



An
Bord
Pleanála

Inspector's Report

ABP-320601-24

Development

Demolition of the existing 2 dwellings and outbuilding for the construction of a 4 storey over basement residential building comprising 24 apartments and all associated site works.

Location

Tara, 44 Foster Avenue, Mount Merrion, Blackrock, Co. Dublin, A94 EV20 and Kildara, 44A Foster Avenue, Mount Merrion, Blackrock, Co. Dublin, A94 W963.

Planning Authority

Dun Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.

D23A/0489

Applicant(s)

Wellsea properties Ltd.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party.

Appellant(s)

Wellsea properties Ltd.

Observer(s)

John and Marie Rafferty

Mount Merrion Residents

Oonagh and Michael Beale

Michael Gill

Declan Hayes and Elma Anna O'Reilly

Conal and Nuala Hooper

Desmond and Elizabeth O' Reilly

Date of Site Inspection

21st November 2024.

Inspector

Kathy Tuck.

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1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of c. 0.17ha, is located at Foster Avenue, Mount Merrion, Blackrock, County Dublin. Foster Avenue is c.8km from Dublin City Centre. The subject site is a corner site situated at the junction of North Avenue and Foster Avenue and directly opposes a secondary entrance, the Nova entrance, to the University College Dublin campus. The site is c.450m to the south-west of the Stillorgan dual carriageway and Quality Bus Corridor and c. 850m to the north of Mount Merrion Village
- 1.2. The site is within an established residential area characterised by detached and semi-detached residences of varying building height, on relatively large plots and/ or with long rear gardens.
- 1.3. The site is square in configuration and currently comprises of a pair of semi-detached two storey dwellings. The dwellings are currently occupied and served with large front gardens with smaller private amenity spaces to the rear. The topography of the area is notable as the site is positioned at a higher level than that of Foster Avenue which falls from the west to east.
- 1.4. The eastern boundary of the site is shared with North Avenue; the southern boundary is shared with no. 1 North Avenue which is a two-storey dwelling; the western boundary is shared with no. 46 Foster Avenue which is a semi-detached two storey dwelling; and to the northern boundary is shared with Foster Avenue.

2.0 Proposed Development

- 2.1. This is an application for permission for the demolition of 2 no. two storey semi-detached dwellings and associated shed building and the construction of a four storey over basement residential building which would provide for 24 no. apartment units comprising 9 no.1 bed apartments and 15 no. two bed apartments. The floor areas of the buildings to be demolished are indicated as 350sq.m.
- 2.2. The proposed building is indicated as having a maximum ridge level of c.17.342m along the northern elevation where it addresses Foster Avenue, which reduces to c.15.834 along the southern elevation and to c.11.318m along the western elevation.

2.3. In addition to the standard plans and particulars, the application as initially lodged was accompanied by the following reports and documentation:

- Photomontages prepared by PDC Architects;
- Part V validation and costings; and
- Engineering drawings and particulars prepared by Cconsult Engineering.

2.4. Following a Further Information (FI) request, additional information was submitted in respect of the concerns raised by the Planning Officer which are set out fully within section 3.1.1 of my report. While the overall layout remained unchanged, the unit number increased to 26 no. apartment units due to the inclusion of 2 no. 1 bed units at podium/basement level. As such permission was now being sought for 26 no. apartment units. The following reports were submitted:

- Response to Further Information Report;
- Architectural design statement;
- Acoustic Design Statement;
- Construction and Demolition Waste Management Plan;
- Construction Management Plan;
- Preliminary Ecological Report (PEA);
- Operational Waste management Plan;
- Quality Audit;
- Soft landscaping works specifications; and
- Daylight Analysis and Overshadowing Assessment.

3.0 Planning Authority Decision

The Planning Authority following a request for additional information, issued a Notification of Decision to REFUSE Permission on the 23rd July 2024 for the following reason:

- *It is considered that by virtue of its monolithic design, scale, and massing against a corner at a highly visible thoroughfare, the proposed development*

would result in significantly negative impacts upon the visual amenities of the area. The proposed infill development, which at this location demands exemplary and sympathetic design, has not given due consideration to the architectural character of the area. The proposed development therefore does not meet the requirements of Section 12.3.9 Demolition and Replacement Dwellings, Section 12.3.7.7 Infill; Section 11.4.3.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features; nor Criterion 1c of the Building Height Strategy of Dún Laoghaire-Rathdown County Development Plan 2022-2028. It is therefore considered that the proposed development would significantly injure the visual amenities of the surrounding streetscape, set an undesirable precedent, and would be contrary to the proper planning and sustainable development of the area.

3.1. Planning Authority Reports

3.1.1. Planning Reports

The first report of the Planning Officer dated the 13th September 2024, sets out details of the proposed development, the site location, relevant planning history, reports received, a summary of submissions received, and all relevant national, regional, and local planning policy.

The report notes that the proposed development is considered to be acceptable in terms of the land use zoning. However, the assessment further notes concern over a range of issues. Subsequently, a request for Further Information was issued which sought the following information:

Planning Issues:

Item 1 – Justification for the demolition of the existing dwellings.

Item 2 – Heritage Assessment and Architectural Design Statement.

Item 3 – Address shortfall in communal open space.

Item 4 – Clarify interface of proposed scheme with public realm and provides for active street frontage through additional site layout plan and contiguous elevations.

Item 5 – Revised site sections which include stated levels for both the existing and proposed ground levels.

Item 6 – clarity over if the proposed basement car park will present as a undercroft – should be outlined on relevant plans - commentary required as to how it relates to overall height.

Item 7 – Updated drawings plans indicating how units 6, 18 and 18 access private amenity space.

Item 8 – Daylight Sunlight Assessment.

Item 9 – confirm if plant room for residents additional storage area – if not additional storage should be provided.

Item 10 – Revised proposal to ensure 50% of units are dual aspect.

Item 11 – Revised photomontages omitting trees indicated or provide a robust suite of proposals to retain trees as shown.

Drainage

Item 12 – Proposal of a pumped surface water drainage network deemed unavoidable, then the proposal must meet all the following:

- a) Prove all other possible gravity storage and discharge arrangements have been considered and are not technically feasible;
- b) Prove if failure occurs will not impact on the Council's network;
- c) Demonstrate adequate duty and standby pumping arrangements are in place - 3-pump arrangement will be required.
- d) pumped discharge rate is limited to 2l/s/ha or Qbar.
- e) A Site Specific Flood Risk Assessment must be submitted.

Item 13 – provide an updated drainage layout drawing and design showing all incidental surface run off from the basement carpark discharging to foul sewer and not the surface water sewer.

Item 14 – Apply an appropriate outfall discharge rate for the site and recalculate the attenuation volume using the revised discharge rate.

Item 15 – Provide updated hydraulic modelling results with appropriate Cv values applied.

Item 16 – Provide an updated surface water design with the appropriate runoff factor clearly identified.

Item 17 – provide an updated hydraulic model/design.

Item 18 – demonstrate by calculation that the proposed green roof extents are in accordance with the Council's Green Roof policy.

Item 19 – Clarity on underground attenuation.

Transportation

Item 20 – demonstrate entrance complies with DMURS visibility splay requirements.

Item 21 – demonstrate disable parking in accordance to the requirements of Part M of the building regulations

Item 22 – reduction in parking provision within the development and complete the deviation from car parking standards checklist.

Item 23 – demonstrate a set-down location for deliveries and emergency vehicles.

Item 24 – submit an independent cycle audit.

Item 25 – submit an independent DMURS Quality Audit, Accessibility Audit and Street Design Audit.

Item 26 – demonstrate the underground car parking is in accordance with ISTRUCTE Underground car parking design standards.

Item 27 – submit an outline construction management plan.

Public Lighting

Item 28 – submit EV infrastructure proposal and Confirmation of impact of the scheme on the existing street lighting.

Environmental Enforcement

Item 29 – Submit Construction and Demolition Waste Management Plan

Item 30 – Submit Construction Management Plan.

Item 31 – Submit Noise Assessment

Item 32 – Submit Operational Waste Management.

Environmental Health Officer

Item 33 – Submit a Construction Environmental Management Plan.

Item 34 – Demonstrate compliance with S. 4.8 and 4.9 of Sustainable urban Housing Design Standards for New Apartments, 2018.

Parks and Landscape Services

Item 35 - submit a plan plotting the location and breadth of the crowns of the existing street trees (owned by DLR) in the grass margin to the northwestern side of the site on Foster Avenue.

Item 36 – Submit an Ecological Assessment.

Item 37- Submit a Landscape Design Rationale together with comprehensive, detailed Landscape Design and Maintenance Proposals which include:

- a) A Landscape Masterplan - with cross-sections
- b) Planting Plan
- c) Hard Landscape Design for boundary treatments, seating, kerbs, edges, surfaces, lighting, and showing civil engineering elements
- d) Outline Landscape Specification for all materials
- e) use of qualified organic fertilisers are preferred.
- f) Soft SuDS (Sustainable Urban Drainage): design solutions that optimize synergies between conventional 'grey' infrastructure. Note: underground stormwater attenuation tanks will not be acceptable if their location would significantly constrain new planting or the quality of open space.
- g) Details of the sites entrance / gateways and boundary treatments and demonstrate how the proposal will aesthetically connect with the receiving environment.
- h) Timescale for Implementation of all proposals.

- i) Roofs should be 'green' as far as possible.
- j) None of the proposed open space would be taken in charge by DLR Co. Co.

The applicant submitted a response to the request for further information on the 27th June 2024, which included for a cover letter, amended plans and a range of assessment and studies providing for a response to each of the items of concern raised. The responses provided was deemed to be significant and can be summarised as follows:

Item 1 response:

Applicant states increased density supported by compact and consolidated development within the built-up footprint of Dublin is in keeping with the proper planning and sustainable development of the area and would be justification for the demolition of the existing structures on site.

Applicant further states: *While we note that the intention to retain existing structures within the County lies partially on the embodied energy that existing structures have, it is considered that the dwellings on site would no longer be considered energy efficient due to their age and would consider that the cost of refurbishing the existing house to a higher energy rating provides justification for the demolition of the dwellings.*

Item 2 response:

A architectural Design Statement was submitted.

Item 3 response:

Applicant puts forward an argument in light of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023) and Section 12.8.3 of the Development Plan. A request is made for a development contribution under Section 48 of the Planning and Development Act 2000 in lieu of communal open space.

Item 4 response:

Revised layout submitted.

Item 5 response:

Revised drawing pack prepared by PDC Architectural submitted.

Item 6 response:

Refer to drawing pack prepared by PDC Architectural submitted

Item 7 response:

Refers to the revised drawing pack - these units were provided with private amenity space in the form of a terrace at the northwestern elevation.

Item 8 response:

Daylight and Overshadowing Analysis submitted.

Item 9 response:

Plant room has been revised to accommodate plant which facilitates the proposed development as well as an area designated for the storage of some bulky items to be utilised by prospective tenants

Item 10 response:

54% of the units proposed are now dual aspect.

Item 11 response:

not proposed to retain the existing trees on site – refer Planning Authority to landscape masterplan.

Item 12 response:

Refer Planning Authority to engineering reports and documents submitted.

Item 13 response:

Refer Planning Authority to engineering reports and documents submitted.

Item 14 response:

Refer Planning Authority to engineering reports and documents submitted.

Item 15 response:

Refer Planning Authority to engineering reports and documents submitted.

Item 16 response:

Refer Planning Authority to engineering reports and documents submitted.

Item 17 response:

Refer Planning Authority to engineering reports and documents submitted.

Item 18 response:

Refer Planning Authority to engineering reports and documents submitted.

Item 19 response:

Refer to the engineering reports and documents prepared by Cconsult Engineering.

Item 20 response:

Access has been revised and it is now proposed to provide a two-way entrance from North Avenue as opposed to a one-way entrance from Foster Avenue and a one-way exit from North Avenue as originally submitted.

Item 21 response:

Proposed car parking has been revised. As such, the proposal now includes 1 no. accessible parking space opposite the entrance to the development from the car parking.

Item 22 response:

Revisions to the proposed development result in a car parking provision of 14 no. car parking spaces, comprising 1 no. carshare space and 1 no. accessible space to service the proposed 26 no. units.

Item 23 response:

Set-down location has been provided at the entrance to the site along North Avenue, with sufficient setbacks included from the entrance to ensure that this area is accessible and does not impact the access of the site.

Item 24 response:

refer to the Cycle Audit submitted.

Item 25 response:

Refers to the DMURS Quality Audit, Accessibility Audit and Street Design Audit submitted.

Item 26 response:

Refer to the engineering reports and documents submitted.

Item 27 response:

Refer to the reports and documents submitted.

Item 28 response:

Proposed to provide 14 no. car parking spaces in total, this would result in a requirement for 2-3 no. car parking spaces with EV charging points. It is considered that this can be agreed with by way of condition.

Item 29 response:

Refers to documents submitted.

Item 30 response:

Refers to documents submitted.

Item 31 response:

Refer to the Acoustic Design Statement submitted.

Item 32 response:

Refer to documents submitted.

Item 33 response:

Refer to documents submitted.

Item 34 response:

Applicant states that the waste storage proposed at the basement level includes sufficient space to satisfy the three-bin system for the collection of mixed dry recyclables, organic waste and residential waste. Additionally, the bin store is situated in close proximity to the set-down area at the two-entrance to the development along North Avenue.

Item 35 response:

Refers to Drawing No. 0000001b submitted with the further information response which details the location and breadth of the crowns of the existing street trees in the grass margin to the northwestern side of the site on Foster's Avenue.

Item 36 response:

Refers to documents submitted.

Item 37 response:

Refers to the report and documents submitted.

The second report of the Planning Officer dated the 23rd July 2024, stated that considering the character of the area and the notable design of the existing buildings and their context, a high quality scheme would be required to justify the demolition of the existing structures on site. The Planning Officer concluded that the proposed scheme would be monolithic and jarring and the further information submitted did not overcome the concerns raised. The report further notes, notwithstanding the substantive reasons for refusal, there are other outstanding issues relating to transportation, open space and site sections that might otherwise be put to the applicant by way of Clarification of Further Information.

The report recommends that permission be refused consistent with the Notification of Decision which issued.

3.1.2. **Other Technical Reports**

Drainage Planning Report: Seeking the following additional information – demonstrate that a pumped surface water drainage proposal is unavoidable; a site-specific flood risk assessment; clarification on drainage layout and rates of outfall; provide updated hydraulic modelling; clarity over proposed blue-roof proposal; provide fully dimensioned plans and sections of any proposed attenuation storage system.

A *second report* dated the 16th July 2024 recommended a grant of permission subject to condition.

Environmental Enforcement Report: Seeking the following additional information – construction and Demolition Waste Management Plan; Construction Management Plan; a Noise Impact Assessment; an Operational Management Plan.

EHO Report: Seeking the following additional information – a Construction Environmental Management Plan and evidence of compliance with Sections 4.8 and 4.9 Sustainable Urban Housing – Design Standards for New Apartments (communal storage areas and access for waste collection providers).

Public Lighting Report: Seeking the following additional information – An EV infrastructure proposal and Confirmation of impact of the scheme on the existing street lighting.

A *second report* dated the 15th July 2024 sought the same as previous report.

Transportation: Seeking the following additional information – demonstrate entrance accords with DMURS visibility splay requirement; parking accords with Part M; complete the deviation from car parking standards checklist under section 12.4.8.1 – reduce car parking further; demonstrate access to car park and set down feasible for deliveries and emergency vehicle; independent cycle audit; and independent DMURS Quality Audit, Accessibility Audit and Street Design Audit, outline construction management plan.

A *second report* dated the 18th July 2024 sought the following clarification of additional information: revised, non-conflicting, drawings, details and accompanying information which clearly demonstrates the quantity, type and layout of all parking spaces; and revised drawings and details which demonstrate the provision of cycle parking in accordance with DLRCC’s “Standards for Cycle Parking.

Parks Report: Seeking the following additional information –a Landscape Design Rationale together with comprehensive, detailed Landscape Design and Maintenance Proposals.

A *second report* dated 11th July 2024 recommended a grant of permission subject to condition.

Housing Department: Recommends a grant of permission subject to condition.

3.2. Prescribed Bodies

A report from Uisce Eireann, dated the 20th July 2023, was received by the planning authority which notes no objection to the proposed development subject to condition. This report related to the initial stage of assessment.

3.3. Third Party Observations

The Planning Authority received 46 no. submissions. Concerns raised can be summarised as follows:

- Impact on amenity:
 - Overlooking.
 - Overbearing/visually dominant.
 - Lack of detail about: private & communal open space/relevance of stated supporting precedent.
 - Creating a less family friendly environment.
 - Excessive density.
 - None compliance with a number of policies/objectives and sections of the Development Plan – Section 12.3.7.7; Section 11.4.3.3; Policy Objective HER21
- Out of character with the surrounding area Planning application in complete
 - no shadow analysis/traffic management plan/ landscape plan/ streetscape design/ biodiversity assessment/ tree survey/architectural and heritage statement/construction management plan/ screening and boundary treatment/noise assessment.
 - Contextual drawings misleading.
 - No room dimensions or specifications
- Concern over the demolition of 2 no. habitable dwellings.
- Traffic
 - Road safety.
 - Vehicular movement in basement is questionable.
 - Risk of disruption to emergency vehicle access during construction and operation phase.
- Logistics of how works will be carried out need's clarity.
- Insufficient local capacity for additional waste or stormwater.

4.0 Planning History

Subject site

DA14A/533 Permission GRANTED for a new vehicular entrance and removal of existing entrance at Tara, 44 Foster Avenue.

Adjacent Properties

- | | |
|---------------|--|
| ABP-308770-20 | Permission GRANTED for Demolition of vacant industrial building and 2 dwellings, and all associated site works at Site at No's, 24, 26 and 28, Foster's Avenue, Mount Merrion, Blackrock, Co. Dublin. |
| ABP-309931-21 | Permission GRANTED for demolition of existing buildings on site and construction of 72 no. apartments, communal amenity building at 24, 26, 28, Fosters Avenue, Mount Merrion, Blackrock, Co Dublin. |
| TA0001 | An Bord Pleanála GRANTED permission for a Strategic Housing Development comprising of 512 student accommodation units (3006 no. bedspaces) set out in 7 no. blocks ranging in height from 2 to 7 storeys including student facility centre, car parking and all associated site works at University College Dublin, Belfield, Dublin 4 (directly opposing the subject site). |

5.0 Policy Context

5.1. National Planning Context

5.1.1. National Planning Framework (NPF)

National Policy Objective 2a: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.

National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

National Policy Objective 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2. **‘Housing for All - a New Housing Plan for Ireland (September 2021)’.**

This is the government’s housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland’s housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes: - To purchase or rent at an affordable price, - Built to a high standard in the right place, - Offering a high quality of life,

5.2. **Regional Planning Context**

5.2.1. **Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly (EMRA) (2019-2031)**

The RSES supports the implementation of the NPF by providing a long-term strategic planning and economic framework for the region up to 2031.

Regional Policy Objective 3.1: Key stakeholders, including local authorities in the Region shall, through their policies and objectives including development plans, commit to the delivery of the Growth Strategy as detailed in the RSES.

The growth strategy for the Region includes, inter alia, delivering the sustainable growth of the Metropolitan Area through the Dublin Metropolitan Area Strategic Plan (MASP) and embedding a network of Key Towns through the Region to deliver sustainable regional development.

Regional Policy Objective 3.2: Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

Regional Policy Objective 3.3: Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for new Apartments Guidelines’ and the ‘Urban Development and Building Heights Guidelines for Planning Authorities’

Regional Policy Objective 3.7: Local authorities shall have regard to environmental and sustainability considerations for meeting sustainable development targets and climate action commitments, in accordance with the National Adaptation Framework. In order to recognise the potential for impacts on the environment, local authorities shall address the proper site/route selection of any new development and examine environmental constraints including but not limited to biodiversity, flooding, landscape, cultural heritage, material assets, including the capacity of services to serve any new development.

Regional Policy Objective 4.3: Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

Regional Policy Objective 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

Regional Policy Objective 5.4: Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’¹³, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities’¹⁴.

Regional Policy Objective 5.5: Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

5.3. Section 28 Guidelines

5.3.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020, updated in 2023) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Nature-based Solutions to the Management of Rainwater and Surface Water Runoff Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document, 2022.

5.3.2. *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, (2024)*

These Guidelines set out national planning policy and guidance in relation to the creation of settlements that are compact, attractive, liveable and well designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlements.

Table 3.1 of the guidelines states that sites within suburban and urban extensions areas should aim to achieve a density of 40-80 units per hectare (net). It further notes that densities of up to 150 dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations, as defined in Table 3.8. This definition provides for:

1. High Capacity Public Transport Node or Interchange

Lands within 1,000 metres (1km) walking distance of an existing or planned high capacity urban public transport node

or locations within 500 metres walking distance of an existing or planned BusConnects 'Core Bus Corridor

2. Accessible Location

Lands within 500 metres (i.e. up to 5-6 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services.

3. Intermediate Location

Lands within 500-1,000 metres (i.e. 10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services

4. Peripheral

Lands that do not meet the proximity or accessibility criteria detailed above

Development standards for housing are set out in Chapter 5, including:

1. SPPR 1 in relation to separation distances (16 m above ground floor level),
2. SPPR 2 in relation to private open space (2-bed 30 m² ; 3-bed 40 m² ; 4+bed 50 m²),
3. SPPR 3 in relation to car parking (1.5 spaces per dwelling in accessible locations) and
4. SPPR 4 in relation to cycle parking and storage.

Section 4.4 of the Guidelines set out Key Indicators of Quality Design and Placemaking. It considers that achieving quality urban design and creating a sense of place is contingent on the provision of an authentic identity that is specific to the

settlement, neighbourhood or site in question. Section 4.4 (V) relates to responsive built form.

Policy and Objective 4.2 states that it is a policy and objective of these Guidelines that the key indicators of quality urban design and placemaking set out in Section 4.4 are applied within statutory development plans and in the consideration of individual planning applications

Policy and Objective 5.1 relates to public open space provision and requires development plans to make provision for not less than 10% of the net site area and not more than a min. of 15% of the net site area save in exceptional circumstances. Sites with significant heritage or landscape features may require a higher proportion of open space.

5.4. Climate Action Plan (CAP) 2023

- 5.4.1. This plan implements the carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050.
- 5.4.2. Section 5.3.2 of the CAP recognises that decades of focus on dispersal of residential settlements, commercial zones, and workplaces in peripheral areas, instead of concentrating on central areas and locations served by public transport, has led to an over-reliance on the private car. To deliver systems change, policy measures aimed at better aligned transport and spatial and land use planning are critical. Policies already in place in this context are the NPF, Housing for All and Town Centres First and a number of relevant actions are already reflected in the SMP. Embedding transport-oriented development at all stages of planning and development is key, particularly the siting of services and multi-use development at transport nodes.

5.5. National Biodiversity Plan 2023-2030

The National Biodiversity Plan identified 5 objectives which include for Adopt a Whole-of-Government Whole-of-Society Approach to Biodiversity; Meet Urgent Conservation and Restoration Needs; Secure Nature's Contribution to People Enhance the Evidence Base for Action on Biodiversity; and Strengthen Ireland's Contribution to International Biodiversity Initiatives.

5.6. Dun Laoghaire Rathdown County Development Plan 2022-2028

Land Use Zoning

The subject site is zoned under Objective A which seeks to provide for residential development and improve residential amenities while protecting the existing residential amenities.

Other relevant sections

Chapter 2 – Core Strategy

- *Policy Objective CS11 Compact Growth*

Chapter 3 – Climate Action

- *Policy Objective CA5: Energy Performance in Buildings*
- *Policy Objective CA6: Retrofit and Reuse of Buildings*
- *Policy Objective CA7: Construction Materials*
- *Policy Objective CA8: Sustainability in Adaptable Design*
- *Policy Objective CA18: Urban Greening*

Chapter 4 – Neighbourhood – People, Homes and Place.

Overarching Policy Objective PHP1

Policy Objective PHP2: Sustainable Neighbourhood Infrastructure

Policy Objective PHP3: Planning for Sustainable Communities

Policy Objective PHP4: Villages and Neighbourhoods

Policy Objective PHP18: Resident 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.

Policy Objective PHP19: Existing Housing Stock – Adaptation.

It is a Policy Objective to:

- Conserve and improve existing house stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF.
- Densify existing built-up areas 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.

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

Policy Objective PHP25: 'Housing for All – A new Housing Plan for Ireland, 2022'

It is a Policy Objective to support as appropriate the delivery of the actions set out in the 4 pathways contained in 'Housing for All – A new Housing Plan for Ireland, 2021'

Policy Objective PHP26: Implementation of the Housing Strategy

It is a Policy Objective to facilitate the implementation and delivery of the Housing Strategy and Housing Need Demand Assessment (HNDA) 2022 - 2028.

Policy Objective PHP27: Housing Mix

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

Policy Objective PHP30: Housing for All

It is a Policy Objective to: Support housing options for older people and persons with disabilities/mental health issues consistent with NPO 30 in the NPF, RPO 9.1 and 9.12 of the RSES. Support the provision of specific purposebuilt accommodation, including assist living units and lifetime housing, and adaptation of existing properties. Promote 'aging in place' opportunities f 'downsizing' or 'right sizing' within their community.

Policy Objective PHP31: Provision of Social Housing

It is a Policy Objective to promote the provision of social housing in accordance with the Council's Housing Strategy and Government policy as outlined in the DoHPLG 'Social Housing Strategy 2020'. The Affordable Housing Act 2021 provides for 20% for social and affordable homes.

Policy Objective PHP35: Healthy Placemaking

Policy Objective PHP36: Inclusion Design & Universal Access

Policy Objective PHP37: Public Realm Design

Policy Objective PHP42: Building Design & Height

Policy Objective PHP44: Design Statements (30 + residential units, commercial development over 1,000 sq.m. or as otherwise required by the Planning Authority)

Chapter 5 -Transport and Mobility

Policy Objective T1: Integration of Land Use and Transport Policies

Policy Objective T4: Development of Sustainable Travel and Transport

Policy Objective T11: Walking and Cycling

Policy Objective T17 - Travel Plans (for developments that generate significant trip demand).

Policy Objective T18 - Car Sharing Schemes

Policy Objective T19 - Carparking Standards

Policy Objective T26 - Traffic and Transport Assessments and Road Safety Audits

Policy Objective T27 - Traffic Noise

Policy Objective T28 - Road Safety

Policy Objective T30 - Street Lighting

Chapter 8 – Green Infrastructure and Biodiversity

Policy Objective GIB18: Protection of Natural Heritage and the Environment

Policy Objective GIB19: Habitats Directive

Policy Objective GIB22: Non-Designated areas of Biodiversity Importance.

Policy Objective GIB23: County wide Ecological Network.

Policy Objective GIB28: Invasive Species.

Chapter 9 – Open Space, Parks and Recreation

Policy Objective OSR4 – Public Open Space Standards

Chapter 10 – Environmental Infrastructure and Flood Risk

Policy Objective EI9: Drainage Impact Assessment

Policy Objective EI11: Recourse Management

Policy Objective EI12: Waste Management Infrastructure, Prevention, Reduction, Reuse and Recycling (Circular Economy approach)

Policy Objective EI14: Air and Noise Pollution

Policy Objective EI22: Flood Risk Management

Chapter 11- Heritage Conservation

Policy Objective HER20: Buildings of Vernacular and Heritage Interest

Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features:

Chapter 12 – Development Management

Appendices 2: Housing and HNDA

Appendices 3: Development Management Thresholds

Appendices 5: Building Heights 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.

Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban areas. Any such proposals must be assessed in accordance with the criteria set out below in table 5.1 as contained in Section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

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.

Table 5.1 - Criteria for assessing proposals for increased height

Appendices 7: Sustainable Drainage System Measures

5.7. Natural Heritage Designations

The subject site is not within or adjoining any Natura 2000 Sites. The site is located c.1.488km to the south-west of the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and the South Dublin Bay and River Tolka Estuary SAC (site code 000210). The site is also located 8.26km to the west of the Rockabill to Dalkey Island SAC (site code 000300).

5.8. EIA Screening

The scale of the proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers.

6.0 The Appeal

6.1. Grounds of Appeal

This is a 1st party appeal against the decision by Dun Laoghaire Rathdown County Council to refuse permission. The grounds of the appeal are as follows:

1. Response to refusal reason:

- Design, Scale and Massing.
 - Due regard was had to ensure the provision of a high-quality design that responds to the constraints and opportunities of the site which ensures the protection of visual amenities.
 - Considerations regarding massing have been ensured to provide a suitable design of this infill opportunity site.
 - In addition to setbacks from shared boundaries the proposal provides for set backs at 3rd floor level which reduces the perceived massing – sufficient set back allow for the building to be read as a part-three part four storey development.
 - Considered to be suitably scaled for this infill site.
 - Design considerations inclusive of setbacks in the façade to facilitate private amenity space for each unit – further brakes up the massing of the buildings onto Fosters Avenue and North Avenue.
 - Facades are staggered to provide for visual interest while representing an effecting solution to minimising massing – staggered elements are non-uniform in width and avoid repetitive pattern.
 - Considered the staggered approach to the façade of the structure avoids a monolithic design and represents a suitable solution to address concerns of massing.
- Architectural Character of the area
 - Area comprises of a variety of house types – typically characterised by large detached and semi-detached two storey dwellings which are of traditional architectural style – variance in scale height and palates of materials.
 - Highlight recent grant of permission under ABP-309931-21 which introduces further architectural variance to the area through consideration of materials

as well as the introduction of set-backs – ensuring the protection of visual amenity and a smooth height transition from adjoining sites.

- Garden City Character – proposal provided with set back from northern and eastern boundaries which is typical of Garden City.
- Design and scale of proposal has considered the character through the provision of set-backs from shared boundaries to the south and west.
- Character further ensured through set-backs at 3rd floor which provide a smooth and coherent visual transition between the subject site and neighbouring properties.
- Materials proposed include for red brick – utilised in surrounding area.
- Site has capacity to facilitate additional development due to its location context and size – proposal represents an appropriate response to the context of the site.
- Development Plan Guidance
 - Section 12.3.9 – Demolition and Replacement Dwellings – highlights councils' preference for the retention and retrofit over the demolition and replacement.
 - Considered that there is a sufficient justification for the demolition of the 2-no. dwelling and provision of 26 no. residential units in light of the comments of the Planning Officer's Report which states – infill and apartment development of similar densities would be permissible at this location.
 - Site Suitability report prepared by RBD (included as appendix B to 1st party appeal) – report notes dwellings are not of any significant historic or architectural significance. Both built in the 1930's. No. 44A – very poor energy and eater efficiency: BER rating of F. No. 44 better maintained with a BER rating of G. Both dwellings not conducive to environmentally friendly living nor in accordance with goals of Sustainable Energy Authority Ireland for conservation of fuel and energy.
 - Section 11.4.3.3 of the Development Plan – guidance on protection of other elements of built heritage in the county which include some areas that contain grouping of Nineteenth and Twentieth Century Buildings recognised for distinctive layout and features. The Planning Officers report notes the

garden city layout of the surrounding area and considered the contribution to that.

- The existing dwellings on site considered to be of minimal architectural merit – not considered representative of exemplary Twentieth Century Buildings.
- Not considered essential to retain these dwellings to protect the character of the area.
- While the set-backs of the existing dwellings are considered to be in keeping with Garden City – dwellings on site are not significant contributors to the character of the area and therefore their retention over the provision of much needed housing is not warranted.
- Proposed development been designed to integrate into surrounding area through the retention of significant setbacks from the boundaries with Fosters Avenue and North Avenue – protecting visual amenity; avoiding overbearing in scale; and protecting the character of the area -therefore proposal meets requirements of Section 12.3.9 of the County Plan.
- The setback at 3rd floor provides for a smooth and coherent visual transition between the subject site and neighbouring properties.
- staggered elements further protect visual amenity and reduces perceived massing.
- Section 12.3.7.7 of the Development Plan provides guidance for infill development:
 - The existing dwellings on site are not considered to be of significant architectural merit – demolition is considered a suitable solution to provide for much needed housing.
 - Proposal represents development in keeping with a compact and consolidated form.
 - Stepped approach to height together with setbacks includes for a smooth transition – protecting character of the area; garden city character; and visual amenity.
- Building Height
 - Proposal demonstrates compliance with table 5.1 of the Building Height Strategy.

- Proposal considered to successfully fit into and enhance the character and public realms of the area.
- The design has been developed to consider the existing context, opportunities and constraints of the site and adjoining context.
- Proposal enhances public realm by improving visual interest – increase in street activity through provision of active frontage to Fosters and North Avenue and provides passive surveillance.
- Opposite side of Fosters Avenue does not facilitate active street frontage.
- Considered that improved street frontage with the proposed development and high-quality architectural design contribute to the public realm.
- Structure has been designed to ensure coherent interaction between the site and the street – height has been scaled so as not to appear overbearing / staggered facades reduces perceived massing/set backs from adjoining roads ensure integration and does not overbear on public realm.
- Landscaping proposed will improve visual amenity at this corner site enhancing character of area. Seating will promote social cohesion.
- In noting criterion 1C of building Height strategy –
 - Proposal integrates well into public realm.
 - Setbacks at 3rd floor level allow for smooth visual transition from adjoining two storey dwellings.
 - Topography of site slopes upwards to the south-west – setback reduce height of structure as the site slopes upwards.
- Considered that overall design which has considered context of the site providing for a proposal which integrates well into the receiving environment, successfully interacts with the public realm through the proposed massing and materials which are in keeping with the local context and provision of additional active frontage at this section of Fosters and North Avenue.
- Recent grant of permission under ABP-30993-21 which highlights emerging pattern of development in the area.

2. Additional Considerations

- Open space

- Design standards for New Apartments – Section 4.12 notes communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality for development on sites up to 0.25ha.
- Subject site has an area of 0.17ha which is in these parameters – due to site restriction and high level of residential amenity proposed for future occupants which exceeds these guidelines – commission of communal open space considered acceptable.
- Car Parking
 - For clarity - following the request for further information the car parking was revised to provide 12 no. standard spaces; 1 no share space and 1 no. accessible space. Set down area also included but not included as a car parking space.
- Historic map
 - Host dwellings inclusion on the Cassini 6-inch Last Addition Map is not a justification for their retention.
 - Dwellings are considered to be of little architectural merit and do not contribute greatly to the character of the area – the demolition to provide for 26 no. residential units is justified.
- Planning Context

Appendix C of the appeal demonstrates that the proposed development compliance with both local and national planning policy.

6.2. Planning Authority Response

An Bord Pleanála received a response from the Planning Authority in the 17th September 2024. The response guides the Board to the previous Planning Officer reports and states that the grounds of the appeal do not raise any new matter which in the opinion of the Planning Authority would justify a change of attitude to the proposed development.

6.3. Observations

An Bord Pleanála received 7 no. observations in response to the 1st party Appeal received. The concerns raised are as follows:

- Principle of development:
 - Not in keeping with character of the area.
 - Disproportionate scale and massing at a highly visible thoroughfare.
 - Mount Merrion was developed as 'Garden City'.
 - Proposed development is monolithic and brutalist in design and alien in design to that of Mount Merrion – would not integrate into surrounding area.
- Set an undesirable precedent for similar.
- Negative impact on residential amenities.
 - Overlooking/overshadowing/overbearance.
- 2 dwellings to be demolished are not condemned and should be retained.
 - No rational or justification for demolition proposed.
- Insufficient screening and retention of trees.
- Planning Precent set out by Appellant all not relevant and differ significantly from subject site.
- Narrative around S.28 Building Height Guideline is misleading – all areas in guidelines are city centre locations and not akin to Mount Merrion.
- Does not comply with Dun Laoghaire Rathdown County Development Plan 2022-2028:
 - Policy HER21 or S.12.3.7.7; S12.3.9 and S.11.4.3.3
- Height of proposal is misrepresented:
 - Basement reads as an additional floor

7.0 Assessment

Having examined the application details and all other documentation on file, including the appeal, having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Principle and Quantum of Development
- Response to reason for refusal.

7.1. Principle and Quantum of Development

- 7.1.1. The subject site is zoned under Objective A of the Dun Laoghaire Rathdown County Development Plan 2022-2028 which seeks to provide for residential development and improve residential amenities while protecting the existing residential amenities. 'Residential' is listed under the permissible use's matrix associated with the A zoning objective. I therefore consider that the proposed development is considered to be acceptable in principle on the subject site.
- 7.1.2. The applicant is seeking permission for 26 residential units, on foot of the further information response, on a site with a stated area of 0.17ha. As such the density proposed would equate to 153 units per hectare. The subject site which is located at the junction of Fosters Avenue and North Avenue, Mount Merrion, Co. Dublin where the prevailing form of development comprises of low density detached and semi-detached dwellings.
- 7.1.3. Having regard to Table 3.1 of the Sustainable and Compact Settlement Guidelines for Planning Authorities, 2024, the subject site can be considered as being 'City – Suburban/Urban Extension' where densities of 150dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations as defined within table 3.8 of the Guidelines.
- 7.1.4. Table 3.8 of the Sustainable Compact Guideless notes that lands within 500 metres walking distance of an existing or planned Bus Connects 'Core Bus Corridor' as being considered accessible. Route 14 of the Bus Connects Project runs along the Stillorgan Dual Carriageway which is located c. 450m to the east of the subject site. As such the site is considered to be accessible.
- 7.1.5. I note that there are also a number of policy objectives within the Dun Laoghaire County Development Plan 2022-2028 which also relate to density, namely Policy Objective PHP18 – Residential Density and Policy Objective PHP20 – Protection of Existing Residential Amenity. The Dun Laoghaire Rathdown County Development Plan 2022-2028 has established a minimum default density for new developments within the county, excluding the more sensitive land use zonings, to be at 35 units per

hectare. However, Policy Objective PHP 18 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 seeks to encourage higher residential density 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.

- 7.1.6. Overall, having regard to the location of the subject site within an urban/suburban location, the density guidance set out within Table 3.1 of the Sustainable and Compact Settlement Guidelines for Planning Authorities, the proximity of the site to Route 14 of Bus Connects, I consider that the density proposed of 153 units per hectare at this location is acceptable.

7.2. Response to Reason for Refusal

- 7.2.1. The Planning Authority within their reason for refusal stated that by virtue of its monolithic design, scale, and massing against a corner at a highly visible thoroughfare, the proposed development would result in significant negative impacts upon the visual amenities of the area. It was considered that any infill development on this site would require exemplary and sympathetic design and that the applicant had failed to give due consideration to the architectural character of the area.
- 7.2.2. There are three parts to this reason for refusal which need to be addressed and are considered by the appellant within the 1st party appeal as being: justification of the demolition of the existing dwelling; the established character of the area - massing/design; and the height of the proposal.
- 7.2.3. The Planning Officer highlighted concern within their initial assessment of the proposed development and considered that the scheme would result in adverse impact to the visual amenity and character of the surrounding area. These concerns were underpinned by the following Sections and Policy Objectives of the County Plan:
- *Section 12.3.9 - Demolition and Replacement Dwellings;*
 - *Section 12.3.7.7 – Infill* which states “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.”; and

- *Section 11.4.3.3 - Policy Objective HER21 - Nineteenth and Twentieth Century Buildings, Estates and Features.*

7.2.4. The Planning Officer noted that the subject site is located within a key thoroughfare of Mount Merrion and while this area does not avail of a protective status such as an Architecture Conservation Area, it is considered to exemplify a coherent Garden City urban design concept further indicating potential heritage value. Concern was further raised with the lack of justification provided for the demolition of the two existing dwellings which were noted as being in sound structural condition.

7.2.5. The applicant was requested to submit further information to justify the demolition of the 2 no. existing dwellings in accordance with Section 12.3.96 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and submit a Heritage Assessment and Architectural Design Statement to address how the proposed scheme will meet the requirements of Section 11.4.3.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features (and Sections and Section 12.3.7.7 Infill of Dun Laoghaire-Rathdown County Development Plan 2022- 2028.

7.2.6. In response the applicant submitted a cover letter addressing the concerns with regard to the demolition and an Architectural Design Statement. The applicant noted that it would not be possible to develop the lands if the units on site were retained due to the restrictive nature of the lands, that the existing dwellings are not protected structures and are not of any significant architectural merit. It was stated that the dwellings on site would no longer be considered energy efficient due to their age and would consider that the cost of refurbishing the existing house to a higher energy rating provides justification for the demolition of the dwellings. It was further stated that the demolition of the dwellings at this well-served site in close proximity to frequent and high-capacity public transport options, amenities and services, that the proposal is justified ensuring the continued and sustained development of Dublin.

7.2.7. The Architectural Design Statement contended that the proposal has been designed to a high standard to contribute to the surrounding form of the area and is generally compliant and in accordance with the qualitative and quantitative standards as set out in the relevant statutory development plan and other national guidance documents.

- 7.2.8. The Planning Officer considered on review of the further information received, that very little rationale has been submitted that acknowledges the existing context of the surrounding area and these shortcomings are presented in both the Architectural Design Statement and the unchanged design of the proposed development
- 7.2.9. The Planning Officer concluded that the proposal failed to meet the requirements of Section 12.3.9; Section 12.3.7.7 and Policy Objective HER21 and that by virtue of its monolithic design, scale, and massing against a corner at a highly visible thoroughfare, the proposed development would result in significantly negative impacts upon the visual amenities of the area and recommended that permission be refused.
- 7.2.10. From undertaking a review of the original plan submitted and the further information submitted, while I note that some amendments were made, most notably to the inclusion of 2 no. additional units at basement level, I would consider that the response provided to items no. 1 and no. 2 of the further information were tokenistic. It is noted that the Architectural Design Statement submitted refers to the proposal as originally submitted and fails to consider the amended plans submitted as part of the response to the further information.
- 7.2.11. I note that the 1st Party Appeal Submitted has been accompanied by a Suitability Assessment Report, however I consider that the rationale put forward to the Planning Authority was significantly lacking. These issues are addressed further within my report. I also note that all observations received by the Board support the decision of the Local Authority and raise similar concerns.

Demolition of Existing Dwellings

- 7.2.12. With regard to the demolition of the two number existing dwellings on site, the appellant has submitted a Suitability Assessment Report which was prepared by RBD. The report notes that No. 44A had a very poor energy and water efficiency and has a BER rating of F. No. 44 was found to be better maintained with a BER rating of G. Both dwellings were considered to not be conducive to environmentally friendly living nor in accordance with goals of Sustainable Energy Authority Ireland for conservation of fuel and energy. The report concluded that the investment in the construction of a new purpose-built residential unit would be a more suitable design investment and provide for a more sustainable building and living environment into the future than retaining and retrofitting the existing structures.

- 7.2.13. The appellant contends that the structures on site are not offered any level of protection within the Dun Laoghaire Rathdown County Development Plan 2022-2028 in terms of being included within the Record of Protected Structures and are not within an Architectural Conservation Area. It is further contended that the buildings are of minimal architectural merit; not considered representative of exemplary Twentieth Century Buildings; and are not significant contributors to the character of the area and therefore their retention over the provision of much needed housing is not warranted.
- 7.2.14. While I note that the dwellings subject to demolition are not within an ACA or included within the Record of Protected Structures, I do consider that the dwellings are afforded some level of protection in terms of the requirements of Section 11.4.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Feature of the County Plan. The subject dwellings are noted on the Cassini 6-inch Last Edition Map.
- 7.2.15. I consider that the appellant has failed to support their assertion that the buildings are of minimal architectural merit or significant contributors to the character of the area. The appellant was afforded an opportunity to do this as part of the request for additional information through the submission of a Heritage Assessment. However, a tokenistic response was provided for that relied upon the dwellings being no longer energy efficient.
- 7.2.16. From undertaking a site visit I agree with the statement of the Planning Officer and consider that the two dwellings are of a sound condition and are currently fully habitable. I note that the appellant did not provide any evidence to the contrary in terms of images of the internal situation of the dwellings.

The appellant does not consider that the inclusion on the 6-inch Last Edition Map is not a justification for their retention, however I do not agree. The location of the dwellings within an area that has an exemplar and coherent Garden City Design and the requirements of Section 11.4.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Feature of the Dun Laoghaire Rathdown County Development Plan 2022-2028 together with their inclusion on the 6-inch Last Addition Map all set out a robust argument for their retention. The Appellant has not provided a robust argument to overcome any of this. An over-reliance has been placed upon providing additional housing to meet the housing need as opposed to provide a justification for their demolition.

7.2.17. I therefore consider that the proposed development would not be in keeping with the requirements of Section 12.3.9- Demolition and Replacement Dwellings or Section 11.4.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Feature of the Dun Laoghaire Rathdown County Development Plan 2022-2028.

Character of the area - massing/design.

7.2.18. The appellant contends that due regard was had to ensure the provision of a high-quality design that responds to the constraints and opportunities of the site which ensures the protection of visual amenities and that considerations regarding massing during the design process has ensured a suitable design for this infill opportunity site.

7.2.19. The appellant states that in addition to providing for adequate setbacks from the boundaries, the proposal provides for setbacks at 3rd floor level which reduces the perceived massing and allows for the building to be read as a part-three/part-four storey development. Furthermore, it is stated that the facades have been staggered, which are non-uniform avoiding repetition, to provide for visual interest while representing an effective solution to minimising massing and as such the proposal has been suitably scaled for this infill site.

7.2.20. The appellant draws reference to permission granted under ABP-309931-21, for a residential development comprising of 3 blocks which range in height from 1 to 4 storeys at 24, 26, 28, Fosters Avenue, Mount Merrion, Blackrock, Co Dublin, which is considered to introduce further architectural variance to the area.

7.2.21. It is again contended that the design and scale of proposal has considered the character of the surrounding area through the provision of setbacks from shared boundaries to the south and west, and that the character is further ensured through setbacks at 3rd floor which provide a smooth and coherent visual transition between the subject site and neighbouring properties. Materials proposed include for red brick which is utilised in surrounding area.

7.2.22. I am of the opinion that the appellant has relied heavily on the use of setbacks from the boundaries of the site and the staggered form within the facade design to overcome concerns raised with regard to the proposal and its compliance with the established character of the area. I do not consider the applicant in this instance adequately demonstrated how the proposal adequately responds to the context and character of the area or has given acknowledgement to same.

- 7.2.23. While reference has been made by the applicant to the Garden City design idiom of the Mount Merrion area, the design of the apartment building has failed to incorporate design features akin to that. I consider that the block form together with the overreliance on brick, to be lacking in design and would appear to be monolithic in form when viewed particularly from North Avenue. Again, the applicant relies on the setbacks from the boundaries of the site to justify the development being in keeping with the 'Garden City' character of the area.
- 7.2.24. The subject site is at a significantly higher level than that of the surrounding roads and therefore any development would need to respond to such. I do not consider that the over reliance on the various setbacks and the staggered nature of the proposal overcomes the concerns raised by the Planning Authority.
- 7.2.25. In conclusion I am of the opinion that the elongated form of the proposed block, particularly along North Avenue which is c.36.2m long, notwithstanding the setbacks and staggered nature, together with the materials proposed presents a brutalist approach which is not akin to the garden city ethos. As such, the design has failed to comply with the requirement of *Section 12.3.7.7 and Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Feature.*

Building Height

- 7.2.26. Policy Objective PHP42 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 seeks to encourage high quality design of all new development and ensure compliance with the Building Height Strategy for the County set out within Appendix 5. In this instance the Planning Officer stated that the proposed development must demonstrate compliance with Policy Objective BHS3 and Criterion 1c of Appendix 5.
- 7.2.27. Policy Objective BHS3 states that *"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 and that there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban areas. Any such proposals must be assessed in accordance with the criteria set out in table 5.1 as contained in Section 5. The onus will be on the applicant to demonstrate compliance with the criteria."*

- 7.2.28. Criterion 1c of Table 51 of the Building Height Strategy states that *the proposal must successfully integrate into/enhance the character and public realm of the area, having regard to topography, cultural context, setting of key landmarks. In relation to character and public realm the proposal may enclose a street or cross roads or public transport interchange to the benefit of the legibility, appearance or character of the area and should be supported by Landscape and visual assessment which have been prepared by suitably qualified practitioner; Urban Design Statement and Street Design Audits. .*
- 7.2.29. The Planning Officer in their assessment of the further information submission considered that the applicant failed to demonstrate compliance with Criteria 1C of the Building Height Strategy within the Dun Laoghaire Rathdown County Development Plan 2022-2028.
- 7.2.30. The appellant asserts that the proposal demonstrates compliance with Table 5.1 of the Building Height Strategy for the following reasons: the proposal successfully fits into and enhance the character and public realm of the area; the building integrates well into the public realm; setbacks at 3rd floor level allow for smooth visual transition from adjoining two storey dwellings; and the topography of site, which slopes upwards to the south-west, - setbacks provided for reduce height of structure as the site slopes upwards. It is contended that the proposal enhances the public realm by improving the visual interest and provides for an increase in street activity through provision of active frontage to Fosters and North Avenue in addition to providing for passive surveillance.
- 7.2.31. The appellant further states that the landscaping proposed will improve visual amenity at this corner site enhancing character of area and that the inclusion of seating will promote social cohesion. It is concluded by the appellant that the overall design which has considered the context of the site provides for a proposal which integrates well into the receiving environment.
- 7.2.32. While I note that a landscape plan has been submitted by the applicant as part of the further information response, the appellant did not include for any visual assessment of the proposed development as prescribed under criteria 1C. While photomontages were included as part of the original submission, they have included trees which are currently on site but not proposed to be retained.
- 7.2.33. The subject site is of an elevated nature to that of Fosters and North Avenue and as such it is considered to be a prominent location at a junction which creates throughfare

to Mount Merrion. Reiterating my previous comments, the appellant has placed an over-reliance on the inclusions of set backs and the staggered nature of the design to overcome all of the concerns raised by the Planning Authority with regard to compliance with criteria 1C of the Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2022-2028.

7.2.34. I do not consider that the assertion that the building promotes street activity through provision of active frontage to be correct given that the proposal has been set back into the site. While the inclusion of seating may provide for some level of active frontage, it would be not enough to overcome the concerns raised. Criteria 1C of the Building Height Strategy makes reference to the cultural context of the area, I consider that the previous section of the assessment clearly demonstrates how the proposed development is not in keeping with surrounding Garden City character of the area.

7.2.35. In conclusion, having regard to the prevailing character of the surrounding area, I do not consider that the development proposed which significantly deviates from the permitted height within the immediate vicinity of the site is justified in terms of Policy Objective BHS 3 Building Height in Residual Suburban Areas and fails to comply with the criteria of 1C of Table 5.1 of the Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2022-2028.

Conclusion

7.2.36. Having regard to the foregoing, I am of the view that the proposed development does not to comply with the basic principles of placemaking, does not provide for a high standard of urban design and is lacking in architectural expression. The proposed building, which I consider to be monolithic in form, is not in keeping with the pattern of development within the immediate vicinity, would be incongruous with the prevailing streetscape along both Fosters Avenue and North Avenue.

7.2.37. On balance I consider that the appellant has failed to put forward a robust argument that warrants the demolition of the existing dwellings on site or to justify the deviation from the permitted height within the immediate vicinity of the site.

7.2.38. Overall, it is concluded that the proposed development fails to comply with Section 12.3.9: Demolition and Replacement Dwellings; Section 12.3.7.7 Infill; Section 11.4.3.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features; Policy Objective BHS 3 Building Height in Residual Suburban

Areas; and Criterion 1c of the Building Height Strategy of Dún Laoghaire-Rathdown County Development Plan 2022-2028 and therefore permission should be refused, in this instance.

8.0 Appropriate Assessment Screening

- 8.1. Article 6(3) of the Habitats Directive requires that any plan or project not directly connected with or necessary to the management of a European site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to Appropriate Assessment of its implications for the sites in view of the sites' Conservation Objectives. The Board is the Competent Authority in this regard and must be satisfied that the development in question would not adversely affect the integrity of the European sites having regard to their conservation objectives.
- 8.2. In this instance the applicant has not submitted an Appropriate Assessment Screening Report. Reference is made under Section 9.0 of the Planning Statement submitted to the Planning Authority on the 20th July 2023 to Appropriate Assessment. It is stated that the main potential indirect risk from the development of the subject site to any Natura 2000 site is considered to be the indirect hydrological connection of the development to the surrounding aquatic Natura Sites and that foul and surface water management in accordance with current standards and best practice will ensure no negative impact to Natura Sites within the vicinity. The Planning Authority in their assessment determined that the proposed development would not significantly impact upon a Nature 2000 Site. The reports of the Planning Officer make reference to a report on file relating to the Screening for Appropriate Assessment, however this document was not submitted to the Board and is not available on the Planning Authorities portal web page.
- 8.3. The proposed development is not located within or immediately adjacent to any European site. In my opinion the subject site is located c.1.488m to the south-west of the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and the South Dublin Bay and River Tolka Estuary SAC (site code 000210). The site is also located 8.26km to the west of the Rockabill to Dalkey Island SAC (site code 000300). The applicant is seeking permission for the demolition of 2 no. existing dwellings and the construction of a part-3 / part-4 storey apartment building and all associated works.

- 8.4. There are no watercourses running through the site and the proposed development would connect to existing public services in terms of water supply and wastewater/drainage.
- 8.5. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise. The measures to be employed at construction stage are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.
- 8.6. The proposed development was considered in light of the requirements of section 177U of the Act of 2000. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects, would not have a significant effect on European sites, including (but not limited to) South Dublin Bay and River Tolka Estuary SPA (site code 004024), South Dublin Bay and River Tolka Estuary SAC (site code 000210) and the Rockabill to Dalkey Island SAC (site code 000300) in view of the sites' Conservation Objectives, and Stage II Appropriate Assessment is not, therefore, required.

9.0 Recommendation

I recommend that the permission is refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the scale, massing and monolithic design of the proposed development which significantly deviates from the prevailing established character of the surrounding area; the proposed development would be incongruous with the streetscape along both Fosters Avene and North Avenue and would give rise to a negative impact upon the current level of visual amenities enjoyed at this location. The proposed brutalist approach to the design of the proposed building fails to consider the architectural garden city ethos of the surrounding area.

The proposed development does not meet the requirements of Section 12.3.9 - Demolition and Replacement Dwellings, Section 12.3.7.7 - Infill; Section 11.4.3.3 Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features; Policy Objective BHS 3 - Building Height in Residual Suburban Areas; and Criterion 1c of the Building Height Strategy of Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would significantly injure the visual amenities of the surrounding streetscape and would be contrary to the proper planning and sustainable development of the area.

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

Kathy Tuck
Planning Inspector

19th December 2024

Appendix 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320601-24		
Proposed Development Summary	Demolition of the existing 2 dwellings and outbuilding for the construction of a 3/4 storey over basement residential building comprising 26 apartments and all associated site works.		
Development Address	Tara, 44 Foster Avenue, Mount Merrion, Blackrock, Co. Dublin, A94 EV20 and Kildara, 44A Foster Avenue, Mount Merrion, Blackrock, Co. Dublin, A94 W963		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?

No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____

Date: 19th Dec 2024

Appendix 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP- 320601-24
Proposed Development Summary	Demolition of the existing 2 dwellings and outbuilding for the construction of a 4 storey over basement residential building comprising 26 apartments and all associated site works.
Development Address	Tara, 44 Foster Avenue, Mount Merrion, Blackrock, Co. Dublin, A94 EV20 and Kildara, 44A Foster Avenue, Mount Merrion, Blackrock, Co. Dublin, A94 W963
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
Characteristics of proposed development	<p>The proposed development is seeking permission for the demolition of 2 no. dwellings and the construction of an apartment building which will provide for 26 no. apartment units.</p> <p>The development would not result in the production of significant waste, emissions, or pollutants</p>
Location of development	<p>The proposed development is for a 3/4 storey apartment building providing for 26 no. apartment dwellings. The size is not exceptional.</p> <p>There is no hydrological connection present which would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).</p> <p>There would be no significant cumulative considerations.</p>
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity)	There are no other locally sensitive environmental sensitivities in the vicinity of relevance.

and complexity, duration, cumulative effects and opportunities for mitigation).		
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	NO
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	NO
There is a real likelihood of significant effects on the environment.	EIAR required.	NO

Inspector: _____

Date: 19th Dec 2024

Appendix 3: Screening the need for Appropriate Assessment Finding of no likely significant effects

Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development comprises of the demolition of the existing 2 dwellings and outbuilding for the construction of a 3/4 storey over basement residential building comprising 26 apartments and all associated site works at 44 Forster's Avenue and 44A North Avenue, Mount Merrion, Blackrock, County Dublin.

The planning application was not support by an Appropriate Assessment Screening report. Refence is made to AA Screening within section 9 of the Planning Statement submitted which considered that the proposal will not negatively impact on any Natura Sites 2000 sites within the vicinity.

The Planning Authority in their assessment determined that the proposed development would not significantly impact upon a Nature 2000 Site. The reports of the Planning Officer make reference to a report on file relating to the Screening for Appropriate Assessment, however this document was not submitted to the Board and is not available on the Planning Authorities portal web page.

European Sites

The proposed development site is not] located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation or Special Protection Area (SPA). There are no watercourses running through the site and the operational development would connect to existing municipal services in terms of water supply and wastewater/drainage. I acknowledge that there would be a marginal increase in loadings to the sewer v however I do not consider that this would negatively impact upon any Natura Site.

The boundary of the nearest European Site is c. 1.48km to the east of the subject site. These are:

- South Dublin Bay and River Tolka Estuary SPA (site code 004024)
- South Dublin Bay and River Tolka Estuary SAC (site code 000210).

The site is also located 8.26km to the west of the Rockabill to Dalkey Island SAC (site code 000300).

Likely impacts of the project (alone or in combination)

There are no watercourses running through the site and the operational development would connect to existing municipal services in terms of water supply and wastewater/drainage. During construction phase foul and surface water management in accordance with current standards and best practice will ensure no negative impact to Natura Sites within the vicinity.

Having regard to the distance separating the site to the nearby Natura 2000 site there is no pathway for loss or disturbance of important habitats or important species associated with the feature of interests of any of the SPA/SAC's identified above.

Likely significant effects on the European sites in view of the conservation objectives

The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SAC or SPA. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance.

There will be no direct or ex-situ effects from disturbance on mobile species including otter during construction or operation of the proposed development. There will be no significant disturbance to any wintering birds (ex-situ) that may occasionally use the amenity grassland area adjacent to the proposed development site.

In combination effects

The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.

No mitigation measures are required to come to these conclusions. I consider the provision of the oil/petrol interceptor a standard measure to prevent ingress of vehicle pollutants and is not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC or SPA.

Overall Conclusion - Screening Determination

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); the South Dublin Bay and River Tolka Estuary SAC (site code 000210) or the Rockabill to Dalkey Island SAC (site code 000300) and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The location of the subject site within an urban context;
- The existing connections to to existing municipal services in terms of water supply and wastewater/drainage;
- The scale of the works being proposed; and
- The distance from nearest European site and lack of connections present.

Inspector: _____

Date: 19th Dec 2024