ha measurement for the ditch catchment area adjoining the golf course is incorrect, the area is considered to cover significantly more than 2.6ha.
- Concerns in relation to validity of the application as a result of inaccurate drawings.
- Accuracy of applicants CGI images is questioned.
- Having regard to the identified errors, various amendments to the scheme, and to the reliance on revised guidelines, it is difficult to fully understand the scheme and its impacts, and the application should be resubmitted for consideration to address errors and inconsistencies.

## 7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issue in this appeal are as follows:

- Principle of Development
- Design and Layout
- Impacts on residential & visual amenities
- Transportation
- Trees & Biodiversity
- Surface Water Drainage & Flooding
- Other Matters

This assessment relates to the development as permitted by the PA which provides for a total of 22 residential units as shown on drawings submitted with the response to further information and clarification of further information.

### 7.2. **Principle of Development**

7.2.1. It is proposed to construct 22 residential units comprising 6 no. 2 bed apartments, 6 no. 3 bed duplex units and 10 no. 4 bed houses served by a new shared access road and entrance to the existing cul de sac road serving The Birches. The site is

located on lands with the zoning objective A “to provide residential development and improve residential amenity while protecting the existing residential amenities’ of the Dun-Laoghaire Rathdown County Development Plan 2022-2028. Residential use is permitted in principle on this zoning objective.

- 7.2.2. The Development Plan includes objectives PHP18 to increase housing supply by promoting compact growth through intensifying residential use on infill sites and PHP19 to densify existing built up areas through small scale infill. The proposed development provides 22 units on a site area of 0.715ha. I note this area includes the access road at the Birches and a riparian setback along the eastern boundary adjoining the golf course. The developable site area is stated to be 0.577 ha which results in a proposed net density of 38 units per hectare.
- 7.2.3. The Compact Settlement Guidelines aim to promote more compact development. Policy and objective 3.1 states that it is a policy and objective of these Guidelines that the recommended density ranges set out in Section 3.3 of the Guidelines are applied in the consideration of individual planning applications and refined at a local level where appropriate. The site is located within an area defined in the Guidelines as City - Suburban/Urban Extension. Table 3.1 of the Compact Settlements Guidelines states that residential densities in the range 40 dph to 80 dph (net) shall generally be applied at suburban and urban extension locations in Dublin.
- 7.2.4. Development Plan policy encourages increased density in existing settlements through a range of measures, including infill development in existing built up areas subject to protection of existing residential amenities. No maximum density is set out in the Development Plan however Section 4.3.1 states that as a general rule the minimum default density for new residential developments in the County shall be 35 units per hectare (net density)
- 7.2.5. The site is located approximately 500 metres north-east of Foxrock Village, 1km from Leopardstown Road, 1.5km from the N11 road and in excess of 1km from a Core Bus Corridor. I consider the proposed density of 38 units per hectare, whilst marginally below the density range provided for such locations in the Compact Settlements Guidelines, is acceptable for this infill site and is appropriate having regard to proximity and accessibility considerations and is in accordance with Development Plan Section 4.3.1 and Policy Objective’s PHP18 and PHP19.

- 7.2.6. I note concerns raised in appeals relating to the density which is considered inappropriate and in relation to inconsistencies in the site boundary measurement and implications for density calculations. I have assessed the proposal based on the developable site area and resulting net density and I am satisfied that the density proposed is appropriate for the site.
- 7.2.7. In conclusion, I am satisfied that the principle of development to demolish a dwelling and intensify residential use and increase density on this site is acceptable in principle, subject to the detailed considerations outlined below.

### **7.3. Design and Layout**

- 7.3.1. Concerns are raised in relation to the design and layout of the proposed development, including its visual impact on the area, impact on Foxrock Architectural Conservation Area (ACA) and Foxrock's Garden City layout, non-compliance with Development Plan Section 12.3.1 relating to design criteria, and inadequate open space to serve the development.
- 7.3.2. The proposal provides for a three-storey residential development with ridge heights of 13.036m. Section 12.3.7.7 of the Development Plan states infill development shall respect the height and massing of existing residential units and retain the physical character of the area, particularly areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from ACA status or similar. I note that the appeal site is located outside of the Foxrock ACA and at a minimum distance of approximately 140m from the ACA boundary.
- 7.3.3. Existing building heights surrounding the appeal site are comprised largely of detached two storey dwellings. The definition of increased height in the Development Plan is defined as 'buildings taller than prevailing building height in the surrounding area'. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area and as such I consider the development is not a 'taller building' as defined in the development plan.
- 7.3.4. Having regard to the height and scale of development proposed I do not consider the proposal will negatively impact on the visual amenities of the area, including its built character and the Garden Suburb layout referred to in the Foxrock ACA Character Appraisal Report. I consider the height proposed is acceptable at this location having

regard to the pattern of development in the vicinity of the site and to the proximity to Foxrock Village and complies with Policy Objective BHS 3 Building Height in Residual Suburban Areas which seeks to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County.

- 7.3.5. Section 12.3.1.1 of the Development Plan outlines Design Criteria relating to quality design to achieve high standards of design and layout to create liveable neighbourhoods. The proposal as permitted by the PA provides for 22 residential units fronting on to an access road and central area of public open space. Finishes to elevations include pale brick finish with timber/aluminium privacy screens, glass balustrading and rendered plinth. I note the proposal seeks to remove trees and dense shrubs that currently exist within the site (discussed further in Section 7.6 below). A detailed landscaping proposal has been included in the response to further information (drawing by Bernard Seymour dated 07<sup>th</sup> March 2024) which provides for planting, paving and street furniture including details of trees to be retained and planting of mature trees and shrubs. Having reviewed the criteria contained in Section 12.3.1.1 and having reviewed the drawings and details submitted and inspected the site and surrounding area, I am satisfied that the proposal complies with the criteria in Section 12.3.1.1, including the quality of layout and elevations which provide for a high quality residential environment for future occupants whilst providing for an appropriate density at this location.
- 7.3.6. In relation to concerns regarding the provision of public open space, I note that the Development Plan includes a requirement in Table 12.8 of 15% of the site area and that following a request for FI the area of public open space was considered a shortfall and the PA recommended a section 48 contribution should be applied in lieu. I note that the area of public open space measures 564 sq.m., which, based on a net site area of 0.571ha, is below the recommended standard in the Development Plan. However, I am satisfied that the area of public open space, which is centrally located, overlooked by a large number of dwellings within the scheme and which is proposed to be landscaped to a high standard, is acceptable. I do not agree with appellants that a Section 48 contribution in lieu of a shortfall of open space is inappropriate. Having regard to the relatively restricted site size and national policy in relation to minimum density for such sites I consider it reasonable to seek a Section

48 contribution in lieu of the shortfall in open space as provided for in the Development Plan in Section 12.8.3.1 and Section 6 of the DLR Development Contribution Scheme.

- 7.3.7. In relation to concerns regarding proposed private open space, I note that apartments are provided with a terrace measuring 9 sq.m. and duplexes are provided with front and rear terraces with a total area of 26.7sq.m. A landscaped area of communal open space measuring 268 sq.m. is proposed in the northeast of the site to serve the apartments and duplexes. The proposed private and communal amenity areas are in excess of the requirements set out in Table 12.9 of the Development Plan and in Appendix 1 of the Planning Design Standards for Apartment Guidelines and as such is acceptable.
- 7.3.8. Private open space to serve dwellings is proposed by way of a combination of rear gardens and terraces on the front elevation at first and second floor. The Development Plan sets out private open space requirements for houses in Section 12.8.3.3 wherein Table 12.10 states the minimum requirement of private open space to be located behind the front building for a 4 bed dwelling is 75 sq.m. This section provides that a relaxation in the quantum of private open space may be considered and that open space to the front and side of the site may also be considered acceptable. Compact Settlements Guidelines require a minimum private open space area of 50 sq.m. for 4 bed houses. Units 13, 14, and 15 have shallow rear gardens with a minimum depth of approx. 5.4m increasing to in excess of 8m and width in excess of 8m providing rear gardens in excess of 54 sq.m. along with front facing terraces totalling 23.4 sq.m. Units 16 to 22 have a similar arrangement with larger rear gardens of various sizes as well as front facing terraces totalling 23.4 sq.m. I note that following receipt of FI the rear gardens to units 16 to 22 were increased in size from the original application. I note the concerns raised by third parties relating to non-compliance with minimum private open space requirements and I note that the Housing Quality Assessment submitted with the planning application was not updated to reflect the FI amendments relating to increased areas of private open space. The first party, in response to the appeal, submitted drawings which clarify the areas of private open space available for each dwelling and I am satisfied that the proposed areas of private open space are in excess of the minimum requirement of 40 sq.m. for a 4 bedroom house as set out in SPPR 2 of Compact Settlements

Guidelines. I am also satisfied that the proposal is acceptable having regard to the Development Plan provisions outlined above which allow for a reduction in the area of private open space below the minimum requirements set out in Table 12.10.

- 7.3.9. I am satisfied that the drawings submitted by the first party in response to the appeal address the requirements of Condition 2 of the PA decision requiring submission of plan drawings for each of the 10 No. proposed houses that accurately reflect their respective areas of private open space to the rear. Having regard to my assessment above I am satisfied that the areas of private open space are appropriate and having reviewed the drawings submitted with the appeal (dated 13<sup>th</sup> August 2024) no amendment to the permitted layout arises.
- 7.3.10. The Compact Settlements Guidelines state that a more graduated and flexible approach to private open space for houses that supports the development of compact housing and takes account of the value of well-designed private and semi-private open space should be applied. I consider the provision of rear gardens and front facing terraces is acceptable in the interests of supporting compact development on the site. Having regard to the above I consider the proposed private amenity space complies with the Apartment Guidelines and Compact Settlements Guidelines and with the Development Plan and will provide for an appropriate standard of amenity for future occupants and is acceptable.
- 7.3.11. In relation to concerns regarding lack of sunlight to gardens serving proposed dwellings, I note that the majority of houses have south facing rear gardens. Units 13 – 15 have shallow north facing rear gardens, however I note these units also have generous sized south facing terraces on front elevations and I am satisfied that all residential units will be provided with private open space which achieves the BRE recommended standard of two hours sunlight on 21<sup>st</sup> March (BRE 'Site Layout Planning for Daylight and Sunlight: A guide to good practice' 2022).
- 7.3.12. I note concerns raised by third parties that the proposal is justified based on the Compact Settlements which were not in place at the time of the application. The Compact Settlements were published in January 2024 and were in effect at the time of the PA's decision. I consider it appropriate that the development be assessed by the Commission based on the provisions of these guidelines.

7.3.13. I consider the proposal provides for a high-quality design, that the height and mix of house types is appropriate for this location, and that the design is visually acceptable and will not detract from the character of the area or negatively impact on the visual amenities of the area. I am satisfied that the layout, scale, massing and height of the proposed development is acceptable and is in accordance with the provisions of the Development Plan in relation to infill development and the 'A' zoning objective. Whilst the development will alter the appearance of the site from the surrounding area, I do not consider it will give rise to a negative impact on the visual amenities of the area.

#### **7.4. Impacts on Residential & Visual Amenities**

7.4.1. The appeals and observations raise concerns in relation to the impact of the proposed development on adjoining properties as a result of the proposed height and scale of development and its proximity to shared boundaries, overlooking, overbearing and impacts as a result of overshadowing and loss of daylight. Appellants consider that the proposal is contrary to Compact Settlements Guidelines, Development Plan standards and materially contravenes the 'A' zoning objective as a result of impacts on the residential amenity of existing properties.

##### Height, Scale and Proximity to Site Boundaries

7.4.2. The appeal site is surrounded by detached residential properties along its northwest, west and southern boundaries with Foxrock golf course adjoining the eastern boundary. A terrace of 3 no. three storey houses (proposed units 13, 14 and 15) is proposed with rear elevations facing the shared boundary with No's 13, 14 and 15 The Birches and with a minimum set back of 5.4m from the shared boundary. Proposed unit No. 15 will be located 23.1m from the rear elevation of No. 13 The Birches, proposed unit 14 will be 36.9m from the rear elevation of No. 14 The Birches and proposed unit No. 13 will be 36.8m from the rear elevation of No. 15 The Birches. The proposed access road will adjoin the eastern boundary of No. 15 The Birches.

7.4.3. The rear elevation of No. 12 The Birches is located between 12m and 21m from the site boundary, beyond which is an area of public open space and the side elevation of proposed unit No. 15. The rear elevation of No. 11 The Birches faces the side elevation of proposed three storey dwelling No. 16 at a minimum distance of 18.5m and with the side elevation of unit 16 set back 3.5m from the shared site boundary.



- 7.4.4. A terrace of three storey dwellings comprising units 16 to 22 are proposed along the southern boundary with the rear elevations of these properties facing the side boundary of No. 10 The Birches (also referred to as 'Weston'). The rear elevation of proposed units 16 to 19 will face the front garden of No. 10 at a minimum separation distance of 5.1m from the shared boundary. Minimum separation distances in excess of 13m are proposed from the rear elevation of proposed units 20 and 21 to the side elevation of No. 10. Proposed units 21 and 22 will face the rear garden of No. 10 at a minimum separation distance of 8.3m from the shared boundary. Windows on recessed sections of the upper floors of rear elevations where clear glazing is proposed are located in excess of 18m from the side elevation of No. 10 (proposed units 19 and 20). Windows at upper floors on the rear façade of all units include opaque glazing where reduced separation distance from the site boundary is proposed, including a separation distance of 5.5m from proposed unit 19.
- 7.4.5. Concerns are raised in relation to the impact of proposed units 15 and 16 having regard to the scale of the side elevation which will face dwellings to the west in The Birches. The width of proposed units No. 15 and 16 is 14.95m with an eaves height of 9.15m and a ridge height of 13.036m. Site section drawings indicate the ridge level of adjoining properties, with No. 12 The Birches 4.7m below the proposed ridge level, No. 15 The Birches 3m below the proposed ridge level and No. 10 The Birches 3.2m below the proposed ridge level. The ridge height of No. 11 The Birches is shown on planning application drawings at +87.320 which is 2.5m below the adjoining proposed ridge level of +89.031. Appeals raise concerns that the ridge level of No. 11 The Birches is inaccurate. In response to the appeal the applicant has submitted revised drawings showing No. 11 The Birches with a ridge level of 84.460 as stated by appellants which is 5.371m below the ridge level of proposed unit No. 16. A minimum separation distance of 18.5m increasing to a distance of 26m is proposed between the rear elevation of No. 11 and proposed unit No. 16. Noting the revised drawings relating to the ridge height of No. 11 submitted in response to the appeal, and having regard to the scale of No. 16 and separation distance proposed, I am satisfied that the scale of the proposal is appropriate. I do not consider the amendment to drawings to reflect the stated height of No. 11 The Birches results in a material deviation from the planning application as raised by third parties.

- 7.4.6. Having regard to the scale of the proposed dwellings and the setback from existing dwellings in The Birches as outlined above, I do not consider the proposal will give rise to negative impacts on the visual amenity of existing properties or give rise to unacceptable overbearing impacts. I note that upper floor windows on the side elevations of units 15 and 16 serve an ensuite and stairs. I am therefore satisfied that no overlooking will occur from these proposed units.
- 7.4.7. Compact Settlements Guidelines SPPR 1 requires a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses above ground floor level. Separation distances below 16 metres may be considered where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces. Section 12.8.7.1 of the Development Plan requires a minimum separation distance of 22 meters between opposing rear first floor windows, however this section states that separation distances for new developments may be reduced where the amenities and privacy of adjacent occupiers is preserved. I note the location of windows which face the side elevation of No. 10 The Birches include windows with opaque glazing or windows at a distance in excess of 16m at upper floors and that proposed side elevations do not contain habitable windows facing existing rear elevations at No. 11 and No. 13. I also note distances proposed between rear opposing units at No. 14 and No. 15 The Birches as outlined above are substantially in excess of 16m. Having regard to the foregoing I am satisfied that the proposal complies with SPPR1 of the Compact Settlements Guidelines and will not give rise to undue overlooking. In relation to concerns that unit no.'s 16-18 will overlook the front elevation of Weston, I consider separation distances are acceptable having regard to the separation distances from the shared boundary and noting that any overlooking is not between directly opposing windows and that an element of overlooking is expected on to front elevations and front gardens. I am satisfied that first floor windows serving proposed units 21 and 22 are setback in excess of 15m from the shared boundary with No. 10 and will not give rise to unacceptable overlooking impacts to the rear private amenity space of No. 10.
- 7.4.8. The PA considered that the amendments following FI, which extend gardens of houses adjoining the southern boundary by 1 m resulting in increased separation distances from the side elevation of No. 10 to the south, coupled with the proposed

boundary treatments and associated planting, resulted in the proposal being deemed compliant with the Development Plan, consistent with the Compact Settlement Guidelines and that concerns with regard to overlooking have been addressed. I agree with the PA Planning Officer's assessment, and I am satisfied that the proposed development would be in accordance with the requirements of SPPR1 of the Compact Settlements Guidelines and the Development Plan in relation to separation distances and would not result in an unacceptable impact on neighbouring occupiers in respect of overlooking or overbearance.

- 7.4.9. I note concerns relating to reliance on boundary planting to provide screening between proposed dwellings and No. 10 The Birches. Having regard to the separation distances proposed I do not have concerns that potential future removal of boundary planting would give rise to unacceptable impacts on adjacent properties.
- 7.4.10. In relation to the residential amenity of future occupants I note that obscured glazing is provided in a narrow window serving bedrooms at first floor and second floor. These bedrooms are also provided with a second, larger window with clear glazing and as such I am satisfied that the amenity for future occupants of these rooms is not compromised by the use of obscured glazing.
- 7.4.11. Concerns are raised that the proposal will give rise to residential amenity impacts as a result of light, noise, pollution and smells. Having regard to the existing pattern of development and residential use surrounding the appeal site, and to the residential use proposed, I do not consider the proposal will give rise to unacceptable impacts in this regard.
- 7.4.12. I note the concerns raised in the PA Parks Department report which states that the proposal is considered to constitute overdevelopment. Having regard to my assessment above and to the density proposed, I am satisfied that the proposal will not result in overdevelopment of this site.
- 7.4.13. In relation to concerns regarding the height of the roof pitch and potential use of attic space for an additional floor level, as noted above I do not have concerns in relation to the roof pitch in terms of visual impact. I consider any potential future use of the roof space is not relevant to the assessment of this appeal. In relation to concerns regarding potential future rear extensions, I consider it appropriate that, if the Commission decides to grant permission, a condition should be attached prohibiting

exempted development under Class 1 and Class 3 without a prior grant of permission having regard to the limited depth of rear gardens.

*Daylight and Sunlight*

- 7.4.14. In terms of potential overshadowing and loss of daylight, the FI response included a Daylight and Sunlight Assessment Report which includes an assessment of potential effect on surrounding properties at No.'s 10 to 15 The Birches in accordance with BRE 'Site Layout Planning for Daylight and Sunlight: A guide to good practice' 2022.
- 7.4.15. The report assesses the effect on sunlight to relevant surrounding properties measuring the effect to the annual and winter probable sunlight hours (APSH/WPSH) of windows and the effect of sun on the ground (SOG). The report finds two minor instances of under performance on VSC and SOG which have been justified. The report finds in relation to VSC that 98% of assessed windows meet the BRE criteria with 1 window with a 'moderate adverse' level of effect located on the ground floor of 10 The Birches which is assumed to be a non-habitable room (due to its location next to side entry door and presence of piping adjacent to the window). The PA agreed that the moderate adverse impact appears to be to a non-habitable room and if the window does serve a habitable room, having regard to the magnitude of impact being moderate, that the proposal would not materially impact the residential amenity of the adjoining property at No. 10.
- 7.4.16. A Sun on Ground (SOG) study of sunlight to proposed public amenity spaces finds that in the evergreen only scenario, amenity areas meet BRE guidelines, however when deciduous trees are included, the public open space did not meet the criteria. The report notes that this is acceptable noting that deciduous trees will only cast shadows during periods of the year when such shading is most welcome.
- 7.4.17. The PA was satisfied that the applicant had successfully addressed matters relating to sunlight and daylight in the FI response.
- 7.4.18. In relation to appellants concerns regarding overshadowing on No. 10 The Birches, having regard to the orientation of No. 10 to the south of the proposed development and to the separation distance from the site boundary, I am satisfied that any overshadowing would not have a material impact on the private amenity space serving this property. In relation to loss of daylight to a window on the side elevation, I note that the appellant at No. 10 has not clarified the use of the room impacted and

I agree with the PA assessment that this room is likely not a habitable room. As such I am satisfied that the proposal is unlikely to result in a material impact on the residential amenity of No. 10 as a result of loss of daylight and overshadowing.

7.4.19. I have reviewed the Sunlight and Daylight Assessment and I note the siting and orientation of the proposed development relative to existing properties with proposed dwellings located to the north and east of existing properties. I also note the separation distances proposed and three storey scale and I concur with the PA finding that the proposed development is acceptable with regard to daylight, sunlight and overshadowing impacts. I am satisfied that adjacent dwellings and amenity spaces will not be adversely affected by the proposal in terms of a loss of daylight or sunlight.

#### Impact on Visual Amenities

7.4.20. CGI views of the proposed development were submitted with the planning application which represent the main views towards the site from the east/west with additional photomontages submitted in response to FI showing the proposal when viewed from the front garden of No. 10 The Birches. Having reviewed the details submitted, including the methodology employed in carrying out the CGIs, I am satisfied that the CGI views provide for a true representation of the proposed development. I note the photomontages submitted on behalf of an appellant to illustrate the proposed houses adjoining the southern boundary and their appearance from no. 10 The Birches. I note the first party response in this regard which states that the photomontages are unfinished and may not give a true representation of the scheme. As outlined in my assessment above, I am satisfied that the scale and separation distances are appropriate and will not result in an unacceptable visual impact on existing established properties in the vicinity.

7.4.21. I note the request in appeals and observations for a revised roof design. Having regard to my findings that the design and scale is acceptable with regard to visual and residential amenity impacts, I do not consider it necessary to amend the proposed pitch roof to an alternative design.

#### Conclusion

7.4.22. I am satisfied that the proposal complies with the zoning objective for the site, does not negatively impact on the amenities of adjoining properties and will provide for an

appropriate level of amenity for future occupants. Furthermore, I am satisfied that the proposal complies with Policy Objectives PHP18, PHP19 and PHP20 of the Development Plan which seek to increase housing supply whilst ensuring a balance with protection of existing amenities.

## **7.5. Transportation**

- 7.5.1. The appeals raise concerns that inadequate car parking is proposed and that the development will result in parking on surrounding streets. The permitted development proposes a total of 36 car parking spaces which comprises 2 spaces per house, 1 space each per apartment/duplex, 3 visitor car parking spaces, and 1 car club space as well as 1 motorcycle space and 46 bicycle parking spaces. I note that the rate of car parking is below the standard set out in Table 12.5 in the Development Plan wherein the site is within car parking zone 3 which has a car parking requirement of 1 space per 2 bedroom apartment, 2 spaces per 3+ bedroom apartment/house plus 1 in 10 visitor parking for apartments in this zone. Based on these requirements the Development Plan car parking requirement would be a total of 40 spaces (38 spaces to serve residential units plus 2 visitor spaces).
- 7.5.2. Section 12.4.5.1 (iii) of the Development Plan states that 'within parking zone 3 maximum standards shall apply to uses other than residential where the parking standard shall apply. In zone 3 additional parking shall be provided for visitors in residential schemes at a rate of 1 per 10. In some instances, in zone 3 reduced provision may be acceptable dependent on the criteria set out in Section 12.4.5.2 (i) below with particular regard to infill/brownfield developments in neighbourhood or district centres'. Section 12.4.5.2 states that in all instances, where a deviation from the maximum or standard specified in Table 12.5 is being proposed, the level of parking permitted and the acceptability of proposals, will be decided at the discretion of the Planning Authority, having regard to criteria as set out in subsection (i) of Section 12.4.5.2. Criteria include proximity to public transport services, walking and cycling accessibility/permeability, and the range of services available in the area.
- 7.5.3. The Apartment Guidelines state that as a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required. SPPR 3 of the Compact Settlements

Guidelines states that it is a specific planning policy requirement that in intermediate locations the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling which includes provision for visitor parking. I am satisfied that the proposed car parking is below the maximum rate as required by SPPR 3. I note that following submission of further information the PA Transportation Section was satisfied with the extent of car parking proposed in considering the application. I consider the proposal for 36 car parking spaces to serve the development complies with the requirements in the Development Plan relating to car parking, including Table 12.5 and Section 12.4.5.2 and is acceptable at this location. I consider any issues relating to unauthorised parking on surrounding streets are not a matter for the Commission.

- 7.5.4. In relation to concerns regarding access for bin trucks and emergency vehicles, a Vehicle Tracking Drawing submitted with the application demonstrates vehicle tracking for a pumping appliance and refuse vehicle demonstrating that these vehicles can be adequately accommodated within the proposed development. A Swept Path Analysis shows two cars can pass on the road. I am also satisfied that access roads and car parking are appropriately designed and provided with appropriate provision for pedestrians including footpaths, shared surfaces and raised crossings/ramps. I note the PA Transportation Section was satisfied with the internal road network and I consider the proposal is acceptable in this regard.
- 7.5.5. An independent Quality Audit and Cycle Audit was submitted in response to the PA further information request which identified a range of problems and associated recommendations which have been included in the design in order to improve the safety of the scheme for road users. Recommendations relating to a pedestrian crossing on Barnagh Lane along the pedestrian desire line, a Swept Path Analysis for cars on the internal access road and increased width of visitor car parking spaces are addressed in the Audit. The Transportation Planning Report stated no objection subject to conditions. I note the concerns raised by third parties; however I am satisfied that the problems identified have been addressed.
- 7.5.6. I consider that the level of traffic likely to be generated by the proposed development of 22 residential units during construction and operation to be modest and unlikely to impact on the road network. In relation to concerns regarding traffic hazard from

construction vehicles, if the Commission decides to grant permission, I am satisfied that these matters can be addressed by standard conditions requiring a Construction Management Plan.

7.5.7. I do not share the concerns raised by observers in relation to risk of fire from EV parking spaces.

7.5.8. In conclusion, I am satisfied that the proposed development would be satisfactory in the context of traffic safety and convenience. If the Commission decides to grant permission, I recommend the inclusion of the specific transportation requirements as set out in Condition 4 of the PA's recommendation to grant permission.

## **7.6. Trees & Biodiversity**

7.6.1. Appellants raise concerns in relation to impacts on trees, including the extent of trees to be removed and removal of trees in the public realm. Concerns are also raised in relation to the impact on flora and fauna including bats and owls as a result of destruction of habitat and use of outdoor lighting.

7.6.2. The first party response notes that the site includes invasive and non-native species and is overgrown as a result of natural regeneration. It is submitted that tree removal is necessary in order to achieve an appropriate density of development in line with planning guidance and it is proposed to maintain some trees and supplement with proposed planting.

7.6.3. The Local Authority Parks Department Report raised concerns in relation to the number of trees to be removed as a result of the proposed density of development and considered the proposal goes against Development Plan policies regarding retaining trees for amenity, biodiversity and screening. Concerns were also raised in the Parks Department report that many trees to be retained are located within rear gardens of proposed dwellings thereby potentially being removed by future occupants. In assessing the proposal, the Planning Officer noted the need to balance the retention of vegetation on site against the sustainable use of developable land and the need to achieve compact growth. The Planning Officer noted the precedent for removal of trees on the site in the grant of permission under ABP Ref. PL06D.246304 and considered the proposed extent of tree removal acceptable to facilitate the proposed development. Conditions were recommended requiring the submission of a tree replacement strategy that provides improved



mitigation measures with regard to wildlife and biodiversity and requiring the implementation of the mitigation measures outlined in the Ecological Impact Assessment.

- 7.6.4. The appeal site contains a large number of trees and dense shrubbery with the submitted Tree Report identifying a total of 166 existing trees on site. The proposal will require the removal of trees and hedgerows from the site as shown on the drawings submitted with the planning application. A Tree Constraints Plan submitted with the further information response assesses the condition of trees on the site, with the majority of trees either Category “B” (good trees) or Category “C” (mediocre to poor trees) along with a smaller number of Category “U” (dying or otherwise compromised) trees. A limited number of Category “A” (excellent) trees are identified. The Tree report states that there will be a loss of 126 trees comprising 1 no. A category, 43 no. B Category and 61 no. C Category trees. Detailed landscaping proposals are also submitted which include proposals to retain some trees on site and provide replacement hedges and specimen tree planting on the site.
- 7.6.5. Section 12.8.11 of the Development Plan relates to Existing Trees and Hedgerows stating that new developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. New developments shall also have regard to objectives to protect and preserve trees and woodlands. The development plan includes an objective ‘To protect and preserve Trees and Woodlands’ at various locations throughout Foxrock, including close to the northeastern boundary of the site in Foxrock Golf Club.
- 7.6.6. Whilst I note the concerns raised in the Parks Department report in relation to tree removal and the recommendation to refuse permission, I also note Development Plan Section 12.8.11 seeks that developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. I note that the retention of trees on the site is not a mandatory requirement of the Development Plan. Having reviewed the drawings submitted with the application and inspected the site, I consider that the loss of trees on site is acceptable noting that the trees to be removed are not the subjected of a Development Plan objective to retain trees. I also note that a large number of trees to be removed are Category C or Category U and

as noted in the Arboricultural Report on the file the site supports a small number of mature trees and is dominated by smaller, younger trees.

- 7.6.7. Whilst I acknowledge that the proposed removal of trees will result in a localised visual impact when viewed from properties in The Birches immediately surrounding the site, I am satisfied that the proposal provides for a high quality infill development that provides for more efficient use of zoned and serviced land and includes appropriate landscaping which will assist in mitigating the loss of existing trees. Having regard to the above I do not consider it necessary to omit units 13, 14 and 15 to allow for retention of trees at this location as suggested by an observer to the appeal.
- 7.6.8. I note the Parks Department and third parties raise concerns that trees to be retained are located within the gardens of proposed dwellings and that their retention is not guaranteed. However, I also note the extent of tree coverage on the site, the relatively small site size, and policies in the Development Plan seeking to support delivery of compact development. I therefore consider the proposal to include trees for retention within private gardens is acceptable.
- 7.6.9. In relation to impacts on flora and fauna, an Ecological Impact Assessment finds that no bat roosts were recorded, only common species are present on site, bat activity is relatively low, and so the site and its immediate surroundings are considered to be of no more than Local importance for bats. Mitigation measures proposed include bat-sensitive lighting during construction and operation. The Ecological Impact Assessment outlines details of bird species present on site and bird boxes are proposed to be installed on mature trees to be retained to mitigate loss of nesting opportunities for birds arising from the clearance of trees and shrubs. I am satisfied that the Ecological Impact Assessment on file assess the potential effects of the impacts associated with the construction and operation of the proposed development and outlines appropriate mitigation measures designed to avoid or minimise any negative effects.
- 7.6.10. If the Commission decides to grant permission, I recommend the inclusion of a condition requiring compliance with the mitigation measures outlined in the Ecological Impact Assessment and the Arboricultural Report.

- 7.6.11. Appendix 3 of this report outlines Appropriate Assessment Screening in relation to the proposal. I do not share the concerns of the appellants that the Appropriate Assessment should have included an assessment of the canopy of trees on the site, noting that the site is not located within a designated site nor does it contain habitats or species protected under the Habitats Directive.

## **7.7. Surface Water Drainage & Flooding**

- 7.7.1. Third party appeals include engineering reports outlining concerns in relation to proposed surface water drainage, including concerns relating to attenuation and management of surface water and deficiencies and omissions in the Flood Risk Assessment and modelling leading to risk of flooding on residents of existing and proposed dwellings.
- 7.7.2. The first party response to appeals refers to the concerns raised and confirms that it is proposed to attenuate all surface water runoff on site and use an attenuation tank and SuDS measures to control the outflow to greenfield rate which is what naturally drains into the stream at present. The response states that there will be no additional flow into the stream and no additional risk of flooding and confirms that the proposed design accounts for both 20% climate change and 10% urban creep ensuring the site is mitigated against future flood risk. The response also states that it would be expected that surface water in the surrounding area is managed through connections to the surface water network and is not reliant on the subject site and states that the proposal does not have any effect on the cross section or the banks of the ditch and will not affect its ability to convey surface water discharged into it. The response outlines that it is not proposed to connect site drainage into the inspection chamber referred to in the appeal and its condition is not deemed relevant; that there is no evidence that the site provides ad hoc attenuation for quantities up to 46,200 litres of water as stated in the appeal; and that as the site is not levelled or landscaped it has natural ditches which would accumulate water after heavy rainfall which would be accounted for in the greenfield runoff rates calculated for the site.
- 7.7.3. In assessing the proposal the PA requested further information (FI) relating to surface water drainage, including in relation to SuDS features, a site investigation report including infiltration tests, clarification that climate change and urban creep have been included in analysis, updated surface water design with the appropriate

runoff factor applied, and detailed long-section drawings. FI relating to flood risk was also requested, including in relation to the catchment area used in modelling, details relating to any works to the ditch and levels, and details relating to flood risk from the proposed surface water drainage system. Following receipt of FI, the PA requested Clarification of Further Information (CFI) in relation to revisions to the proposed attenuation tank and details relating to the modelling, consideration of runoff from adjoining lands, revised catchment map to include the adjoining golf course and clarification in relation to cross sections. Following receipt of FI and CFI, the PA was satisfied with the applicant's response to proposed surface water design, including relating to the climate change and urban creep allowance factors applied to the surface water calculations, with the attenuation volume increased to accommodate same. The drainage planning report states no objection to the proposal subject to conditions which include matters relating to surface water outfall discharge rate limit, provision of sufficient attenuation volume, requirements for SuDS, and agreement with the PA prior to connection with the surface water public system.

- 7.7.4. I have reviewed the third party appeals and observations and the concerns relating to surface water drainage and flood risk and the first party response wherein the applicant submitted clarification on the matters raised in the appeal. I note that the site is located in an area where bedrock is close to the surface and with shallow soil and that the applicant has demonstrated that the surface water drainage system will incorporate SuDS features to reduce run-off, including permeable paving, and attenuation of storm water resulting in greenfield run-off rates. The surface water will be discharged via a culvert to which the drainage ditch is connected. I note that the Dun Laoghaire Rathdown Flood Maps indicate that the site is not within Flood Zone A or Flood Zone B. I have reviewed OPW Flood Maps and I note that there are no details of historic flood events associated with the site. I note the appellants concerns that fluvial flooding has not been taken into account, however I am satisfied that the drainage ditch is not a watercourse and is not subject to fluvial runoff and that pluvial runoff has been adequately assessed in considering the proposal.
- 7.7.5. I am satisfied that the applicant has demonstrated that the proposal is acceptable with regard to surface water drainage and flood risk and I note that the PA Drainage Division report indicates that the drainage issues raised have been satisfactorily addressed and that the proposal is acceptable with regard to surface water drainage

and flood risk. In relation to third party concerns that the stream is excluded from the areas to be taken in charge and no details of how the stream will be maintained are given, I note the PA Drainage Division report states that this this will be the responsibility of the landowner/management company to provide appropriate maintenance, as has been the case historically. I consider maintenance of the stream is a matter for the landowners.

- 7.7.6. I note that the PA attached Condition 5 which outlined site specific requirements relating to drainage including matters relating to surface water outfall discharge rate limit, provision of sufficient attenuation volume, requirements for SuDS, and agreement with the PA prior to connection with the surface water public system. If the Commission decides to grant permission, I recommend the inclusion of the PA's condition no. 5.

## **7.8. Other Matters**

- 7.8.1. Appellants raise concerns in relation to Condition 2 attached to the PA notification of decision. Condition 2 requires that prior to commencement of development, the Applicant is required to provide revised architectural drawings that provide accurate plan/elevation representations for House Nos. 13 and 16, as well as plan drawings for each of the 10 No. proposed houses that accurately reflect their respective areas of private open space to the rear. I note that the first party, in response to the appeals, submitted elevation drawings (received on 13<sup>th</sup> August 2024) which accurately reflect the plans for house number 13 and 16. I am therefore satisfied that the matters required under the PA's Condition No. 2 have been addressed. I do not consider this matter results in a material alteration to proposals submitted with the planning application. In relation to the requirement to provide accurate areas of private open space, I note that the revised drawings submitted with the first party response to the appeal address this matter. I consider that the PA's Condition No. 2 does not amend details of the planning application beyond that included in drawings submitted to the PA and I am satisfied that the drawings submitted with the first party response to the appeal in this regard do not have any material impact on third parties. If the Commission decides the grant permission I do not consider it necessary to attach a condition in line with the PA's Condition 2, noting that these matters have been clarified in the drawings submitted in response to the appeal and received by the Commission on 13<sup>th</sup> August 2024.

- 7.8.2. I note concerns raised by third parties in relation to the PA's Condition 3 which requires details outlining how the communal open space will be managed to ensure that its use is limited to the residents of the development only. I do not consider this condition will have a material impact on third parties and I am satisfied that it relates to the management of the site and is acceptable. If the Commission decides to grant permission I recommend the inclusion of a condition to this effect.
- 7.8.3. Appellants raise concerns regarding the validity of the application as a result of inaccurate drawings. I note that the PA was satisfied that the drawings submitted were acceptable. I also note that revised drawings submitted with the appeal address concerns raised by appellants in relation to stated inaccuracies in the ridge height of No. 11 The Birches and that all parties to the appeal were afforded the opportunity to comment on the revised drawings. Having regard to the above I am satisfied that the drawings are acceptable.
- 7.8.4. In relation to concerns that the height and location of no. 10 may be closer to the boundary and smaller than indicated on drawings, no drawings have been submitted by the third party to indicate the errors that are believed to exist on drawings. I am satisfied that the drawings submitted are acceptable.
- 7.8.5. Concerns are raised in relation to boundary treatments between the appeal site and adjoining properties. Boundaries between the site and adjoining properties will comprise existing planting and additional tree planting. A new 2 meter high stone clad wall will be provided along the southern boundary between the site and No. 10 The Birches. To the west and northwest the boundary will comprise a 1.8m high timber batten fence with tree planting and screen planting. I am satisfied that the boundaries proposed between the appeal site and adjoining residential properties are acceptable.
- 7.8.6. In relation to concerns that the proposal will negatively impact on property values in the vicinity of the site, I see no evidence on the file to support this concern.
- 7.8.7. Concerns are raised regarding removal and retention of trees outside of the site boundary. Having reviewed the file I see no evidence that trees are proposed to be removed from third party properties. Furthermore, I note that matters relating to land ownership are a matter between the party's concerned and are not a matter for the Commission. Concerns are also raised that consent from the owners of sections of

Torquay Road and The Birches which are included in the red line boundary has not been submitted. I note that a letter of consent relating to the road was submitted with the planning application and the PA was satisfied that this was sufficient for the purposes of making the application. I note that no details of ownership other than that to which the letter of consent relates have been submitted by the third parties. I am satisfied that the applicant has addressed the matter of consent to making the application.

- 7.8.8. Concerns are raised that no pressure or flow tests have been reported from the proposed water supply. I note that there is no report on the file from Uisce Eireann. I do not consider it necessary that pressure or flow tests are required and I note that the proposal, if permitted, will be subject to Connection Agreement with Uisce Eireann in relation to water supply.
- 7.8.9. In relation to a third party request that a condition be attached to any grant of permission restricting construction hours, having regard to the location of the site I am satisfied that standard construction hours are acceptable.

## **8.0 Water Framework Directive Assessment**

- 8.1. I have assessed the proposed residential development at The Birches, Torquay Road and I have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration (refer to Appendix 4). Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- the nature of works and the proposed drainage measures.

- 8.2. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a

temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment

## **9.0 AA Screening**

### **9.1. Screening Determination**

Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), South Dublin Bay SAC (Site Code: 000210), Dalkey Islands SPA (Site Code: 0041720) and Rockabill to Dalkey Islands SAC (Site Code: 003000) or any other European site, in view of the Conservation Objectives of those site and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- Information provided in the AA Screening report
- The scale of the development on serviced lands
- Distance from and lack of connections to the European sites
- No ex-situ impacts on wintering birds
- No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

## **10.0 Recommendation**

10.1. I recommend that planning permission should be granted, subject to conditions, as set out below, for the following reasons and considerations.



## **11.0 Reasons and Considerations**

11.1. Having regard to the location of the site on land zoned 'A - To provide residential development and improve residential amenity while protecting the existing residential amenities' in the Dún Laoghaire-Rathdown County Development Plan 2022 to 2028, and to the proposal to provide for the intensification of residential use on this zoned site, to the nature and scale of the proposed development, to the pattern of development in the area, and, subject to compliance with the conditions set out below, it is considered that the proposed development would comply with Policy Objective PHP18 of the development plan which seeks to encourage higher residential densities while ensuring a balance is struck 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, and Policy Objective PHP20 which seeks to protect existing residential amenity. Furthermore, it is considered that the proposal would not seriously injure the residential amenities of property in the vicinity or the visual amenities of the area, would be acceptable in terms of traffic safety and convenience and surface water drainage, and would therefore be in accordance with the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **12.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 07<sup>th</sup> March 2024 and 23<sup>rd</sup> May 2024 and as further amended by plans and particulars received by An Coimisiun Pleanála on 13<sup>th</sup> August 2024 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. Mitigation and monitoring measures outlined in the plans and particulars submitted, including the preliminary Construction and Environmental Management Plan, the Ecological Impact Assessment and the Arboricultural Assessment submitted with the application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: in the interest of clarity and to protect the environment and public health

3. Prior to commencement of development, the Applicant/Developer shall provide, for the written agreement of the Planning Authority, revised plans that clearly outline how the communal open space will be managed to ensure that its use is limited to the residents of the development only.

Reason: In the interest of residential amenity, and of the proper planning and sustainable development of the area.

4. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.

Reason: In the interest of residential amenity and in order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

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

Reason: in the interest of visual amenity and to ensure an appropriate high standard of development.

6. All bathroom and ensuite windows shall be fitted and permanently maintained with obscure glass.

Reason: in the interest of residential amenity.

7. The following Transportation requirements of the Planning Authority shall be complied with:

- (a) All proposed cycle parking to serve the proposed development shall be constructed in accordance with DLRCC's 'Standards for Cycle Parking and associated Cycling Facilities for New Developments - January 2018'.
- (b) All accepted recommendations within the submitted Quality Audit by Bruton Consulting Engineers, dated February 2024 shall be implemented.
- (c) The Applicant/Main Contractor shall ensure that all measures outlined within the submitted Preliminary Construction Management Plan by DBFL Consulting Engineers, dated 26/09/2023.
- (d) The Applicant shall ensure that all proposed works, both on the public road and within the site (i.e. road carriageways, kerbs (which must be in situ), footpaths, street lighting, signs, etc) are designed and constructed, at the Applicant's own expense, to meet Dún Laoghaire-Rathdown County Council's 'Taking-in-Charge Development Standards Guidance Document' (June 2022) requirements and 'Taking In Charge Policy Document (May 2022)': and all to the satisfaction of the Planning Authority (Municipal Services Department).
- (e) Prior to undertaking works to be carried out on the public road/footpath the Applicants shall obtain a Road Opening Licence from DLRCC Municipal Services Department - Road Maintenance & Roads Control Sections.
- (f) A minimum of one car parking space per five car parking spaces shall be equipped with one fully functional EV charging point. All proposed residential car parking spaces should be constructed to be capable of accommodating future electric charging points for electrically operated vehicles (ducting, mini-pillars etc.) without the requirement for future excavations/intrusive works.
- (g). The Applicant shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of the site construction works and repair any damage to the public road arising from carrying out the works.

(h). All necessary measures shall be taken by the Applicant and Contractor to avoid conflict between construction activities and pedestrian/vehicular movements on the surrounding public roads during construction works.

Reason: In the interest of public and environmental health, and the promotion of more sustainable forms of travelling.

8. (a) The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, set down/drop off area(s), parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority.

(b) A minimum of 20% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date.

Reason: In the interest of sustainable development and of traffic and pedestrian safety.

9. Proposals for an estate/street name, house/duplex numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/duplex numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: in the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

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

Prior to the commencement of development, the developer shall submit details for the written agreement of the planning authority.

(b) The surface water outfall discharge rate for the site shall be limited to 2.4l/s as calculated in the application, subject to the orifice size of the flow control device not being less than 50mm in diameter, as detailed in the application. Note that in the interest of clarity where the calculated QBAR rate for the site is less than 2 l/s/ha then a minimum value of 2 l/s/ha should be applied, not a flat rate of 2 l/s, subject to the orifice size of the flow control device not being less than 50mm in diameter. i.e. the outfall discharge rate should be calculated based on the lowest flow rate achievable for a 50mm Unit Outlet Diameter on the proposed flow control.

(c) The applicant shall provide a sufficient attenuation volume for the 1 in 100 year rainfall return period (plus minimum 20% allowance for climate change and 10% allowance for urban creep) on site, (224m<sup>3</sup>) as detailed in the application. The proposed attenuation system shall be designed to encourage infiltration (i.e. unlined) in accordance with Section 10.2.2.6 Policy Objective EI6: Sustainable Drainage Systems (SuDS) of the County Development Plan 2022-2028, unless prohibited by local ground conditions. The offset distance for infiltration from adjacent buildings or structures will be at the professional judgement of a suitably qualified engineer and shall ensure the proposed system has no impact on neighbouring properties.

(d) Any changes to parking and hardstanding areas shall be constructed in accordance with the recommendations of the Greater Dublin Strategic Drainage Study for sustainable urban drainage systems (SuDS) i.e. permeable surfacing, and in accordance with Section 12.4.8.3 Driveways/Hardstanding Areas of the County Development Plan 2022-2028. Appropriate measures shall be included to prevent runoff from driveways entering onto the public realm as required. Where unbound material is proposed for driveway, parking or hardstanding areas, it shall be contained in such a way to ensure that it does not transfer on to the public road or footpath on road safety grounds. Any area of hardstanding to be Taken In Charge should be designed to DLRs Taking In Charge (TIC) standards.

(e) All proposed SuDS features shall be designed, installed and maintained in accordance with the requirements of The SUDS Manual (CIRIA C753).

(f) The applicant shall ensure that trees shall not be planted in the area over the attenuation tank. Trees shall be placed at a minimum distance of 2m from the edge of attenuation tanks. Tree protection barriers may be required, depending on the tree species and the expected extent of root spread, to be advised by the landscape architect.

(g) The applicant shall implement a construction management plan and programme of works that amongst other items provides for interception, containment and treatment of construction runoff. No construction runoff should be diverted to proposed SuDS measures. Any surface water sewer pipes used to convey construction runoff should be thoroughly cleaned before subsequent connection to SuDS elements.

(h) The applicant shall ensure that all drainage works are carried out in accordance with the agreed details and that a post-construction maintenance specification and schedule is implemented on site. Maintenance contractors with specialist training in SuDS care should be used. Thereafter, all elements of the surface water management system shall be maintained at all times in accordance the post-construction maintenance specification and schedule, which shall be included in the site Safety File.

(i) Prior to the surface water connection to the public system, the applicant shall make a submission for the written agreement of the Planning Authority, showing that the attenuation system, including the flow control device, has been installed according to the planning application plans and conditions, and set to the maximum permitted discharge limit. This shall include photo documentation of the installation process, and certification from who installed the system. The applicant shall then facilitate an inspection from the Planning Authority and will proceed to connection if the inspection was deemed satisfactory.

Reason: To prevent flooding and in the interests of sustainable drainage.

11. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Eireann to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: in the interest of public health and to ensure adequate water/wastewater facilities

12. The site shall be landscaped in accordance with landscaping proposals submitted to the Planning Authority on 07<sup>th</sup> March 2024. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: in the interests of residential and visual amenity.

13. (a) The developer is required to employ an appointed arboricultural consultant for the duration of the project including the construction design input of built features which shall be agreed in writing with the plan prior to the commencement of development.

(b) 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 accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species.

Reason: To secure the protection of trees on the site.

14. Public lighting shall be provided in accordance with the plans submitted and any revisions shall be submitted to, and agreed in writing with, the planning

authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: in the interests of amenity and public safety.

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

Reason: in the interests of visual and residential amenity

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

17. A finalised Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: in the interests of environmental protection, residential amenities, public health and safety and environmental protection.

18. 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 proper planning and sustainable development.

19. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot and for each duplex/apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

21. (a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant houses and duplex units permitted, to first occupation by

individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(C) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any- person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

22. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a (percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended , and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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

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

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

25. The developer shall pay to the planning authority a financial contribution in lieu of the public open space requirement in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiun Pleanála to determine the proper application of the terms of the Scheme.

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

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

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Bernadette Quinn  
Planning Inspector

22<sup>nd</sup> December 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP-320078-24
<b>Proposed Development Summary</b>	Demolition of dwelling house; construction of 10 four bed dwellings and 14 apartments; widening of entrance, provision of access gate; 37 car park spaces and associated site works.
<b>Development Address</b>	Rockall, The Birches, Torquay Road, Dublin 18, D18 Y0R6
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	<p><b>State the Class and state the relevant threshold</b></p>
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>In Class 10(b)(i) and (iv), Schedule 5 Part 2 EIA is mandatory for developments comprising over 500 dwelling units or urban development which would involve an area greater than 2 hectares in the case of a business district or 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p> <p>The proposal is significantly below this threshold being for 24 no. residential units and the site has an area of 0.715 hectares which is sub threshold.</p>

<p><b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b></p>	
<p>Yes <input type="checkbox"/></p>	<p><b>Screening Determination required (Complete Form 3)</b></p>
<p>No <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP-320078-24
<b>Proposed Development Summary</b>	Demolition of dwelling house; construction of 10 four bed dwellings and 14 apartments; widening of entrance, provision of access gate; 37 car park spaces and associated site works.
<b>Development Address</b>	Rockall, The Birches, Torquay Road, Dublin 18, D18 Y0R6
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<b>Briefly comment on the key characteristics of the development, having regard to the criteria listed.</b>  The development proposes the demolition of an existing dwelling on a modest site area and construction of 24 residential units in an established residential area. The development is not out of context at this urban location and will not give rise to any significant nuisance, waste or pollutants. The proposal does not require the use of substantial natural resources. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
<b>Location of development</b>  (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<b>Briefly comment on the location of the development, having regard to the criteria listed</b>  The development is removed from sensitive natural habitats and designated sites and landscapes of identified significance in the County Development Plan. There are no protected species/habitats on site. There are no protected structures or recorded monuments on the site and the site is located outside of any Architectural Conservation Areas.
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	<b>Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.</b> Having regard to the following: <ul style="list-style-type: none"> <li>○ Nature and size of the development,</li> <li>○ Lack of significant environmental sensitivities on the site,</li> <li>○ Limited spatial extent of effects,</li> </ul>

	<ul style="list-style-type: none"> <li>○ Short term temporary nature of construction impacts,</li> <li>○ Absence of significant in combination effects,</li> <li>○ Removal of trees has been justified (arboricultural assessment) including mitigation proposals in landscaping plan,</li> <li>○ No significant impact on protected structures, recorded monuments or ACA,</li> </ul> <p>there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)



### Appendix 3: Screening for Appropriate Assessment Test for likely significant effects

#### Step 1: Description of the project and local site characteristics

<b>Brief description of project</b>	The proposal is for 24 residential units (refer to section 2 of Inspectors report for detailed description)
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>The site has an area of 0.715 hectares, is located in an established residential area approx. 450 metres from Foxrock Village. There is an existing golf course adjoining to the east boundary and detached two storey dwellings on large sites to the south and west. Access to the site is from an existing vehicular entrance from the Birches to the north. The site is generally flat and contains a derelict dwelling on a large garden which comprises overgrown shrubs and trees. A ditch adjoins the eastern boundary which separates the site from the golf course.</p> <p>The closest European sites are South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA located approx. 3.3km to the northeast of the site.</p> <p>Surface water is proposed to be discharged to an attenuation tank and connection to public main sewer. Foul water will be directed to the public mains.</p> <p>There is a drainage ditch along the boundary of the site to the east which has downstream connectivity to the St Bride's Stream. The closest watercourse is located approx. 1.1km to the southwest and southeast at Carrickmines Stream.</p>
<b>Screening report</b>	Y
<b>Natura Impact Statement</b>	N
<b>Relevant submissions</b>	Third parties raise concerns in relation to potential impacts on designated sites.
<p>The AA Screening Report considers European sites within a 15km radius and identifies two sites for consideration for AA Screening, Dalkey Islands SPA (Site Code: 0041720) located 5.8km from the appeal site and Rockabill to Dalkey Islands SAC (Site Code: 003000) located 6.2km from the appeal site.</p> <p>The Screening Report notes that surface water will be discharged via a culvert to which the drainage ditch adjoining the sites eastern boundary is connected, which emerges as the St Bride's Stream and ultimately discharges to the Irish Sea as the Shanganagh River on the northern side of the Shanganagh-Bray WWTP. The report notes that the watercourses do not pass through any Natura 2000 sites en route to the sea and that given the small size of the development, the treatment and attenuation provided by the surface water drainage system, the</p>	

assimilative capacity of the watercourses into which the system discharges and the dilution and attenuation provided by the final discharge to the Irish Sea, there is no possibility for a significant adverse effect on any Natura 2000 sites from the surface water discharge of the proposed development.

## Step 2. Identification of relevant European sites using the Source-pathway-receptor model

European Site (code)	Qualifying interests <sup>1</sup> Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup> Y/N
South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024)		3.4km	No spatial overlap, therefore no direct connection with this SPA. No hydrological or ecological connection via air or land. The site does not support the habitats relevant to this SPA. The appeal site is not of interest for mobile species relevant to this SPA.	N
Link to Conservation Objectives: <a href="https://www.npws.ie/protected-sites/sac/002123">https://www.npws.ie/protected-sites/sac/002123</a>				
South Dublin Bay SAC (Site Code: 000210)		3.5km	No spatial overlap, therefore no direct connection with this SAC. No hydrological or ecological connection via air or land. The appeal site is not of interest for mobile species relevant to this SAC.	N
Link to Conservation Objectives: <a href="https://www.npws.ie/protected-sites/spa/004192">https://www.npws.ie/protected-sites/spa/004192</a>				

Dalkey Islands SPA (Site Code: 0041720)		5.8km	No spatial overlap, therefore no direct connection with this SPA. No hydrological or ecological connection via air or land. The site does not support the habitats relevant to this SPA.	N
Rockabill to Dalkey Islands SAC (Site Code: 003000)		6.2km	No spatial overlap, therefore no direct connection with this SAC. No hydrological or ecological connection via air or land. The site does not support the habitats relevant to this SAC.	N
<sup>1</sup> Summary description / <b>cross reference to NPWS website</b> is acceptable at this stage in the report <sup>2</sup> Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species <sup>3</sup> if no connections: N				
<b>Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites</b>  No potential for likely significant effects on European sites during the construction or operational phase has been identified.				
<b>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</b>				
I conclude that the proposed development (alone) would not result in likely significant effects on South Dublin Bay SAC (Site Code: 000210), South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), Dalkey Islands SPA (Site Code: 004172) and Rockabill to Dalkey Island SAC (Site Code: 003000). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project.				

No mitigation measures are required to come to these conclusions.

## **Screening Determination**

### **Finding of no likely significant effects**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site(s) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The nature and scale of the works
- Location-distance from nearest European site and lack of direct connections between the application site and the SAC/SPA
- Taking into account the screening determination by the PA.

## Appendix 4 – Water Framework Directive Screening

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Coimisiun Pleanála ref. no.	320078-24	Townland, address	Rockall, The Birches, Torquay Road, Dublin 18, D18 Y0R6
Description of project		Demolition of dwelling house; construction of 10 four bed dwellings and 14 apartments; widening of entrance, provision of access gate; 37 car park spaces and associated site works.	
Brief site description, relevant to WFD Screening,		The site is located within a suburban area at an elevation of approximately 80m contour. The soil type is glacial till. The bedrock is Siluro-Devonian Granite. The Carrickmines Stream_010 is located 1km to the southeast and southwest.	
Proposed surface water details		On site attenuation and SuDS with discharge to surface water drainage network.	
Proposed water supply source & available capacity		Uisce Éireann mains water connection – no capacity issues	
Proposed wastewater treatment system & available capacity, other issues		Uisce Éireann mains wastewater connection– no capacity issues	

Others?			No			
<b>Step 2: Identification of relevant water bodies and Step 3: S-P-R connection</b>						
<b>Identified water body</b>	<b>Distance to (m)</b>	<b>Water body name(s) (code)</b>	<b>WFD Status</b>	<b>Risk of not achieving WFD Objective e.g.at risk, review, not at risk</b>	<b>Identified pressures on that water body</b>	<b>Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)</b>
River Waterbody	1.1km south-east and southwest	Carrickmines Stream_010	Good	Not at risk	-	Pathway from surface water run-off connected to St Brides Stream which is a tributary of Carrickmines Stream
Groundwater Waterbody	Underlying Site	Wicklow (IE_EA_G_076)	Good	At risk	Agriculture and unknown	Underlying GWB
<b>Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.</b>						
<b>CONSTRUCTION PHASE</b>						

No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no)  Detail	<b>Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.</b>
1.	Site clearance/Construction	Wicklow (IE_EA_G_076)	Drainage through soil/bedrock	Siltation, pH (concrete), hydrocarbon spillages	Standard best construction; Construction, demolition and environmental management plan	No	Screened out
2.	Site clearance/Construction	Carrickmines Stream	Hydrological pathway across site	Water Pollution by siltation and/or chemicals	Standard best construction; Construction, demolition and environmental management plan	No	Screened out
OPERATIONAL PHASE							

3.	Discharges to Ground water	Wicklow (IE_EA_G_076 )	Pathway exists	Surface water run-off to groundwater	Drainage collection and disposal measures (silt collector / petrol bypass, SUDS measures to collect clean storm water and discharge to SW main drain	No	Screened out
4.	Surface water run-off	Carrickmines Stream	Hydrological pathway across site	Surface water run-off	Drainage collection and disposal measures (silt collector / petrol bypass, SUDS measures to collect clean storm water and discharge to SW main drain	No	Screened out
DECOMMISSIONING PHASE							
3.	NA	NA	NA	NA	NA	NA	NA





## **Appendix 4: Conditions Attached by the Planning Authority**

### **Planning/Design**

1. The development shall be carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application, as amended by Further Information received on 7 March 2024, and by Clarification of Further Information on 23 May 2024, save as may be required by the other conditions attached hereto.

REASON: To ensure that the development shall be in accordance with the permission and that effective control be maintained.

2. Prior to commencement of development, the Applicant is required to provide revised architectural drawings that provide accurate plan/elevation representations for House Nos. 13 and 16, as well as plan drawings for each of the 10 No. proposed houses that accurately reflect their respective areas of private open space to the rear.

REASON: To ensure that the development shall be in accordance with the permission and that effective control be maintained.

3. Prior to commencement of development, the Applicant/Developer shall provide, for the agreement of the Planning Authority, revised plans that clearly outline how the communal open space will be managed to ensure that its use is limited to the residents of the development only.

REASON: In the interest of residential amenity, and of the proper planning and sustainable development of the area.

### **Transportation**

4 (a). All proposed cycle parking to serve the proposed development shall be constructed in accordance with DLRCC's 'Standards for Cycle Parking and associated Cycling Facilities for New Developments - January 2018'.

(b). All accepted recommendations within the submitted Quality Audit by Bruton Consulting Engineers, dated February 2024 shall be implemented.

(c). The Applicant/Main Contractor shall ensure that all measures outlined within the submitted Preliminary Construction Management Plan by DBFL Consulting Engineers, dated 26/09/2023.

(d). The Applicant shall ensure that all proposed works, both on the public road and within the site (i.e. road carriageways, kerbs (which must be in situ), footpaths, street lighting, signs, etc) are designed and constructed, at the Applicant's own expense, to meet Dún Laoghaire-Rathdown County Council's 'Taking-in-Charge Development Standards Guidance Document' (June 2022) requirements and 'Taking In Charge Policy Document (May 2022)': and all to the satisfaction of the Planning Authority (Municipal Services Department).

(e). Prior to undertaking works to be carried out on the public road/footpath the Applicants shall obtain a Road Opening Licence from DLRCC Municipal Services Department - Road Maintenance & Roads Control Sections.

(f). A minimum of one car parking space per five car parking spaces shall be equipped with one fully functional EV charging point. All proposed residential car parking spaces should be constructed to be capable of accommodating future electric charging points for electrically operated vehicles (ducting, mini-pillars etc.) without the requirement for future excavations/intrusive works.

(g). The Applicant shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of the site construction works and repair any damage to the public road arising from carrying out the works.

(h). All necessary measures shall be taken by the Applicant and Contractor to avoid conflict between construction activities and pedestrian/vehicular movements on the surrounding public roads during construction works.

REASON: In the interest of public and environmental health, and the promotion of more sustainable forms of travelling.

#### Drainage

5 (a). The surface water outfall discharge rate for the site shall be limited to 2.4l/s as calculated in the application, subject to the orifice size of the flow control device not being less than 50mm in diameter, as detailed in the application. Note that in the interest of clarity where the calculated QBAR rate for the site is less than 2 l/s/ha then a minimum value of 2 l/s/ha should be applied, not a flat rate of 2 l/s, subject to the orifice size of the flow control device not being less than 50mm in diameter. i.e.

the outfall discharge rate should be calculated based on the lowest flow rate achievable for a 50mm Unit Outlet Diameter on the proposed flow control.

(b). The applicant shall provide a sufficient attenuation volume for the 1 in 100 year rainfall return period (plus minimum 20% allowance for climate change and 10% allowance for urban creep) on site, (224m<sup>3</sup>) as detailed in the application. The proposed attenuation system shall be designed to encourage infiltration (i.e. unlined) in accordance with Section 10.2.2.6 Policy Objective EI6: Sustainable Drainage Systems (SuDS) of the County Development Plan 2022-2028, unless prohibited by local ground conditions. The offset distance for infiltration from adjacent buildings or structures will be at the professional judgement of a suitably qualified engineer and shall ensure the proposed system has no impact on neighbouring properties.

(c). Any changes to parking and hardstanding areas shall be constructed in accordance with the recommendations of the Greater Dublin Strategic Drainage Study for sustainable urban drainage systems (SuDS) i.e. permeable surfacing, and in accordance with Section 12.4.8.3 Driveways/Hardstanding Areas of the County Development Plan 2022-2028. Appropriate measures shall be included to prevent runoff from driveways entering onto the public realm as required. Where unbound material is proposed for driveway, parking or hardstanding areas, it shall be contained in such a way to ensure that it does not transfer on to the public road or footpath on road safety grounds. Any area of hardstanding to be Taken In Charge should be designed to DLRs Taking In Charge (TIC) standards.

(d). All proposed SuDS features shall be designed, installed and maintained in accordance with the requirements of The SUDS Manual (CIRIA C753).

(e). The applicant shall ensure that trees shall not be planted in the area over the attenuation tank. Trees shall be placed at a minimum distance of 2m from the edge of attenuation tanks. Tree protection barriers may be required, depending on the tree species and the expected extent of root spread, to be advised by the landscape architect.

(f). The applicant shall implement a construction management plan and programme of works that amongst other items provides for interception, containment and treatment of construction runoff. No construction runoff should be diverted to proposed SuDS measures. Any surface water sewer pipes used to convey

construction runoff should be thoroughly cleaned before subsequent connection to SuDS elements.

(g). The applicant shall ensure that all drainage works are carried out in accordance with the agreed details and that a post-construction maintenance specification and schedule is implemented on site. Maintenance contractors with specialist training in SuDS care should be used. Thereafter, all elements of the surface water management system shall be maintained at all times in accordance the post-construction maintenance specification and schedule, which shall be included in the site Safety File.

(h). Prior to the surface water connection to the public system, the applicant shall make a submission for the written agreement of the Planning Authority, showing that the attenuation system, including the flow control device, has been installed according to the planning application plans and conditions, and set to the maximum permitted discharge limit. This shall include photo documentation of the installation process, and certification from who installed the system. The applicant shall then facilitate an inspection from the Planning Authority and will proceed to connection if the inspection was deemed satisfactory.

REASON: In the interest of public and environmental health, and of the proper planning and sustainable development of the area.

#### Environmental Health and Construction Matters

6 (a). A final construction environmental management plan must be agreed with Dun Laoghaire/Rathdown Planning Authority prior to commencement of development. This must reduce any adverse impacts from construction on the environment and health and control any temporary emissions during the construction phase to prevent nuisance or adverse health effects to include: Waste management and recovery, all necessary steps shall be taken to contain noise, dust and airborne pollutants arising from the site and to prevent nuisance to persons in the locality.

(b). During the construction phase all reasonable measures shall be taken to reduce potential impacts relating to noise nuisance and disturbance and vibrational impacts to an acceptable level. Noise levels shall be controlled and monitored to ensure that site construction activities do not have an adverse or unacceptable impact on local

receptors, adjacent property, adjacent users and human health and on the wider receiving environment.

(c). A programme of continuous noise, dust and vibration monitoring shall be carried out if required, along the site boundary/ noise sensitive location(s) and by an appropriately qualified and experienced acoustic technician. Noise, vibration and dust monitoring stations shall be installed and maintained to provide continuous monitoring to measure and record the impact of site activities on local receptors, if required by the Environmental Health Officer. Copies of any environmental monitoring should it be required shall be made available to the Environmental Health Service's Air & Noise Unit upon request.

(d). The design and location of building services, such as heat pumps, shall avoid the generation of potential conflicts in terms of noise amenity affecting adjoining land uses.

(e). The development shall comply with the content and requirements of the submitted Operational Waste Management Plan.

(f). An appropriate rodent/pest control plan shall be developed and implemented for the duration of the works on site.

(g). A Public Liaison Plan shall be developed and implemented for the duration of the works, covering the following: - Appointment of a Liaison Officer as a single point of contact to engage with the local community and respond to concerns. - Provision of a notice at the site entrance identifying the proposed means for making a complaint. - Maintenance of a complaints log recording all complaints received and follow up actions.

(h). With regard to the generation and management of construction waste: - Records shall be maintained and made available for inspection on site demonstrating tracking of all waste generated to final destination. - The submitted Resource & Waste Management Plan shall be updated and implemented throughout the course of the construction work, identifying type of materials/proportion of re-use/recycled materials and future maintenance to support the implementation of Government and EU circular economy policy.)

REASON: In the interests of orderly development and the proper planning and sustainable development of the area.

7. Site development and building works shall be carried out only between the hours of 7.00am to 7.00pm Monday to Friday inclusive, 8.00am to 2.00pm Saturdays and no works permitted on site on Sundays and Public holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been obtained from the Planning Authority.

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

#### Parks/Landscaping

8 (a). Prior to commencement of development, the Applicant shall provide, for the agreement of the Planning Authority, a tree replacement strategy that provides improved mitigation measures with regard to wildlife and biodiversity.

(b). An Arboricultural Assessment Report and Certificate shall be signed off by a qualified Arborist after the period of 3 years of completion of the works. Any remedial tree surgery, tree felling works recommended in that Report and Certificate shall be undertaken by the developer, under the supervision of the Arborist. The bond will only be refunded upon receipt by DLR Parks and Landscape Services upon receipt of a satisfactory post-construction arboricultural assessment, carried out by a qualified arborist and provided that the hedges/trees proposed for retention are alive, in good condition with a useful life expectancy.

(c). Prior to the commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The applicant shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work - Recommendations. The clearance of any vegetation including trees and scrub should be carried out outside the bird-breeding season (1 March - 31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall

carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to DLR Parks and Landscape Services for written agreement upon completion of the works.

(d). Prior to the commencement of any permitted development - the developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works. A Practical Completion Certificate is to be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of Dlr Parks and Landscape Services and in accordance with the permitted landscape proposals.

REASON: To ensure the protection, safety, prudent retention and long-term viability of trees to be retained on and immediately adjacent to the site.

#### Ecological Matters

9. The mitigation measures outlined in the Ecological Impact Assessment, prepared by BEC Consultants and dated September 2023, shall be adhered to in full.

REASON: To ensure the protection of biodiversity and wildlife at the subject site.

#### Part V and management

10. Prior to commencement of development, the developer shall comply with the Dún Laoghaire Rathdown County Council Housing Strategy, drawn up in accordance with Part V, Section 96(4) of the Planning & Development Act 2000, as amended, and in accordance with agreement to be reached with the County Council's Housing and Community Department unless the developer shall have applied for and been granted an exemption certificate under Section 97 of the Planning & Development Act, 2000, as amended.

REASON: To comply with the County Council Housing Strategy & Part V of the Planning & Development Act, 2000, as amended.

11. Prior to commencement of development the applicant shall submit full details of a properly constituted Owners' Management Company for the written agreement of the Planning Authority. This shall include a layout map of the permitted development



showing the areas to be taken in charge and those areas to be maintained by the Owners' Management Company. Membership of this Company shall be compulsory for all purchasers of property in the development. Confirmation that this Company has been set up shall be submitted to the Planning Authority prior to the occupation of the first residential unit.

REASON: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

12. The following shall be complied with as regards the issue of tenure:

a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers - i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

b) 'An agreement pursuant to Section 47 shall be applicable (i) for the period of duration of the planning permission or (ii) from the date of commencement of the duration of the planning permission until the date on which the last residential unit the subject of the section 47 agreement has been transferred to an individual purchaser, whichever is the later, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.'

c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

d) For the avoidance of doubt, the definition of 'houses and duplex units' in this condition is as per the definition set out in the Ministerial Planning Guidelines under Section 28 of the Planning and Development Act 2000 (as amended), Regulation of Commercial Institutional Investment in Housing, namely i) A house, defined as not including a building designed for use or used as two or more dwellings or a flat, an apartment or other dwelling within such a building, and, ii) A duplex unit, defined as a dwelling within a building designed for use as two individual dwellings and/or on one shared plot, with separate entrances.

REASON: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

#### Contributions

13. The developer shall, before commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €215,250.00 to the planning authority, a financial contribution in lieu of public open space provision in accordance with the terms of the Development Contribution Scheme of the Planning and Development Act, 2000 as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the scheme at the time of payment. Details of the application of the terms of the scheme shall be agreed upon between the planning authority and the developer or in default of such agreement, the matter shall be referred to An Coimisiun Pleanála to determine the proper application of the terms of the scheme.

REASON: To provide a financial contribution in lieu of the shortfall in the provision of public open space required to serve the development as provided for in the Dún Laoghaire-Rathdown Development Plan 2022-2028 development Plan 2022-2028.

14. The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €2,959.75 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Local Authority in respect of the provision of Surface Water Infrastructure benefiting development in the area of the Planning Authority, as provided for in the Development Contribution Scheme 2023-2028 made by Dún Laoghaire-Rathdown

County Council on the 9th of October 2023. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSl Tender Price Index commencing from 1st January 2025. Contributions shall be payable at the index-adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Article 4.7 of the Scheme. Outstanding balances as of the 1st of January each year shall be subject to indexation and adjusted accordingly until the contribution has been paid in full. (See Article 8.3 of the Scheme).

REASON: It is considered reasonable that the payment of a contribution be required in respect of the provision of the Surface Water Infrastructure benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

15. The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €44,397.90 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Local Authority in respect of the provision of the Transport Infrastructure benefiting development in the area of the Planning Authority, as provided for in the Development Contribution Scheme 2023-2028 made by Dún Laoghaire-Rathdown County Council on the on the 9th of October 2023. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSl Tender Price Index commencing from 1st January 2025. Contributions shall be payable at the index-adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Article 4.7 of the Scheme. Outstanding balances as of the 1st of January each year shall be subject to indexation and adjusted accordingly until the contribution has been paid in full. (See Article 8.3 of the Scheme)

REASON: It is considered reasonable that the payment of a contribution be required in respect of the provision of the Transport Infrastructure benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

16. The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €248,626.31 to the Planning Authority as

a contribution towards expenditure that was/or is proposed to be incurred by the Local Authority in respect of the provision of the Community & Parks facilities & Recreational amenities benefiting development in the area of the Planning Authority, as provided for in the Development Contribution Scheme 2023-2028 made by Dún Laoghaire-Rathdown County Council on the 9th of October 2023. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSi Tender Price Index commencing from 1st January 2025. Contributions shall be payable at the index-adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Article 4.7 of the Scheme. Outstanding balances as of the 1st of January each year shall be subject to indexation and adjusted accordingly until the contribution has been paid in full. (See Article 8.3 of the Scheme)

REASON: It is considered reasonable that the payment of a contribution be required in respect of the provision of the Community & Parks facilities & Recreational amenities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

17. Prior to the commencement of development and related tree felling and construction activities, the applicant shall lodge a Tree Bond with the Planning Authority, as security for tree protection and a deterrent to wilful or accidental damages during construction. The Bond shall be based on a notional estimate of the combined value - amenity and ecosystems services - of retained trees; and taking account of the percentage tree loss(-es) due to direct impacts on healthy trees. The minimum value of the Tree Bond shall be €70,000. Lodgement of the Bond shall be part of an Arboricultural Agreement signed by the developer, empowering the planning authority to apply the Tree Bond, or part thereof, for satisfactory protection of all retained trees on and immediately-adjointing the subject site, or the appropriate and adequate replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of 2-years from the substantial Practical Completion of the development. Sequestration of all or part of the bond shall be based on an estimate of the total costs of appropriate, compensatory tree planting at semi-mature sizes. Replacement planting shall be of the same or similar species/varieties as those lost, or as may be specified by Dlr Parks & Landscape Services. Bond Release: 24 months - inclusive of at least two growing seasons (May

- Sept.) - after Practical Completion of the permitted development, the developer shall submit to Dlr Parks and Landscape Services, an Arboricultural Assessment Report prepared by a qualified arborist. Any remedial surgery or other tree works recommended in that Report shall be undertaken by the developer at his/her expense, under the supervision of a qualified arborist. The Tree Bond shall not be released unless and until an Arboricultural Certificate - signed by a qualified arborist, stating that all tree works have been fully undertaken, trees on site alive and in good condition with useful life expectancy - has been submitted to and agreed with Dlr Parks+Landscape Services.

REASON: To ensure the adequate protection of vegetation.

18. This development shall not be carried out without prior agreement, in writing, between the Applicant and the Planning Authority relating to the payment of development contributions.

REASON: Investment by Dún Laoghaire-Rathdown County Council in Local Authority works has facilitated and will facilitate the proposed development. It is considered appropriate and reasonable that the developer should contribute to the cost of same.

19. No development on foot of this permission shall commence until security for the provision and satisfactory completion of services (including roads, footpaths, open spaces, public lighting, sewers, watermains and drains) in accordance with the Plans and particulars lodged with the application, has been given by:- a) Lodgement with the Council of an approved Insurance Company Bond in the sum of €184,200.00 which shall be kept in force by the Developer until such time as Roads, Open Spaces, Car Parks, Sewers, Watermains and Drains are completed to the satisfaction of the Council OR/... b) Lodgement with the Council of a Cash Sum of €113,600.00 to be applied by the Council at its absolute discretion if such services are not duly provided to its satisfaction on the provision and completion of such services to standard specifications.

REASON: To ensure that a ready sanction may be available to the Council to induce the provision of services and prevent disamenity in the development.