

An  
Bord  
Pleanála

## Inspector's Report

**ABP322108-25**

### Development

The construction of a 2.5 storey detached house, new vehicular access and ancillary site works.

### Location

Mulberry, Brighton Road, Foxrock, Dublin 18.

### Planning Authority

Dun Laoghaire-Rathdown County Council.

### Planning Authority Reg. Ref.

D24A/0891/WEB.

### Applicant(s)

Emmet & Jenifer O'Connell.

### Type of Application

Permission.

### Planning Authority Decision

Refusal

### Type of Appeal

First Party

### Appellant(s)

Emmet & Jenifer O'Connell.

### Observer(s)

None.

### Date of Site Inspection

20/05/25.

### Inspector

Anthony Abbott King

## **1.0 Site Location and Description**

- 1.1. The site known as "Mulberry" is located on a laneway off Brighton Road to the south-east of Foxrock Village (circa. 700m). The access to the laneway on Brighton Road is located opposite the junction with Kerrymount Avenue.
- 1.2. The laneway is linear and tree lined. The laneway forms part of the Foxrock Architectural Conservation Area (ACA).
- 1.3. There are 5 existing detached houses located along the subject laneway, which ends in a cul-de-sac.
- 1.4. The site is currently undeveloped and appears to be the subdivision of the grounds of the adjoining property to the north-east known as "Rockfield". The dwelling house at "Rockfield" is a bungalow located proximate to the shared site property boundary.
- 1.5. The site is demarcated along the laneway by Heras type fencing.
- 1.6. The adjoining property to the south-west comprises a large two-storey detached property on substantial grounds known as "Torry" accessed at the end of the cul-de-sac.
- 1.7. A substantial double-pile detached house (replacement house) on the opposite side of the laneway at "Lota" is at completion stage.
- 1.8. The site area is given as 0.310 hectares.

## **2.0 Proposed Development**

- 2.1. The construction of a 2.5 storey detached house, garage & ancillary site development works including a proposed vehicular entrance onto the existing access lane, site services including an individual on-site sewage treatment system & percolation area, connection to watermain and landscaping & boundary treatment works.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

Refuse permission for the following reason:

*(1) The Planning Authority considers the existing vehicular access to be substandard and would endanger public safety as a result of insufficient sightlines for additional traffic existing the laneway onto Brighton Road and therefore does not accord with Section 12.4.8 of the County Development Plan 2022-2028 regarding Vehicular Entrances and Hardstanding Areas. The proposed development would also set an unwelcome precedent for future intensification of use of a restricted vehicular access onto Brighton Road and 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 decision of the CEO of Dun Laoghaire-Rathdown County Council reflects the recommendation of the planning case officer.

The planning authority refused planning permission following additional information request on the 08/01/2025, which included responses to the following clarifications:

- Planning

(1) The applicant was requested to submit a daylight and sunlight impact assessment demonstrating shadow/daylight impacts on the adjoining house at "Rockfield".

(2) Revised drawings including a contiguous elevation of the access laneway including the garage / garden room and an elevation / section / floor plan drawing omitting the proposed first floor balcony.

- Environmental Health

The applicant was requested to submit a site plan clarifying matters in regard to the proposed waste water treatment system and other required clarifications and specifications.

- Transportation

The applicant was requested to submit revised drawings showing the required visibility splay / sight distances for the existing access lane junction with Brighton Road.

- Parks

The applicant was requested to submit a comprehensive arboricultural survey comprising a detailed written tree survey including a method statement for tree protection along with drawings / plans prepared by a qualified arboriculturalist.

The applicant responded to the further information request dated 14/02/25. The applicant response is interrogated in my assessment below.

### 3.2.2. Other Technical Reports

#### Transport Planning (report following submission of further information 04/03/25)

##### *Endangerment of public safety*

- The Transportation Planning Division of the planning authority recommends a refusal of planning permission due to endangerment of public safety by reason of traffic hazard because of the substandard visibility splay of the existing vehicular access on Brighton Road in accordance with DMURS Section 4.4.5 Visibility Splays. The existing vehicular access on Brighton Road does not comply with the minimum visibility splays DMURS requirements.
- The existing vehicular entrance visibility sight distance to right and left, measured from the 2.0m minimum set-back from the edge of the roadway to the near side kerb / edge are 31m and 43m respectively, which does not comply with the 49m minimum sight distance required by DMURS (appropriate to the 50km/h speed limit on Brighton Road).

##### *Precedent*

- Furthermore, the existing access onto Brighton Road by itself or by the precedent that the grant of permission for it would set for other relevant development would adversely affect the use of Brighton Road by other road users.

#### Drainage Division

- No objection subject to standard conditions.

#### Environment Health

- The Environmental Health Officer recommended further information in the matter of the waste water treatment system - Report dated 28/11/2025.
- The Environmental Health Officer subsequently reported that the application is acceptable subject to condition – Report dated 27/02/25.

#### Parks Division

- There are several category B trees on site and one category A tree after review of the Arbeco tree survey. The Parks Division has no objection of the proposal subject to protection of the subject trees.

#### Conservation Division

- The conservation officer has no built heritage objections to the proposed development subject to the tree lined avenue (access laneway) remaining unaffected by the proposed works.

### **3.3. Prescribed Bodies**

Irish Water has no objection subject to the inclusion of standard conditions.

### **3.4. Third Party Observations**

There are no third party submissions on file.

## **4.0 Planning History**

The following is the relevant planning history:

- Under D20A/0981 planning permission was refused (23/02/2021) for a 2.5 storey detached house and ancillary site development works including vehicular entrance onto the existing access laneway (5 reasons). The Board (ABP309761-21) subsequently refused development for the following reason:

(1) *The proposed development would be premature pending the upgrade of the existing Irish Water foul drainage network, which is currently deficient and for which there is no defined timeframe for the commencement of the necessary improvement works. The connection of the proposed development to the current foul drainage system would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.*

- Under D15A/0188 planning permission was refused (13/05/2015) for the demolition of "Torry" and "Rockfield" and the construction of 4 number 5 bedroom two-storey dwellings, including widening of the existing access lane. The development was refused for 3 reasons:

(1) *The proposed development would result in the intensification of additional traffic exiting the laneway onto Brighton Road via the restricted shared (laneway) vehicular entrance and would endanger public safety by reason of a traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

(2) *The existing laneway is located within the Foxrock Architectural Conservation Area and is lined with a number of mature trees, which form a significant feature in the area. This laneway is an integral landscape character feature of the Foxrock ACA and the proposed widening of the laneway would neither maintain nor enhance the special character of the sylvan character of the laneway and Foxrock Architectural Conservation Area and as a result, would contravene Policy AR8, Policy LHB11 and Section 16.9.2 of the 2010-2016 Dun Laoghaire-Rathdown County Development Plan, would set an unwelcome precedent and would, therefore, be contrary to the proper planning and sustainable development of the area.*

(3) *The proposed entrance improvement works at the laneway junction with Brighton Road, which propose an additional area of footpath behind the proposed kerb line, in order to satisfy the required sightlines for additional traffic exiting the laneway onto Brighton Road, would set an unwelcome precedent and would, therefore, be contrary to the proper planning and sustainable development of the area*

- Under Reg Ref: D16A/0258 outline planning permission was refused by the planning authority and granted by An Bord Pleanála on the appeal (APB Ref: 246839) (25<sup>th</sup> October 2016), for a detached two storey house with an on-site proprietary waste water treatment system subject to 2 conditions.

#### Adjacent development sites

- Under Reg: Ref: D22A/0917 (D24B/0311) planning permission was granted (18/05/23) for the demolition of the existing dormer bungalow at “Lota” (across the laneway from the appeal site) and the construction of new 2-storey detached dwelling house (508sqm) and separate double garage with dormer bedroom and ensuite over (92sqm), new vehicular and pedestrian gates and timber fencing to existing private laneway, new replacement sewage treatment plant and percolation area and surface water drainage subject to 18 conditions.

## 5.0 Policy Context

### **Development Plan**

The Dun Laoghaire-Rathdown County Development Plan 2022-2028 is the local planning policy document. The following policy objectives are relevant:

- Chapter 13 (Land Use Zoning Objectives) Table 13.1.1 (Development Plan Zoning Objectives) is relevant.

The area zoning objective is “A”(Map 9): *To provide residential development and improve residential amenity while protecting the existing residential amenities.*

Residential is a permitted in principle use.

I note the site is adjacent but not within the Foxrock Architectural Conservation Area.

### Urban Consolidation

- Chapter 2 (Core Strategy), Policy Objective CS11 – Compact Growth - is relevant and states:

*It is a Policy Objective to deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary.  
(Consistent with RPO 3.2 of the RSES).*

It is noted that Figure 2.9 (Core Strategy Map) defines the boundary of Dublin City and Suburbs. The development site is located within the boundary.

- Chapter 4 (Neighbourhood-People, Homes and Place), Policy Objective PHP18 (Residential Density) is relevant and states:
  - *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 providing that proposals provide for high quality design and ensure a balance between the protection of the 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) is relevant and *inter alia* states:

*Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.*

Policy Objective PHP20 (Protection of Existing Residential Amenities) states:

*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.*

#### Infill Housing

- Chapter 12 (Development Standards) Section 12.3.7 (Additional Accommodation in Existing Built-Up Areas) in particular Section 12.3.7.5 (Corner/Side Garden Sites) and Section 12.3.7.7 (Infill) are relevant.
- Section 12.3.7.5 provides assessment criteria for infill houses located on development sites in corner / side gardens.
- Infill development is required to accord with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gateways, trees, landscaping, and fencing or railings.

#### Vehicular Entrances and Car Parking Standards

- Section 12.4.8.1 (Vehicular Entrances and Hardstanding Areas – General Specifications ) *inter alia* states:

*Vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic. Where a new entrance onto a public road is proposed, the Council will have regard to the road and footway layout, the traffic conditions on the road and available sightlines and will impose appropriate conditions in the interest of public safety.....*

#### **5.1. Relevant National or Regional Policy / Ministerial Guidelines (where relevant)**

- Design Manual for Urban Roads and Streets (DMURS) 2013.
- The Department of Housing, Local Government and Heritage 'The Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities', (15 January, 2024).

SPPR3 is relevant and states:

*It is a specific planning policy requirement of these Guidelines that:*

1. (i) *In city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of*

*car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.*

- 2. (ii) In accessible locations, defined in Chapter 3 (Table 3.8) car- parking provision should be substantially reduced. The maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 1.5 no. spaces per dwelling.*
- 3. (iii) In intermediate and peripheral locations, defined in Chapter 3 (Table 3.8) the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling*

*Applicants should be required to provide a rationale and justification for the number of car parking spaces proposed and to satisfy the planning authority that the parking levels are necessary and appropriate, particularly when they are close to the maximum provision. The maximum car parking standards do not include bays assigned for use by a car club, designated short stay on-street Electric Vehicle (EV) charging stations or accessible parking spaces. The maximum car parking standards do include provision for visitor parking.*

- This SPPR will not apply to applications made in a Strategic Development Zone until the Planning Scheme is amended to integrate changes arising from the SPPR. Refer to Section 2.1.2 for further detail*

## **6.0 EIA Screening**

Having regard to the nature and scale of the proposed development for one infill dwelling house in an established urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required – see completed Form 2 on file.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

The grounds of appeal, prepared by PD Lane Associates on behalf of the appellant, are summarised below:

- The proposed development as submitted to the planning authority compiles with the policies and objectives of the Dun Laoghaire-Rathdown County Development Plan 2022-2028.
- The planning case officer has no objection to the principle of the proposed development.
- The conservation department has no objection to the proposed development subject to a condition to protect the sylvan character of the access laneway.
- In 2016, outline planning permission was granted for a house and associated site works under Reg Ref: D16A/0258 / APB Ref: 246839 on the appeal site.
- It is claimed it would not be in the interests of proper planning and sustainable development to leave this “infill” site vacant and underutilised indefinitely due to a relatively minor issue relating to the laneway access from Brighton Road.
- The primary reason for refusal of planning permission by the planning authority in the instance of the current application is the substandard vehicular access onto Brighton Road. This existing vehicular access is serving 5 dwellings located along the laneway.
- The other 5 houses on the laneway exist onto Brighton Road on a daily basis in a careful and safe manner. The proposed development under this planning application will only increase the number of dwellings using the access lane onto Brighton Road by 1 new dwelling.
- A civil engineer's report was submitted by 'Gordon White Consulting Engineers'. This Report determined that “the addition of a single dwelling to the number of dwellings already using this entrance will not significantly impact on the appropriateness of this existing junction”.

- The report finds that the required sightlines can be attained at a setback of 1.8m. It is claimed the available forward visibility on Brighton Road towards the junction is significant and even if a car has to nose out onto Brighton Road there is sufficient warning to motorists and cyclists.
- The previous planning application submitted in 2021 (D20A/0981 / ABP309761-21) for a dwelling house was refused by the planning authority for multiple reasons, including deficient sightlines. However, the civil engineer's report prepared by 'Martin Peters Associates Consulting Engineers' determined that the existing sightlines were safe and adequate for one additional house at that time.
- Ultimately, the planning application submitted in 2021 (D20A/0981 / ABP309761-21) was refused by An Bord Pleanála for just one reason, which related to the pre-maturity of the development pending the upgrade of the existing Irish Water foul-drainage network in the area.
- An Bord Pleanála did not uphold the other planning authority reasons for refusal including the most notably omitting any reason for refusal regarding insufficient sightlines for additional traffic existing the laneway onto Brighton Road.
- The appellant requests that An Bord Pleanála uphold the previous decision on this site by accepting that the existing laneway access onto Brighton Road is adequate to cater for one additional family dwelling located on a residentially zoned infill site.

## **7.2. Planning Authority Response**

The planning authority consider that the grounds of appeal do not raise any new matter that would justify a change in attitude to the proposed development and refers An Bord Pleanála to the planners report.

## **7.3. Observations**

None to date.

## 8.0 Assessment

- 8.1. The following assessment covers the points made in the appeal submission and is consideration of the overall application. It is noted there are no new substantive matters for consideration.

### *Development proposal in context*

- 8.2. The applicant proposes to construct 2.5 storey detached infill house, with a front and rear garden, within a subdivision of an existing residential plot known as "Mulberry".
- 8.3. The infill dwelling house would be located in the centre of the linear residential plot enjoying extensive front and rear gardens.
- 8.4. A gravel driveway would define a hard-surfaced area to the front of the house accessed from the laneway (accommodating one car parking space) and a substantial patio would define a hard-surfaced area to the rear of the house (south-west orientation).
- 8.5. The house would exhibit a traditional design comprising an oblong pitched-roof two-storey volume (accommodating a habitable attic) with a part two-storey (including 2<sup>nd</sup> floor level accessible attic level storage) and single-storey rear projecting kitchen wing.
- 8.6. The house would have a symmetrical 3-bay entrance front. The entrance door and porch would be framed by projecting single-storey bay windows.
- 8.7. A high pitched roof characterises the dwelling (10079mm to ridge height). The roof plane would be punctuated by rooflights lighting the 2<sup>nd</sup> floor / attic level accommodation.
- 8.8. The main house would have ancillary structures located within its curtilage including a garage / garden room located between the main house and the access laneway.
- 8.9. The floor area of the infill house and ancillary structures is given as 528.43 sqm on an overall site of 0.310 hectares.
- 8.10. The ground floor of the main house would comprise 3 reception rooms and a utility room within the main two-storey oblong block and an open plan living room / dining / kitchen in the single-storey rear projecting wing.

- 8.11. The first floor would accommodate 4 bedrooms and bathrooms. A first floor balcony or terrace would be located to the rear of the property above the projecting kitchen wing.
- 8.12. The attic level accommodated within the pitch of the roof would accommodate a games room, family gym and store.

#### *Planning history in context*

- 8.13. The existing access road / laneway is located within the Foxrock Architectural Conservation Area (ACA). There is a history of traffic safety issue in regard to the access laneway.
- 8.14. In 2015, planning permission was refused for 3 reasons for the demolition of the two existing houses located along the laneway at "Torry" and "Rockfield" and the construction of a new build housing development. The construction of 4 number 5-bedroom two-storey dwellings was refused *inter alia* by reason of intensification of additional traffic exiting the laneway onto Brighton Road via the restricted shared (laneway) vehicular entrance, which has deficient sightlines onto Brighton Road.
- 8.15. In 2021, planning permission was refused by the planning authority for a 2.5 storey house for 5 reasons, including road safety issues relating to the laneway access (Reg. Ref: D20A/0981 / Board Order ABP-309761-21). However, the An Bord Pleanála refused permission having regard to one reason for refusal - the deficiency in the capacity of the public foul water network.

#### *Assessment sub-headings*

- 8.16. The relevant planning matters are interrogated under the following sub-headings:
- Zoning
  - Compact growth & urban consolidation
  - The Sustainable Residential Development and Compact Settlement Guidelines (2024)

- Infill residential development
- Impact on existing residential amenities
- Visual Impacts / Foxrock ACA
- Internal configuration and room space standards
- Open space provision
- Garage / garden room
- Waste water treatment system
- Tree survey
- Vehicular access & parking
- Other matters

#### Zoning

- 8.17. The site is zoned Objective "A" in the Dun Laoghaire-Rathdown Development Plan 2022-2028, which seeks to *provide residential development and improve residential amenity while protecting the existing residential amenities.*
- 8.18. Residential development is acceptable in principle and may be permitted where the proposed development is compatible with the overall policies and objectives for the zone / development plan.
- 8.19. I note the site is located adjacent but not within the Foxrock Village Architectural Conservation Area (ACA).
- 8.20. The development site comprises underutilised lands within an established suburban area.
- 8.21. It is noted the subject location cannot be connected to foul water services network due to capacity constraints.
- 8.22. A waste water treatment system is proposed to address current deficiency, as there is no defined timeframe for improvement works to the public sewerage system.

#### Compact growth / urban consolidation

- 8.23. National Planning Framework (NPF 2018 as revised May 2025) and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region (EMRA)

(2019) encourage and support the densification of existing urban / suburban areas and, as such, promote the use of performance based criteria in the assessment of developments to achieve well designed and high quality outcomes.

- 8.24. The strategic objective of compact development is supported in principle by densification of urban / suburban sites in particular lands accessible by walking, cycling and public transport.
- 8.25. Foxrock Village is approximately 700m from the appeal site. The site is located approximately 1Km from Carrickmines Luas stop (approximate 15m walk). Dublin Bus does not operate on Brighton Road.
- 8.26. Figure 2.9 (Core Strategy Map) of the Dun Laoghaire-Rathdown Development Plan 2022-2028 defines the boundary of "Dublin City and Suburbs"(Urban). The development site is located within the boundary line defining the city and suburbs.
- 8.27. Chapter 2 (Core Strategy), Policy Objective CS11 – Compact Growth – is to deliver 100% of all new homes, that pertain to "Dublin City and Suburbs", within or contiguous to its geographic boundary. The proposed development would provide an additional house within "Dublin City and suburbs".
- 8.28. The Sustainable Residential Development and Compact Settlement Guidelines  
Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024) set national planning policy and guidance in relation to the planning and development *inter alia* for urban settlements with a focus on sustainable residential development and the creation of compact settlement.
- 8.29. The Guidelines expand on higher-level policies of the National Planning Framework, setting policy and guidance that include development standards for housing. Chapter 5 (Development Standards for Housing) provides *inter alia* guidance for separation distances, private open space and car parking.
- 8.30. The following assessment is informed by the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities.
- 8.31. Infill development

The Dun Laoghaire Rathdown County Development Plan 2022-2028 provide a comprehensive policy framework to support compact growth and urban consolidation. Policy PHP18 (Residential Density) seeks to increase housing

(houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill / brownfield lands having regard to proximity and accessibility considerations.

- 8.32. Chapter 12 (Development Standards), Section 12.3.7 (Additional Accommodation in Existing Built-Up Areas), Section 12.3.7.7 (Infill) of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 encourages infill housing development in accordance with Policy Objective PHP19 (Existing Housing Stock-Adaptation).
- 8.33. Policy Objective PHP19 *inter alia* promotes densification of built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.
- 8.34. Section 12.3.7.5 (infill) provides assessment criteria for infill houses located on development sites in corner / side gardens. These criteria are interrogated below with reference to the footprint and design of the proposed infill dwelling house.
- 8.35. Impact on existing residential amenities
- 8.36. The residential plot is substantial and the proposed dwelling house is setback from the shared property boundaries with the adjoining properties to the east by a minimum separation distance of 3000mm - "Rockfield" - and to the west by a minimum separation distance of 3761mm - "Torry".

#### *Separation distances*

- 8.37. The Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities (15 January, 2024) requires that a separation distance of at least 16m between opposing windows serving habitable rooms above ground floor level at the rear and side of houses should be maintained.
- 8.38. The infill dwelling house would be centrally located within the subject linear building plot set back from the access laneway aligned with the existing building line on the south side of the lane.
- 8.39. The rear elevation of the two-storey main oblong house block would be located approximately 28m from the rear property boundary. The rear elevation of the projecting single-storey wing would be located approximately 17m from the rear property boundary.
- 8.40. There would be no overlooking of properties to the south of the development site.

- 8.41. The neighbouring dwelling house to the south-west "Torry" is set in extensive grounds and is located at a significant distance from the shared property boundary. The west gable of the infill dwelling house is approximately 32m from the adjoining dwelling house to the south-west.
- 8.42. The neighbouring dwelling house to the north-east "Rockfield" projects diagonally onto the shared property boundary. The minimum separation distance between the infill dwelling house and "Rockfield" is given as 3800mm.
- 8.43. The existing house at "Rockfield" is a bungalow. The infill development would appear to be part of the former curtilage of "Rockfield" hence the relative modest separation distances between the existing and proposed dwelling houses.
- 8.44. The east gable of the infill house would elevate onto the shared property boundary with "Rockfield" rising to an apex height of 10079mm.

#### *Overshadowing*

- 8.45. The planning authority requested a shadow analysis by way of additional information in order to assess the shadow / daylight impacts of the development on the neighbouring house at "Rockfield".
- 8.46. The shadow analysis, prepared by James Horan Architectural Consultants, dated 20/01/25, confirms that overshadowing of the property to the east at "Rockfield" would result in a minor impact on existing residential amenity.
- 8.47. The analysis submitted provides shadow diagrams for March 20 2025 (Spring equinox), June 21, 2025 (mid-Summer), December 21, 2025 (Winter solstice) and September 22, 2025 (Autumn equinox). The analysis uses March 20<sup>th</sup> rather than March 21<sup>st</sup>, as this is the Spring equinox in 2025.
- 8.48. The analysis *inter alia* demonstrates on March 20<sup>th</sup> that the centre of the neighbouring garden to the north-east at "Rockfield" receives a potential 7 hours of sunlight (9am-4pm) significantly exceeding the recommended minimum 2 hour standard for the amenity area.

#### *Overlooking*

- 8.49. The fenestration of the proposed dwelling house would principally orientate north and south over the front and rear gardens, respectively.

- 8.50. The west gable elevation would exhibit limited fenestration including one first floor opening lighting an ensuite bathroom and an attic level window opening. The east gable elevation would exhibit limited fenestration including two first floor openings lighting ensuite bathrooms and one attic level window opening.
- 8.51. I consider that the attic level gable fenestration has the potential to overlook the grounds of the neighbouring properties to the immediate north-east at "Rockfield" (proximate to the shared property boundary) and also the grounds of the adjoining property at "Torry" to the west.
- 8.52. The omission of the attic level gable fenestration can be dealt with by way of condition if a positive recommendation is recorded. I note that the attic rooms are alternatively lit by extensive rooflights.
- 8.53. I note the first floor gable elevation(s) fenestration light ensuite bathrooms. The proposed fenestration can be conditioned to incorporate opaque or frosted glass if a positive recommendation is recorded.

*First-floor rear balcony*

- 8.54. The applicant proposes a balcony / terrace at first floor level to the rear of the property accommodated on that part of the rear projecting kitchen wing that is single-storey.
- 8.55. I note that the proposed balcony would be approximately 17m from the rear property boundary. However, it would be located proximate to the shared property boundary with the adjoining property to the east at "Rockfield".
- 8.56. The planning authority by way of additional information requested the omission of the balcony. The applicant responded Drawing Nos. 0-81-6Rev A / O-81-12 Rev A (inclusive) omitting the balcony and replacing the balcony with a flat roof with no bedroom access.
- 8.57. I note that large-scale first floor terraces as originally proposed by the applicant are not characteristic of the building stock in the area. I consider that the omission of the first-floor balcony is justifiable in terms of the protection of the existing amenities of the adjoining property to the north-east at "Rockfield".

8.58. In terms of the residential amenities of the neighbouring properties, I consider subject to condition that there would be no adverse overlooking, overshadowing or overbearing impacts resulting from the proposed development.

#### Visual impacts

- 8.59. Finally, a traditional design solution in terms of building form, roof profile and elevation finish is proposed.
- 8.60. The applicant proposes a concrete flat profile roof tile, render elevation finish, double glazed windows with granite cills and granite capping.
- 8.61. I consider that the form and material finish of the proposed substantial infill dwelling house would not detract from the visual amenity of the area, or the adjacent Foxrock Architectural Conservation Area (ACA), and would be consistent with the pattern of development in the area characterised by low density detached houses.

#### Internal configuration and room space standards

- 8.62. The accommodation proposed at ground floor, first floor and second floor level would satisfy the Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes for Sustaining Communities (2007).
- 8.63. I consider that the proposed 2.5 storey (4-bed) dwelling house would provide an acceptable level of accommodation on site

#### Open space

- 8.64. The Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities SPPR4 requires a minimum of 50 sqm. of private open space for a new 4-bedroom house.
- 8.65. The open space provision would consist of an extensive landscaped garden and a large south-west facing patio.
- 8.66. I consider that the proposed dwelling house would provide an acceptable level of amenity space consistent with SPPR4 of the Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities.

#### Garage / Garden Room

- 8.67. The applicant proposed to building a detached garage to the front of the proposed dwelling house. The garage would have a pitched-roof (maximum height 5180mm) and single-storey fenestration. The floor area is given as approximately 50 sqm.
- 8.68. The ancillary building would effectively accommodate two double garages. One of the garages is designated as a garden storage area. It is noted both garages have outward opening double-doors and are identical in floor area (24.10 sqm).
- 8.69. The detached garage would be proximate to the boundary with the laneway and would be slightly elevated above the laneway. The planning authority requested a contiguous elevation of the access laneway including the garage / garden room in order to assess the visual impact of the garage structure on the laneway, which is part of the Foxrock Village ACA.
- 8.70. The applicant response to the further information request on the dated 14/02/25, providing a contiguous elevation from the laneway showing the proposed dwelling and garage, existing dwelling at "Rockfield" in context – Drawing No. O-81-14 Rev A (including boundary details).
- 8.71. The planning authority concluded that the proposed garage structure by reason of the setback from the front boundary and the existing screening provided by retained trees would be acceptable. I would concur with the planning case officer.

#### Waste water treatment system

- 8.72. Environmental Health requested the submission of a site plan clarifying matters in regard to the proposed waste water treatment system, including the location of any wells, and other required clarifications and specifications.
- 8.73. The applicant submitted clarifications on the 14/02/2025, including Drawing Nos.O-81-4 Rev A & O-81-5 Rev A, *inter alai* conforming separation distances between the proposed wastewater treatment system / percolation area and the proposed dwelling house / the site boundaries.
- 8.74. The planning authority considered that the additional information response received was acceptable subject to 2 standard condition. This matter can be dealt with by way of a standard condition if a positive recommendation is recorded.

#### Tree survey

- 8.75. The Parks Division has no object to the proposed development subject to the protection of existing trees on site. The Arbeco tree survey, submitted by additional information response 14/02/2025, highlights that there are several category B trees and one category A tree on site.
- 8.76. The recommendation of the Parks Division is to retain and protect tree no. 1590, which is a category A tree and tree no. 1600 and no. 1591, which are category B trees. The report notes that it is imperative to avoid any excavation or compaction near the tree's root zone.
- 8.77. Therefore, the Parks Division recommend the implementation of the tree protection plan submitted by way of additional information. This can be dealt with by way of condition no.1 if a positive recommendation is recorded.

#### Vehicular Access & Parking

- 8.78. The substantive matter under appeal is the status of the existing vehicular access onto Brighton Road from the access laneway.
- 8.79. The planning authority refused permission based on deficient site lines. Therefore, an intensification of use of the existing access / egress onto Brighton Road would represent a traffic hazard.
- 8.80. Section 12.4.8 (Vehicular Entrances and Hardstanding Areas – General Specifications) of the Dun Laoghaire-Rathdown County Development plan *inter alia* states:

*Vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic. Where a new entrance onto a public road is proposed, the Council will have regard to the road and footway layout, the traffic conditions on the road and available sightlines.....*

*Application (Reg. Ref. D20A/0981 / ABP309761-21)*

- 8.81. The appellant highlights the previous application for an infill house on site was not refused on the grounds of road safety rather it was refused on the grounds of public health by reason of the deficiency in Irish Water foul-drainage network.
- 8.82. The previous application refused by An Bord Pleanála (ABP309761-21) concluded that the connection of the proposed development to the foul-drainage system would be prejudicial to public health and would be contrary to the proper planning and

sustainable development of the area. This matter has been addressed in the current application by an on-site waste water treatment system.

- 8.83. The appellant highlights that a previous civil engineering report, prepared by Martin Peters Associates Consulting Engineers submitted under (D20A/0981 / ABP309761-21), for a detached dwelling house on the appeal site, concluded that the sightlines onto Brighton Road from the access laneway were safe and adequate at that time.
- 8.84. I note that the planning inspector (ABP309761-21) considered that the development of a single house on site would be acceptable.
- 8.85. The inspector did not consider that the development of a single house would give rise to traffic congestion as any increase in traffic would be minor. However, the inspector, with reference to the civil engineering report prepared by Martin Peters Associates Consulting Engineers, noted that improvement works proposed at the junction at Brighton Road were not on lands in control of the applicant / appellant.
- 8.86. The inspector concluded that the development would endanger public safety by reason of insufficient sightlines (south-east direction) given that there is insufficient evidence that the necessary works required to improve the junction could be undertaken by the developer.

*Gordon White Consulting Engineers Report dated 24/01/25*

- 8.87. The appellant argues that the existing laneway vehicular entrance services the existing 5 dwellings located along the laneway safely. The proposed development would simply increase the number of dwellings from 5 to 6.
- 8.88. The use of the laneway by one additional dwelling would therefore not be problematic.
- 8.89. The planning authority requested by way of further information a clarification of sightlines (minimum 2m set-back from kerb edge) onto Brighton Road from the shared access laneway (FI Item 7).
- 8.90. The appellant's argument is supported by the civil engineering report on file, prepared by Gordon White Consulting Engineers, submitted in response to the further information request.
- 8.91. The Report highlights that the layout of the existing public roads and footpaths in the area, including the gates and piers of adjacent properties on Brighton Road, results

in the access road onto Brighton Road being deficient in terms of the requirements of Section 4.4.5 of DMURS for a 50km/hr speed road (sightlines from a distance of 2m set back from the kerb are required to be a distance of 49m in both directions).

- 8.92. The existing entrance at a 2m setback has a sightline deficiency of 43m (north) and 31m (south) – see Drawing G1261-01.
- 8.93. The Report considers that the required sightlines (49m) can be achieved at a slightly reduced setback (1.8m).
- 8.94. Alternatively, sightlines of 43m and 31m (with a 2m setback) can be achieved for a lower design speed of 30 km/hr exceeding the required 24m sightline length for a 30 km/hr speed road.
- 8.95. The Report concludes that the addition of a single dwelling to the number of dwellings already using this entrance would not significantly impact on the appropriateness of the existing junction.
- 8.96. I note that the Transport Division of the planning authority after review of the submitted further information response from *Gordon White Consulting Engineers* concluded that the proposed development should be refused planning permission on road safety grounds and planning precedent.
- 8.97. Finally, I note that there are significant open lands along the length of the subject laneway comprising *inter alia* the grounds of the existing 5 detached dwelling houses, which subject to planning permission could in the future accommodate further infill housing development.

### *SPPR3*

- 8.98. The Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities (15 January, 2024) requires innovative responses to the provision of new housing and associated car parking.
- 8.99. This approach should take account of proximity to urban centres and sustainable transport options, in order to promote more sustainable travel choices. The Guidelines state that car parking ratios should be reduced at all urban locations. SPPR 3 (car parking) defines “Accessible”, “Intermediate” and “Peripheral” locations.
- 8.100. The proposed development is located in a accessible / intermediate location approximately 1 km from the Carrickmines Luas stop (15 minute walk).

- 8.101. The nearest bus stop is an approximate 10 minute walk at Glenamuck Road North (700m) – Stop 3289.
- 8.102. Dublin Bus route L27 (Kilternan Village to Dun Laoghaire Dart station) and L26 (Leopardstown Valley to Blackrock Dart station) operate with a 30 minute frequency.
- 8.103. SPPR3 of the Guidelines support the reduction of car parking at accessible / intermediate locations such as the appeal site, which is located within a 10 minute walk of Foxrock Village (700m) and a 15 minute walk of the Luas at Carrickmines (1Km).
- 8.104. The submitted site layout plan shows one car parking space. I consider that the proposed car parking provision of one car parking space is appropriate given the accessible / intermediate location of the proposed development.

*Sightline deficiency*

- 8.105. I note the deficient sightline in the direction of Foxrock Village (north) at the egress to Brighton Road from the subject laneway (43m rather than the required 49m sightline). The laneway entrance is located opposite the Kerrymount Avenue / Brighton Road junction.
- 8.106. I note on the day of my site visit that traffic exiting Kerrymount Avenue opposite is clearly visible to south bound vehicles on Brighton Road slowing the traffic flow approaching the subject laneway entrance coming from the left where there is a sightline deficiency of 6m at the required setback distance of 2m.
- 8.107. The appellant considers that the required sightlines (49m) can be achieved at a slightly reduced setback (1.8m).
- 8.108. The Design Manual for Urban Roads and Streets (DMURS), provides for a minimum set back requirement of 2m (from the standard 2.4m set back for a 50 km/ hr road) in difficult circumstances where vehicle speeds are slow and there is limited traffic movement from the entrance.
- 8.109. The Transport Planning Division have employed the minimum setback for a 50 km / hr road in the instance of the subject Brighton Road / laneway access junction.
- 8.110. Furthermore, the sightline distance from the right (south) exhibits a significant deficiency (18m) at the Transport Planning Division required setback distance of 2m.

8.111. The applicant *inter alia* by way of further information (Item 7) had the opportunity to submit proposals for works to the vehicular entrance on Brighton Road to improve sightline distances subject to the proposed public domain works being supported by a letter of consent from the local authority. The applicant did not address this matter.

8.112. Finally, I note that the lands at the vehicular entrance to the laneway on Brighton Road or not in the appellant's ownership. The applicant lands in the ownership of the appellant are clearly defined in blue on the site location map (Drawing No. O-81-2), dated 31-10-2024, and are confined to the immediate development site.

#### *Conclusion*

8.113. On balance subsequent to review of Section 4.4.5 (Visibility Splays) of DMURS, which does not allow any mitigation measures regarding the required visibility splays (49m), and acknowledging the potential for further infill housing development along the subject laneway, I would concur with the planning case officer that the proposed detached dwelling would not be compatible with Section 12.4.8 (Vehicular Entrances and Hardstanding Areas) of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 and would result in an undesirable precedent for similar such development by reason of the use of a substandard vehicular entrance at the subject junction onto Brighton Road.

## **9.0 AA Screening**

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

The subject site is located within an established urban area and is connected to piped services and is not immediate to a European Site. The proposed development comprises the construction of an infill dwelling house as set out in Section 2.0 of this report.

No significant nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site given the small-scale nature of the development.

I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## 10.0 Recommendation

- 10.1. I recommend refusal of planning permission for the reasons and considerations set out below.

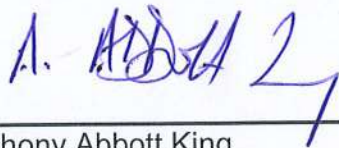
## 11.0 Reasons and Considerations

Having regard to the residential zoning objective, the pattern of development in the area, which is characterised by large detached houses in their own grounds, and the policy framework provided by the Dun Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that the proposed development of a detached 2-storey infill dwelling house, would be inconsistent with Section 12.4.8 (Vehicular Entrances and Hardstanding Areas), in providing deficient sightline distances both to the north and south of the Brighton Road / laneway access junction and, as such, would be inconsistent with the proper planning and sustainable development of the area.

## 12.0 Refusal

1.	The existing vehicular access at the junction of the access laneway and the Brighton Road junction is substandard and would endanger public safety as a result of insufficient sightlines for additional traffic existing the laneway onto Brighton Road and therefore does not accord with Section 12.4.8 of the County Development Plan 2022-2028 regarding Vehicular Entrances and Hardstanding Areas. The proposed development would also set an unwelcome precedent for future intensification of use of a restricted vehicular access onto Brighton Road and would, therefore, be contrary to the proper planning and sustainable development of the area.
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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.

A handwritten signature in blue ink, appearing to read 'A. Abbott King', written over a horizontal line.

Anthony Abbott King  
Planning Inspector

27 May 2025

## Appendix 1

### Form 2

#### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference Number</b>	ABP- 322108-25	
<b>Proposed Development Summary</b>	Infill residential unit	
<b>Development Address</b>	Mulberry, Brighton Road, Foxrock, Dublin 18.	
<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. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</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).	The proposed development does not require demolition works comprising the side garden of an existing dwelling house.	
<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).	The development is not proximate to a European Site .	
<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 mature suburban location 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
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:

A. ~~AD~~ 11 27

Date:

07/05/25

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_  
(only where Schedule 7A information or EIAR required)