



An  
Bord  
Pleanála

## Inspector's Report ABP-320925-24

<b>Development</b>	Demolition of a house for the construction of 14 dwellings and all associated site works.
<b>Location</b>	The Grove, Mart Lane, Foxrock, Dublin 18, D18 Y9N2
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D24A/0509
<b>Applicant(s)</b>	Mart Lane Property Developments Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First v Refuse
<b>Appellant(s)</b>	Mart Lane Property Developments Ltd
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	8 <sup>th</sup> January 2025
<b>Inspector</b>	Gerard Kellett

## **1.0 Site Location and Description.**

- 1.1. The site is located at the junction of Mart Lane and St. Brigid's Park Road in Foxrock, Dublin 18. It is accessed off Mart Lane and currently accommodates a single 5-bedroom dwelling known as 'The Grove' (204.4 sqm) along with substantial mature planting and tree cover. The immediate vicinity is an established residential area with large detached residential properties on generous plots characterised by mature landscaping.
- 1.2. St Brigid's National School is located to the south which is a designated Protected Structure (RPS No.2063) and is outside the boundary of the Foxrock Architectural Conservation Area (ACA). Foxrock Village is about 1 km to the south, and Cornelscourt Shopping Centre is 900 metres to the south. Suncroft property is located to the west of the site which is registered on the National Inventory of Architectural Heritage (NIAH Ref: 60230056). The surrounding area is generally characterised by a mix of low to medium density private housing. The site is generally flat/level with the adjoining public road. There is an existing bus stop no. 63 A to the front of the site.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the demolition of a habitable house known as 'The Grove' and the construction of 14 no. new residential units. The development includes:
  - 14 no. detached, semi-detached, and terraced houses ranging from 2 to 3 storeys in height.
  - 20 no. in-curtilage car parking spaces and 2 no. Sheffield cycle stands.
  - 958 sqm of public open space.
  - Landscaping and boundary treatments, including tree retention, removal, and new planting.
  - Water and utility services and connections, lighting, and all enabling and ancillary development works above and below ground.
  - Vehicular access is gained via a new entrance onto Mart Lane.
  - Pedestrian and cycling access from St. Brigid's Park.

- The existing site boundary and pedestrian footpath along St. Brigid's Park will be set back by 2 metres into the site for a distance of 52 metres to facilitate additional set-down facilities along St. Brigid's Park to be used in connection with St. Brigid's Boys National School.
- The site has a stated site area of 0.69hectares.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority REFUSED permission on the 3<sup>rd</sup> of September 2024 for the following reason:

1. The Planning Authority considers that the provision of a c. 20.3 uph scheme would represent underdevelopment at an accessible site with convenient access to social and commercial facilities in the nearby neighbourhood centre, and frequent public transport services along the N11 / Bray Road. It is considered that the proposal does not adhere with the requirements of, inter alia, Policy Objective PHP18 of the County Development Plan 2022-2028, and Table 3.1 of the Compact Settlement Guidelines with regard to the density ranges applied to locations in Dublin classified as 'City-Urban Neighbourhoods'. As such, the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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

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

- The Planner's Report forms the basis for the decision to refuse permission. stating:
  - Principle of Development: The site is zoned for residential development, and the principle of residential use is acceptable.

- Density: The proposed density of 20.3 units per hectare is significantly below the recommended range of 50-250 units per hectare for urban neighbourhoods in Dublin. It is noted the character of the surrounding area which is largely mature and characterised by lower density development and in the interest of respecting that established culture to density towards the lower end of that 50 to 250 range may be considered acceptable.
- Residential Amenity: The proposed development generally meets standards for overlooking, noise, and sunlight/daylight. However, some concerns about the proximity of certain houses to boundaries and the adequacy of private open space for some units are noted. Separation distances with the adjacent properties to the south are within development standards.
- Public and Communal Open Space: The proposed public open space is slightly below the required standard, and the layout could be improved to retain more existing trees.
- Access, Car, and Bicycle Parking: The proposed car parking provision exceeds the maximum allowed for the site's classification. A reduction to one space per dwelling is recommended. The pedestrian and cyclist access are positively noted.
- Trees and Landscaping: The proposed removal of 64% of existing trees is considered unacceptable. A revised layout that retains more trees is recommended.
- Part V and Housing: The proposal for Part V compliance is acceptable in principle but requires further details.
- Public Lighting: The lighting design is inadequate and requires further information.
- Development Contributions: The development would be subject to the Council's S.48 Development Contributions Scheme.
- Environmental Impact Assessment/Appropriate Assessment: No significant environmental impacts are anticipated, and the development would not impact Natura 2000 sites.
- It concludes that the proposed development represents underdevelopment of the site and does not meet density requirements and recommended a refusal.

- The planners report contemplated a further information request however it was considered that the amendments required to the scheme to increase density that it would be better addressed via a new application.

### 3.2.2. Other Technical Reports

- Drainage Report: Recommended FI be requested on the following issues:
  - The surface water run-off generated by a number of houses should be infiltrated or reused locally within the property curtilage of that house with no overflow to the proposed attenuation sewer.
  - The applicant is requested to agree the runoff coefficients with Drainage Planning prior to submission of further information.
- Transportation Report: Recommended FI be requested on the following issues:
  - A letter of consent from the National Transport Authority (NTA) to the relocation of bus stop 3266 is required.
  - A realigned access road following the north-west site boundary with the adjacent Suncroft.
  - House No. 1 to be repositioned to the current proposed new vehicular access location.
  - 1 no. car parking space per dwelling in accordance with SPPR 3 – Car Parking (i) of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities.
- Parks & Landscape Services Report: Recommended Refusal
  - The included landscape information is deemed acceptable but there is an unacceptable loss of the tree stock in this proposed site configuration.
  - This section would welcome a reconfigured layout which would retain more of the trees on the site.
- Public Lighting: Recommended FI be requested on the following issues:
  - A lighting design report with information on the lanterns and bollards proposed.

- Environmental Health Officer: Recommend no objection subject to conditions (CEMP)
- Conservation Division – Recommended no objection

### 3.3. Prescribed Bodies

- Uisce Eireann: No objection subject to pre-connection agreement.

### 3.4. Third Party Observations

Nine number third-party submissions were made on the application making the following points:

- Design
  - Design and scale of proposed development
- Residential Amenity
  - Overlooking
- Traffic & Transportation
  - Sightline concerns
  - Parking layout concerns
- Other
  - House No.1 should be omitted
  - Drainage concerns
  - Removal of trees
  - Development at the site is supported
  - Concerns about existing bus stop along Mart Lane
  - The applicant should provide a comprehensive statement of material contravention of the Development Plan on grounds of low density.
  - Noise and lighting concerns

- Reference to legal covenant between owners of the site and observer's site

## **4.0 Planning History**

None

### Adjacent Site:

PA REF: D15A/0031 (Suncroft) – Refers to grant of permission (23/05/2015 for a detached 228 m2 4-bedroom house on a 780 m2 site including boundaries and services and a new independent entrance to Suncroft including the demolition of the existing garages. This permission related to lands to the west of Suncroft It was not implemented and has since expired. Extensions have been built on this footprint.

## **5.0 Policy Context**

### **5.1. National Policy**

National Planning Framework

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.

### **5.2. National Guidance**

- Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024).
- Quality Housing for Sustainable Communities (2007).
- National Biodiversity Action Plan (NBAP) 2023-2030.
- Climate Action Plan (2024).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Design Manual for Quality Housing (2021).

### 5.3. Regional Policy

Regional Spatial and Economic Strategy 2019-2031.

RPO 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.

RPO 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 Apartment's Guidelines' and the 'Urban Development and Building Heights Guidelines for Planning Authorities'.

### 5.4. Development Plan

The Dun Laoghaire – Rathdown Development Plan 2022 – 2028 is the relevant Development Plan for the subject site.

The subject site is zoned "Objective A" which has zoning objective *"to provide residential development and improve residential amenity while protecting the existing residential amenities"*.

Land use zoning map No.6 shows three number 'Tree Symbol's' on the subject site which is indicative of a County wide objective to protect and preserve trees and woodlands. The tree symbols on the maps may represent an individual tree or a cluster of trees and are not an absolute commitment to preservation as stated in section 12.8.11 Existing Trees of the Hedgerows of the plan (page 291).



## Chapter 4: Neighbourhood – People, Homes and Place

- 4.3.1.1 Policy Objective PHP18: Residential Density
  - Increase housing (houses and apartment 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 if proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.
- 4.3.1.2 Policy Objective PHP19: Existing Housing Stock – Adaptation
  - Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF.
  - Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.
- 4.3.1.3 Policy Objective PHP20: Protection of Existing Residential Amenity.

## Chapter 12 – Development Management

- 12.3.1.1: Design Criteria
- 12.3.3.2: Residential Density
  - In general, the number of dwellings (houses or apartments) to be provided on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009) and Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020). As a general principle, and on the grounds of sustainability, the objective is to optimise the density of development in response to type of site, location, and accessibility to public transport. (See policy PHP18, Chapter 4).
- 12.3.7.7: Infill
- 12.4.8: Vehicular Entrances and Hardstanding Areas

- 12.8.3.1 Public Open Space
- 12.8.3.3 (i): Private Open Space for Houses
- 12.8.7.1: Separation Distances
- 12.8.7.2: Boundaries
- 12.8.11: Existing Trees and Hedgerows

## 5.5. **Natural Heritage Designations**

The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024), approximately 3.4 km northeast of the site.
- The South Dublin Bay Special Area of Conservation (SAC) (Site Code: 000210), approximately 3.4 km northeast of the site.
- Rockabill to Dalkey Island Special Area of Conservation (SAC) (Site Code 003000), approximately 5.6 km east of the site.
- Dalkey Islands Special Protection Area (SPA) (Site Code 001206), approximately 5.6 km east of the site.

## 5.6. **EIA Screening**

Refer to Form 1 in Appendix 1. Class 12(c) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising the construction of more than 500 dwellings.

Refer to Form 2 in Appendix 1. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been lodged against the Planning Authority's decision to refuse permission. The grounds of appeal can be broadly summarised as follows:

- The appeal argues that the proposed density (20.3 units per ha) is appropriate.
- The appellant assessed options that would include apartment and duplex typologies necessary to achieve more than 35 uph however it was concluded that such typologies and densities were not appropriate to the site given the site's context, constraints, and the need to protect existing residential amenities and mature trees.
- The appellant refers to section 3.3.6 of the Compact Settlement Guidelines that, *"In the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development, to protect the amenities of surrounding properties and to protect biodiversity may take precedence over the densities..."*
- The appeal refers also to section 3.4 of said guidelines that recommend density ranges can be refined based on 'consideration of centrality and accessibility to services and public transport', and 'considerations of character, amenity and the natural environment'. The appellant states the proposed development would respond well to the context and character of the area.
- The appeal highlights a covenant on the site (dated 1<sup>st</sup> December 2021) limiting building heights, making higher densities unfeasible.
- Emphasises the commercial viability of larger housing units over duplexes, supported by market analysis from Savills Real Estate Company.
- The appeal includes a letter from Waterman Moylan consultants in response to technical issues raised by the Planning Authority internal departments such as the relocation of a bus stop 17 metres to the west on Mart Lane and drainage issues which can be conditioned.

- The proposed development respects the residential amenities of Suncroft to the immediate west which is registered on the National Inventory of Architectural Heritage.

## 6.2. Planning Authority Response

Response received dated 17<sup>th</sup> October 2024 requesting the Board to uphold the decision of the Planning Authority.

## 6.3. Observations

None received

## 7.0 Assessment

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

- Principle of Development
- Density
- Trees
- Other Matters

### 7.1. Principle of Development

- 7.1.1. The subject site is in an area zoned 'Objective A' as per the Dun Laoghaire – Rathdown Development Plan 2022 – 2028 which has a zoning objective '*To provide residential development and improve residential amenity while protecting the existing residential amenities*'. Residential development is permitted in principle under this zoning objective. Therefore, it is my opinion the principle of the development is acceptable. Furthermore, Land use zoning map No.6 shows three number 'Tree Symbol's' on the subject site which is indicative of a County wide objective to protect

and preserve trees and woodlands. The Board should noted that is not an absolute commitment to preservation every tree as stated in section 12.8.11 (Existing Trees of the Hedgerows) of the plan and does not preclude development of the site.

## **7.2. Density**

- 7.2.1. Density has been raised as the sole reason for the Planning Authority's refusal. The Planning Authority concluded that a density of 20.3 units per hectare (uph) would represent underdevelopment of the site and that a higher density should be encouraged given the sites accessible location close to a neighbourhood centre and transport nodes.
- 7.2.2. Policy Objective PHP18 (Density) of the plan does not specify a specific density requirement for any site although higher densities are encouraged. This is to be achieved through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations. Whilst also ensuring a balance between the protection of existing residential amenities and the established character of the surrounding area.
- 7.2.3. Section 12.3.3.2 (Residential Density) of the plan references a requirement for densities need to comply with the national standards. These are the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024) which supersede the Sustainable Residential Developments in Urban Areas – Guidelines for Planning Authorities 2009.
- 7.2.4. I consider the subject site is located circa 200 metres to the east of Cornelscourt neighbourhood centre and in proximity to high-frequency public transport services such as the 63A bus route which adjoins the site and the Stillorgan Core Bus Corridor circa 250 metres to the northeast which will form route E-Spine of Bus Connects high-capacity public transport route. As such, I am satisfied the subject site falls within a 'City - Urban Neighbourhoods' category as set out per table 3.1 of Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities. These areas are established residential neighbourhoods around the city

centre and lands around existing or planned high-capacity public transport nodes or interchanges.

- 7.2.5. I note it is a policy and objective 3.1 of the compact settlement guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in city-urban neighbourhoods of Dublin. Given the sites proximity to existing services and proximity to high frequency public transport routes, it is my view the proposed density at 20.3 uph on a stated site area of 0.69 hectares is particularly low and unacceptable for this accessible location as referenced in section 7.2.4. Thus, I consider the number of units proposed would not be in compliance with the above density range set out in the compact settlement guidelines.
- 7.2.6. I note the grounds of appeal refer to section 3.3.6 and section 3.4 of the compact settlement guidelines, that state in the case of small infill sites the density range can be refined to reflect the character of the area. I note immediate built environment is characterised by well-established low-density dwellings being individual large two storey dwellings on single plots along Mart Lane with a row of two storey terraced housing at St Brigid's Park to the immediate south and St Brigid National School to the east being single storey in character. The proposed layout and design in my view is noted and responds well to the surrounding built environment. Notwithstanding, given the stated site area of 0.69 hectares, I consider a higher density range closer to the lower end of 50uph and a doubling of the units on site is achievable through good design of different typologies, whilst also safeguarding the established residential amenities as referred to in the grounds of appeal.
- 7.2.7. Therefore, it is my view the proposed development would represent under development of an accessible neighbourhood centre and would not be line with density ranges set out in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024).

### **7.3. Trees**

- 7.3.1. As referenced in 7.1.1, land use zoning map No.6 shows three number 'Tree Symbol's' on the subject site which is indicative of a County wide objective to protect and preserve trees and woodlands. It should be noted that is not an absolute commitment to preservation every tree as stated in section 12.8.11 (Existing Trees of the Hedgerows) of the plan and does not preclude development.
- 7.3.2. The DLR Parks and Landscape Section raised concerns regarding the removal of trees onsite. It is my view a balance should be sought with regard to retaining trees whilst also maximising density in line with national policy. I note the tree survey submitted with the application which I consider robust and acceptable. It concludes that the identified 69 trees on the site with 44 trees are to be removed with no Category A trees, 12 Category B and 23 Category C trees, 10 Category U trees and cutting back substantial amounts of shrubbery.
- 7.3.3. In my opinion many of the trees to be removed are of low value and fair/poor quality and their removal is acceptable. Furthermore, I consider the preservation of the remaining trees on site and the additional planning proposed would support continued biodiversity in the area in accordance with best practice.
- 7.3.4. Therefore, in the context of achieving increasing residential densities and urban consolidation on zoned residential lands (which these subject lands are), On balance, I consider the loss of 44 number trees to accommodate higher density is acceptable. Tree mitigation measures as outlined in the tree survey report would be secured by way of condition if the board is minded to grant permission.

## 7.4. Other Matters

### Residential Amenity

- 7.4.1. The grounds of appeal refer to the impact on the residential amenities of Suncroft to the immediate west would be protected. I note that the separation distance between the proposed development and the adjacent properties would in my view would have a satisfactory separation distance of over 22 metres from opposing first floor windows as set out in section 12.8.7.1 (separation distances) of the plan. This has been superseded and reduced to 16metres as set out under SPPR 1 (separation distances) of the compact settlement guidelines. All proposed first floor windows in my view would be appropriately positioned not to cause any overlooking. I deem the separations distances and positioning of windows acceptable in that regard. I consider also that based on the location of the proposed development and the east to west orientation and separation of neighbouring properties that the degree of overshadowing would not be detrimental to adjacent properties.

### Covenant on Lands

- 7.4.2. I note the grounds of appeal refer to a covenant on the site (dated 1<sup>st</sup> December 2021) limiting building heights, making higher densities unfeasible. The covenant includes a non-development buffer zone along the boundary with Suncroft and height restrictions on buildings within the site. Specifically, Zone A limits building ridge heights to 8.5 metres, and Zone B restricts building height to 11.0 metres. It is my view that a height restriction via a covenant on the lands would not necessarily preclude achieving increased density. I note figure 3.1 of the compact guidelines and the Design Manual for Quality Housing (2021) illustrates examples of achieving higher densities whilst not necessarily increasing the overall height.



## Bus Stop & Car Parking Standards

7.4.3. The DLR Transport Planning Section raised concerns regarding the existing bus stop in front of the site would need to be relocated to facilitate the proposed access arrangement. The DLR requested amending the proposed layout to utilise the existing entrance and relocate the internal access road to follow the north-west site boundary with Suncroft property. The grounds of appeal suggest this can be achieved but would require minor adjusting the existing bus stop road markings in consultation with National Transport Authority (NTA). I consider a revised entrance drawing annotating this is achievable in consultation with the relevant authorities and in my view would not necessarily warrant a refusal on this matter alone. If the board is minded to grant permission, I consider it not unreasonable to attach a condition requesting a final design to be agreed with the Planning Authority. Furthermore, I note the concerns raised by the DLR with regard to car parking. They requested revised details showing the provision of just 1 car parking space per dwelling, as opposed to 28 number proposed spaces, reducing the total number of car parking spaces to 14. The DLR Development Plan car parking standards requires a maximum of 1 space for residential development within the parking zone 1. Specific Planning Policy Requirement 3 (SPPR 3) of compact settlement guidelines also requires the maximum rate of 1 car parking space for new residential development in urban neighbourhood locations. The grounds of appeal refer to a ratio of 1.4 car parking spaces per unit is reasonable. As outlined in Section 7.2.4, I consider the subject site to fall within the 'City - Urban Neighbourhoods' category, requiring a parking ratio of one space per unit. In my view, revised car parking ratios, in line with SPPR 3 and the Development Plan, can be accommodated within this site while simultaneously increasing the overall density. Given the fundamental issue regarding density, I do not consider parking ratios alone to be a justifiable reason for refusal.

### Commercial Viability

- 7.4.4. The grounds of appeal include correspondence from Savills Real Estate Company. It emphasises the proposed development would not be commercially viable if required to comprise duplex or apartment units, citing high construction costs. They highlight larger housing units over duplexes provide a more marketable, sustainable, and financially viable solution that aligns with local market demands and buyer preferences. In my view commercial viability is not a material planning consideration and planning decisions are guided by national, regional, and local policies that focus on land use compatibility and sustainable development. In my opinion the success or failure of a development in commercial terms is a private concern and should not impact the board's decision.

### Drainage

- 7.4.5. I note the concerns raised by the DLR Drainage Section regarding surface water drainage measures and revised runoff calculations to ensure that the proposed drainage system is adequate. The grounds of appeal includes a letter from Waterman Moylan consultants in response to technical issues raised and concludes a sustainable urban drainage system (SUD's) would be incorporated for each unit by way of rainwater butts, rain gardens, filter trenches, soakaways and permeable paving and the rainwater coefficients can be agreed prior to commencement. I note these and I consider it is not unreasonable to agree such requirements with the Planning Authority by way of planning condition, if the board is minded to grant permission.

### Public Lighting

- 7.4.6. I note the concerns raised by the DLR Public Lighting Section regarding public lighting and sought further information with regard to a full lighting design report to be provided; lighting column heights to be at least 4 metres high and concerns raised by the proposed bollard and low-level lighting. I note above and again consider it is not unreasonable to agree such requirements by way of planning condition, if the board is minded to grant permission.

## Bird, Badger and Bat Assessment

- 7.4.7. I note a 'Bird, Badger and Bat assessment report has been submitted by the applicant which I considered to be robust and acceptable. It concludes that no species of conservation concern were noted and outlines mitigation measures. I consider these measures reasonable and can be secured by way of condition if the board is minded to grant permission.

## **8.0 Appropriate Assessment Screening**

- 8.1. Refer to Appendix 2. Having regard to nature, scale and location of the proposed development and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

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

## **10.0 Reasons and Considerations**

- 10.1. Having regard to the location of the proposed development, the residential zoning objective, the Dun Laoghaire – Rathdown County Development Plan 2022 – 2028, including policy objectives PHP18 (residential density), section 12.3.3.2 (residential density) and the density ranges set out in table 3.1 in the Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024), which promotes residential densities in the range of 50dph to 250dph (net) shall generally be applied in urban neighbourhoods of Dublin, it is considered that the proposed density at 20.3 units per hectare constitutes an unacceptable low density of development within this 'City - Urban neighbourhood' which would constitute an

unsustainable use of this accessible and fully serviced site and, as such, would contravene Policy PHP18 (residential density) and section 12.3.3.2 of the Dún Laoghaire Rathdown County Development Plan 2022 – 2028 and would also contravene the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). Therefore, to permit the proposed development, would set an undesirable precedent for other similar developments 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.

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Gerard Kellett  
Planning Inspector  
30<sup>th</sup> January 2025

## Appendix 1 - Form 1

### EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-320925-24		
<b>Proposed Development Summary</b>	Demolition of a house for the construction of 14 dwellings and all associated site works.		
<b>Development Address</b>	The Grove, Mart Lane, Foxrock, Dublin 18, D18 Y9N2		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓ Proceed to Q2
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓	Class 10 (b) (i)	Proceed to Q3
<b>No</b>			Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	✓	Proposed development does not equal or exceed any threshold.	Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	✓	Class 10 (b) (i) - Construction of more than 500 dwelling units	Preliminary examination required (Form 2)
<b>5. Has Schedule 7A information been submitted?</b>			
<b>No</b>	✓	Screening determination remains as above (Q1 to Q4)	
<b>Yes</b>		Screening Determination required	

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

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

## Appendix 1 - Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-320925-24
<b>Proposed Development Summary</b>	Demolition of a house for the construction of 14 dwellings and all associated site works.
<b>Development Address</b>	The Grove, Mart Lane, Foxrock, Dublin 18, D18 Y9N2
<p><b>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.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><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).</p>	<p>The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. 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.</p>
<p><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).</p>	<p>The development is situated in an urban area and is removed from sensitive natural habitats and designated sites and landscapes of identified significance in the County Development Plan.</p>

<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).	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
<del>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</del>	<del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del>	<del>No</del>
<del>There is a real likelihood of significant effects on the environment.</del>	<del>EIAR required.</del>	<del>No</del>

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

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

## **Appendix 2**

### **AA Screening**

I have considered the proposed development of a storage warehouse in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.

A screening report for Appropriate Assessment was not submitted with this planning appeal case. An Appropriate Assessment Screening was undertaken by the Planning Authority as part of their planning assessment and a finding of no likely significant effects on a European Site was determined. The Planning Authority concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.

A detailed description is presented in Section 2 of my report. In summary, permission is sought for the construction of a 14no. dwellings on a stated site area of 0.69 hectares. Foul water and surface water is proposed to drain to the public main. There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area.

The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024), approximately 3.4 km northeast of the site.
- The South Dublin Bay Special Area of Conservation (SAC) (Site Code: 000210), approximately 3.4 km northeast of the site.
- Rockabill to Dalkey Island Special Area of Conservation (SAC) (Site Code 003000), approximately 5.6 km east of the site.
- Dalkey Islands Special Protection Area (SPA) (Site Code 001206), approximately 5.6 km east of the site.



A summary of European Sites is presented in the table below.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)
The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024)	<u>Habitat</u> <ul style="list-style-type: none"> <li>• None</li> </ul> <u>Species</u> <ul style="list-style-type: none"> <li>• Turnstone - <i>Arenaria interpres</i></li> <li>• Brent Goose - <i>Branta bernicla</i></li> <li>• Sanderling - <i>Calidris alba</i></li> <li>• Dunlin - <i>Calidris alpina</i></li> <li>• Knot - <i>Calidris canutus</i></li> <li>• Ringed Plover - <i>Charadrius hiaticula</i></li> <li>• Oystercatcher - <i>Haematopus ostralegus</i></li> <li>• Common Gull - <i>Larus canus</i></li> <li>• Mediterranean Gull - <i>Larus melanocephalus</i></li> <li>• Black-headed Gull - <i>Larus ridibundus</i></li> <li>• Bar-tailed Godwit - <i>Limosa lapponica</i></li> <li>• Red-breasted Merganser - <i>Mergus serrator</i></li> <li>• Curlew - <i>Numenius arquata</i></li> <li>• Cormorant - <i>Phalacrocorax carbo</i></li> <li>• Grey Plover - <i>Pluvialis squatarola</i></li> </ul>	3.4 km	No connection

	<ul style="list-style-type: none"> <li>• Great Crested Grebe - Podiceps cristatus</li> <li>• Roseate Tern - Sterna dougallii</li> <li>• Common Tern - Sterna hirundo</li> <li>• Arctic Tern - Sterna paradisaea</li> <li>• Redshank - Tringa totanus</li> </ul>		
South Dublin Bay SAC (IE0000210)	<p><u>Habitat</u></p> <ul style="list-style-type: none"> <li>• None</li> </ul> <p><u>Species</u></p> <ul style="list-style-type: none"> <li>• Turnstone - Arenaria interpres</li> <li>• Brent Goose - Branta bernicla</li> <li>• Sanderling - Calidris alba</li> <li>• Dunlin - Calidris alpina</li> <li>• Knot - Calidris canutus</li> <li>• Ringed Plover - Charadrius hiaticula</li> <li>• Oystercatcher - Haematopus ostralegus</li> <li>• Bar-tailed Godwit - Limosa lapponica</li> <li>• Roseate Tern - Sterna dougallii</li> <li>• Common Tern - Sterna hirundo</li> <li>• Arctic Tern - Sterna paradisaea</li> <li>• Redshank - Tringa totanus</li> </ul>	3.4 km	No connection
Rockabill to Dalkey Island SAC	<p><u>Habitat</u></p> <ul style="list-style-type: none"> <li>• Reefs</li> </ul> <p><u>Species</u></p> <ul style="list-style-type: none"> <li>• Harbour Porpoise - Phocoena phocoena</li> </ul>	5.6 km	No connection

Dalkey Islands SPA (IE0004172)	<u>Species</u> <ul style="list-style-type: none"> <li>• Roseate Tern - <i>Sterna dougallii</i></li> <li>• Common Tern - <i>Sterna hirundo</i></li> <li>• Arctic Tern - <i>Sterna paradisaea</i></li> </ul>	2km	No connection
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Due to the enclosed nature of the development site and the presence of a significant buffer area (urban lands) between the site and the designated sites, I consider that the proposed development would not be expected generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.

The proposed development would not have direct impacts on any European site. During site clearance, demolition and construction of the proposed warehouse and site works, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water.

The contained nature of the site (serviced, defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to the SPA and SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

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.

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 in this case.

Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites, namely:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024), approximately 3.4 km northeast of the site.
- The South Dublin Bay Special Area of Conservation (SAC) (Site Code: 000210), approximately 3.4 km northeast of the site.
- Rockabill to Dalkey Island Special Area of Conservation (SAC) (Site Code 003000), approximately 5.6 km east of the site.
- Dalkey Islands Special Protection Area (SPA) (Site Code 001206), approximately 5.6 km east of the site.

or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The separation distance between the subject site and the European and the absence of a direct hydrological connection between the sites.