An Coimisiún Pleanála

Inspector's Report
PL-501600-DR-26

Development	Protected Structure (RPS no. 100) Construction of 2 houses with associated works.
Location	Lands Adjacent to 23 Cross Avenue, Blackrock, Co. Dublin A94 TV27 (A Protected Structure)
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D26A/0269/WEB
Applicant(s)	Fitzwilliam Square Investments Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party Normal Planning Appeal
Appellant(s)	Fitzwilliam Square Investments Limited
Observer(s)	Marc McGovern Mary Rose Binchy

Date of Site Inspection	21st September 2026
Inspector	Bernadette Quinn

1.0 Site Location and Description

1.1. The appeal site, with a stated area of 0.126ha, is located on the north side of the Cross Avenue towards its western end, close to the junction with Booterstown Avenue. The appeal site forms part of the garden of a large detached two storey over basement dwelling, No. 23 Cross Avenue, which is a Protected Structure. No 23 is surrounded by stone boundary walls and the garden contains mature trees and hedgerows. The appeal site is located to the east of the existing dwelling at No. 23 and forms the side garden of this property. There is a stone wall adjacent to the eastern side boundary of the dwelling which separates the front garden from the rear garden. There is an opening in this wall providing access to the rear garden.

1.2. Cross Avenue fronting the appeal site includes footpaths and a grass verge containing mature trees. The surrounding pattern of development includes a large detached two storey dwelling on the neighbouring site to the east, a number of large detached properties further east along Cross Avenue as well as some recently constructed infill dwellings. There are semi-detached two storey dwellings on the opposite side of the road to the appeal site. To the rear of the appeal site there are a number of rear gardens serving properties to the northwest on Booterstown Ave.

2.0 Proposed Development

2.1. Permission is sought for the construction of 2 no. three-storey, four-bedroom detached dwellings to the side of the existing dwelling; 4 no. on site new vehicular parking spaces; alterations to the existing site boundary along Cross Avenue to provide 1 no. new vehicular and pedestrian entrance to serve the proposed dwellings; new stone boundary wall and fence between the existing and proposed dwellings; and landscaping, boundary treatments, engineering and all associated works necessary to facilitate the development.

3.0 Planning Authority Decision

3.1. Decision

On 28th May 2026 DLR issued notification of decision to refuse permission for one reason as follows:

Having regard to the setting of the subject site, which is within the curtilage of a Protected Structure, it is considered that the proposed dwellings, by reason of their proximity, scale and massing, fail to respect and compliment the Protected Structure and would seriously injure the visual amenities of the Protected Structure rendering the development contrary to Policy Objective HER 8 and Section 12.11.2.3 of the Dun Laoghaire-Rathdown County Development Plan 2022-2028. Furthermore, the proposed development, if permitted, would set an undesirable precedent, 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 Planning Officer's report dated 28th May 2026 can be summarised as follows:

- The proposal has a density of 15.9 units per hectare. Despite the limitations of the site in terms of built heritage etc, it may be possible to achieve a greater density with an alternative layout.
- Internal areas, separation distances and private amenity space are acceptable, and the proposal is acceptable with regards to overshadowing, overbearance and overlooking.
- The PA concur with the concerns of the Conservation Officer and recommend refusal. It is considered the site has potential for residential development subject to revisions.
- In relation to visual impact, the PA note the intuitive design proposed by the applicant, however the Conservation Division recommendation is noted due to scale, siting and setting of the proposal, which in turn, negatively impacts

upon the built heritage and architectural character of the adjoining Protected Structure.

3.2.2. Other Technical Reports

Parks & Landscape Services: No objection subject to conditions

Drainage Planning: No objection subject to conditions

Environmental Enforcement: No objection subject to conditions

Transportation Planning: No objection subject to conditions.

Conservation Division: Recommends permission should be refused for the following reasons: The proposed development, by reason of proximity, scale and massing of the proposed dwellings, fails to respect and complement the Protected Structure on site and is contrary to Section 12.11.2.3 Development within the Grounds of a Protected Structure which states that is an objective for "The retention of an appropriate setting for the Protected Structure to ensure the relationship between the building, associated structures, amenity value and/or landscape features remain unaffected by the development". As a result of the scale, height and insufficient separation distances to the Protected Structures, the proposed development would seriously injure the visual amenities of the Protected Structure and would set a poor precedent for similar type development within the gardens of Protected Structures. The proposal fails to accord with County Development Plan Policy in terms of Policy HER8 and Section 12.11.2.3 Development within the Grounds of a Protected Structure. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.3. Prescribed Bodies

Uisce Eireann: No objection subject to conditions

3.4. Third Party Observations

A submission received in relation to the proposal is summarised in the Planning Officer's report.

4.0 Planning History

Appeal Site:

D26A/0146: Permission granted for internal and external renovations to protected structure

Neighbouring property to east:

D22A/0325: Permission granted for a part 2 storey part single storey dwelling house, pedestrian gates/ railing and a vehicular entrance. Site works include tree removal, new garden store, parking, landscaping, drainage works, and all associated site works all within the curtilage of Summerville, 21 Cross Avenue (A Protected Structure)

Neighbouring property to north:

D21A/1024 / ABP-312743-22: Permission refused by PA and granted by ACP for demolition of the existing single storey bungalow (c.101 sq.m.) and construction of a new 2 storey house (c.328 sq.m.) and all associated site works at 70a Booterstown Avenue.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Dún Laoghaire Rathdown County Development Plan, 2022-2028 is the statutory development plan for the area. The site is zoned Objective 'A' residential with the objective to: 'provide residential development and improve residential amenity while protecting the existing residential amenities' under which residential development is listed within the 'Permitted in Principle' category of this zoning objective.

5.1.2. Chapter 4: Neighbourhood – People, Homes and Place. Policy Objective PHP18: Residential Density It is a Policy Objective to: Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12; Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing

residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development. Policy Objective PHP20: Protection of Existing Residential Amenity: Ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

5.1.3. In Section 9.3.1.3 Policy Objective OSR7: Trees, Woodland and Forestry states that it is a Policy Objective to implement the objectives and policies of the Tree Policy and the forthcoming Tree Strategy for the County, to ensure that the tree cover in the County is managed, and developed to optimise the environmental, climatic and educational benefits, which derive from an 'urban forest', and include a holistic 'urban forestry' approach.

5.1.4. In Chapter 11 Section 11.4.1.2 includes Policy Objective HER8: Work to Protected Structures and includes that it is a policy objective to, inter alia, protect structures included on the RPS from any works that would negatively impact their special character and appearance; Ensure that any development, modification alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials; and Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure.

5.1.5. Section 11.4.2.6 Policy Objective HER18: Development within a Candidate Architectural Conservation Area: It is a Policy Objective that development proposals within a candidate Architectural Conservation Area will be assessed having regard to the impact on the character of the area in which it is to be placed.

5.1.6. Chapter 12 sets out Development Management criteria relating to infill and backland dwellings wherein Section 12.3.7.5 outlines standards relating to corner/side garden sites and Section 12.3.7.7 outlines standards relating to infill development.

5.1.7. Section 12.8.11 Existing Trees and Hedgerows states New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. New developments shall, also have regard to objectives to protect and preserve trees and woodlands (as identified on the County Development Plan

Maps). The tree symbols on the maps may represent an individual tree or a cluster of trees and are not an absolute commitment to preservation. Decisions on preservation are made subject to full Arboricultural Assessment and having regard to other objectives of the Plan. Arboricultural Assessments carried out by an independent, qualified Arborist shall be submitted as part of planning applications for sites that contain trees or other significant vegetation.

5.1.8. Section 12.11.2.3 Development within the Grounds of a Protected Structure: Any proposed development within the curtilage, attendant grounds, or in close proximity to a Protected Structure, has the potential to adversely affect its setting and amenity. The overall guiding principle will be an insistence on high quality in both materials, and design, which both respects and complement the Protected Structure, and its setting. Any proposal for development within the grounds of a Protected Structure will be assessed in terms of the following: The proximity and potential impact in terms of scale, height, massing and alignment on the Protected Structure, impact on existing features and important landscape elements including trees, hedgerows, and boundary treatments. Any development should be sensitive of the relationship between the principal residence and its adjoining lands and should not sever this; The retention of an appropriate setting for the Protected Structure to ensure the relationship between the building, associated structures, amenity value and/or landscape features remain unaffected by the development.

5.1.9. There is a map based objective 'To protect and preserve Trees And Woodlands' located close to the appeal site and within the boundary of No. 23.

5.1.10. Appendix 4: Record of Protected Structures: RPS 100 relates to No 23 Cross Avenue. RPS 101 relates to the neighbouring property to the east at 21 Cross Avenue.

5.2. **National Guidance**

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

5.2.1. Architectural Heritage Protection Guidelines

Section 13.5 of the Departments Guidelines on Development within the Curtilage of a Protected Structure states: 'Proposals for new development within the curtilage of

a Protected Structure should be carefully scrutinised by the planning authority as inappropriate development will be detrimental to the character of the structure'.

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

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

5.3. **Natural Heritage Designations**

The subject site is not within or immediately adjacent to any designated or Natura 2000 sites. South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) are located approx. 700m to the northeast of the site.

6.0 EIA Screening

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

7.0 The Appeal

7.1. Grounds of Appeal

A first party appeal in relation to the decision to refuse permission has been submitted and includes a Conservation Note, Verified Views and vehicular access drawings. The appeal can be summarised as follows:

- There is sufficient precedent in DLR for development within close proximity to protected structures, including permission ref 19A/0054 granted for a 4 storey apartment block a distance of 2.5m from a protected structure (Church of Saint Stephen) and ref D18A/1054 for 8 residential units adjacent to a protected structure.
- A setback of 3.71m from the side elevation and a set back of 6.5m from the front building line of No. 23 is considered appropriate to mitigate impacts to the character of the protected structure at No. 23 Cross Avenue and visual amenity impacts and retain the legibility of the protected structure. The height proposed at 9.445m is significantly below that of no. 23. The design proposed allows the protected structure to remain legible on its own merit. Photomontages are submitted with the appeal to demonstrate the suitability of the design.
- The proposal uses a considered and consistent palette of colours and materials which will complement the protected structure.
- The design and scale ensure protection of the character and visual amenity of No. 23 Cross Avenue.
- The proposed dwellings are three storeys in height with the third storey sloping from the main building mass to reduce visual impact, the dwellings are subordinate in height and scale to that as established in the immediate vicinity.
- A revised vehicular entrance design is included with the appeal to address DLR Transportation Planning Section requirements.

- The proposal complies with Policy Objective HER8 as outlined in the Architectural Heritage Impact Assessment (AHIA) submitted with the application and response to appeal.
- The siting, massing, design and scale of the dwellings mean they will appear subordinate to, and protect the special character of the protected structure
- Works to the curtilage are minor interventions which will not significantly impact the built heritage and a proposed wall is in keeping with the heritage of the structure.
- The side/rear garden where the dwellings will be located is not considered of significant historic value and does not make a significant contribution to the heritage of the protected structure.
- Proposed boundary and landscaping interventions are minimal. Trees to be removed are not of a high historic landscape value or contributing factor to the character of the Protected Structure.
- A Conservation note is attached to the appeal which outlines the following points:
    - The 1838 OS map illustrates a building footprint in the garden area indicating that the principle of development in proximity to the principal house was established prior to construction of 23 Cross Avenue. The current proposal reverts to a previous site subdivision.
    - Sensitive conservation led repairs and landscaping plans were permitted by DLR to No. 23 under permission D26A/0146/WEB ensuring the long term protection of the main house and setting of the protected structure.
    - The proposed material palette was selected in response to the character of the Protected Structure which is consistent with the guidance in the AHPG and harmonises sensitively with the adjacent protected structure.
    - Adequate separation distance is provided between the protected Structure and nearest proposed dwelling and the proposed height is significantly lower than the existing eaves height. A high-quality landscaping finish will enhance the appearance of the adjacent protected structure.

- The proposal supports the NPF objectives of providing additional housing and is supported by recent precedent in the area.
- No significant features of historic landscape design character are visible within the appeal site on historic maps.
- The proposed footprint is deemed an appropriate response to site conditions and policy relating to conservation and housing and the density reflects the exceptions set out in Compact Settlements Guidelines.

7.2. **Planning Authority Response**

Response received states no new issues raised.

7.3. **Observations**

Two observations have been received from Mary Rose Binchy and Marc McGovern. The observations can be summarised as follows:

- The impact on the protected structure Summerville at No. 21 Cross Avenue should be considered.
- The proposal would constitute overdevelopment
- The decision to refuse permission for two houses is consistent with the precedent to grant permission for one sensitively sited and designed house at Summerville.
- Development adjoining Chesterfield House is not a precedent for the proposal.
- The proposal would have a negative impact on neighbouring protected structures and be contrary to Development Plan Policy Objective HER8 and Section 12.11.2.3.
- The proposal would negatively impact the residential amenity of No. 70A Booterstown Ave as a result of overlooking, perceived overlooking and overbearing.
- The proposal would be incongruous on the streetscape and negatively impact the adjoining Candidate ACA.

- Precedents referred to relate to decisions made prior to current Development Plan policy coming into place and do not reflect the sensitivity of the site or the form of development proposed.
- The design proposed fails to address the site location adjoining protected structures and a Candidate ACA.
- The proposal results in significant interventions into the historical fabric of the protected structure and proposed brick surrounds to new opes is inappropriate.
- There is no basis for the Commission to conclude that the curtilage and attendant grounds of the Protected Structure are being protected.
- An assessment of impact on adjoining residential amenity was not undertaken by the Council.
- The requirements of the Transportation Section to provide a splayed vehicular entrance will have a greater impact on the protected structure.
- The proximity to protected structures and the scale, form, bulk and mass of the proposed dwellings is inappropriate for the site and would adversely impact on the special character of the Protected Structure.
- The removal of trees cannot be justified given the objective to protect trees on the site.
- The proposal will have a significant negative impact on the Protected Structures. Case law is referred to which confirms the impact of tree clearance on a protected structure.
- The loss of part of the curtilage must be regarded as significant.
- The remaining garden to serve the protected structure is insufficient.

8.0 **Assessment**

8.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and inspected the site, and having regard to relevant

local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development & Density
- Impact on Built Heritage
- Impact on Residential and Visual Amenities
- Vehicular Access
- Tree Removal

8.2. **Principle of Development & Density**

8.2.1. The site is zoned Objective A 'Residential'. Residential development is permitted in principle under this zoning objective in the Development Plan. I note the PA did not raise any concerns with the principle of development on the site. I consider the principle of development of two dwellings is acceptable, subject to the detailed considerations below.

8.2.2. I note the Planning Officers report outlines that a higher density may be appropriate for the site having regard to its location and that observers raise concerns in relation to the number of dwellings proposed and submit that one dwelling is more appropriate for the site.

8.2.3. The Development Plan in Policy Objectives PHP18 seeks to increase housing supply and promote compact urban growth through infill development having regard to proximity considerations and ensure the protection of the established character of the surrounding area. I note that the site is located approximately 650m from Rock Road, 700m from Stillorgan Road, and approximately 1.4m from Blackrock DART station and is well served by public transport. Section 3.3.6 of Compact Settlements Guidelines outlines exceptions relating to the recommended densities contained in the guidance. This section states 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 set out. Having regard to the foregoing and to the location of the site within the curtilage of a protected structure and the size of the site, I consider that the proposal for 2 dwellings on a 0.1257 ha site with a resulting density of 15.9 dph,

whilst below the Compact Settlements recommended density range of between 50 and 150 dph, is acceptable for the site having regard to Development Plan and Compact Settlements Guidelines.

8.3. **Impact on Built Heritage**

8.3.1. The appeal site forms part of the side garden of No. 23 Cross Avenue, a three-bay two-storey over raised basement house, built c. 1850s and included in the Record of Protected Structure (RPS No. 100). The appeal site is within the curtilage of this Protected Structure. The dwelling at No. 23 is located within a candidate Architectural Conservation Area (cACA) for Booterstown Avenue. The boundary of the cACA adjoins the eastern boundary of the dwelling at No. 23 and the appeal site itself is adjacent to and outside of this cACA boundary. The PA refusal reason outlines that the proximity, scale and massing of the proposal fail to respect and compliment the Protected Structure and would seriously injure the visual amenities of the Protected Structure rendering the development contrary to Policy Objective HER 8 and Section 12.11.2.3 of the Development Plan.

8.3.2. In assessing the proposal the Local Authority Conservation Officer (CO) considered the proposal should be refused due to proximity, scale and massing of the proposed dwellings. The CO report states that as a result of the scale, height and insufficient separation distances to the Protected Structures, the proposed development would seriously injure the visual amenities of the Protected Structure and fails to accord with Development Plan Policy HER8 and Section 12.11.2.3. No concerns are raised by the CO in relation to impact on the cACA. The Planning Officers report states that the PA concur with the concerns of the CO.

8.3.3. An Architectural Heritage Impact Assessment (AHIA) submitted with the application outlines the relevant policies contained in the Development Plan relating to Protected Structures and cACA. The AHIA notes that the property has evolved with subdivision to the rear in the past resulting in some loss of the rear garden and that historic maps show the footprint of a building previously located where the proposed dwellings will be located. In relation to impact, the AHIA report notes that the proposal maintains a substantial and high-quality amenity space for No. 23, that the dwellings are set back to ensure they remain visually subservient to No. 23, integrated landscaping enhances the setting and that a new vehicular entrance to

Cross Avenue, whilst resulting in the loss of one tree, has been designed to mitigate against the loss of historic fabric and landscaping, retains the original entrance to No. 23 and that the proposal safeguards the character of the Protected Structure.

8.3.4. The appeal outlines considerations relating to compliance with CDP Policy Objective HER8 including in relation to siting, design, massing and scale which are stated to ensure that the special character of No. 23 is protected. In relation to height, the appeal outlines that the proposed third storey is sloped from the main building to reduce massing and visual impact and that the dwellings are subordinate in height and scale to neighbouring properties.

8.3.5. A Conservation Note prepared by a Grade II Conservation Architect is attached to the appeal and reiterates the case made in support of the proposal outlined in the AHIA submitted with the planning application. The Conservation Note outlines that the site has previously been subdivided, that a building footprint previously existed in the garden area indicating that the principle of development in proximity to the principal house was established; and outlines that the scale, massing, height, design, set back from building line, separation distances and material finishes provides for a development that remains sensitive to its context and receiving environment and complies with the relevant sections of Development Plan Policy Objective HER8 and Section 12.11.2.3. Examples of infill development in the area are referred to including the neighbouring property to the east at 21 Cross Avenue (a Protected Structure) and to the southeast at Renesca. Proposed repairs and landscaping works to the existing dwelling at No. 23 are outlined which it is stated will ensure the long term protection of the main house and setting of the protected structure. It is noted that a minimum permissible distance between the protected structure and any new development is not explicitly defined in the Development Plan or AHPG, that appropriate separation distances are to be determined on a site-by-site basis and that the proposal is the most appropriate response to policy relating to conservation and delivery of housing.

8.3.6. The appeal includes verified views which the Conservation Note states highlight the mitigating measures which have been incorporated to reduce the impact of the proposal on the Protected Structure.

8.3.7. Observers to the appeal raise concerns in relation to the impact of the proposal on neighbouring protected structures, including the neighbouring property to the east at No. 21 Cross Avenue, RPS 101 and the cACA.

8.3.8. I note that there is a variety of building style in the area, including large detached dwellings on the northern side of Cross Ave close to the appeal site, a number of which are included on the RPS, as well as more modern infill dwellings and semi-detached dwellings on the opposite side of Cross Avenue to the appeal site.

8.3.9. The proposal results in the subdivision of the site and establishment of a new boundary to the side of 23 Cross Avenue and results in development within the curtilage of the Protected Structure. Having inspected the site and reviewed the drawings, the AHIA report, appeal and the verified views submitted I note that it is proposed to retain an internal garden boundary wall with the proposed dwellings located 3.55m to the rear of this wall and with two new openings created to access the dwellings. The houses comprise of two storeys of light red brick and concrete banding, and a third storey comprising a mansard seamed metal roof. A distance of 3.7m is proposed between the eastern side elevation of the protected structure and the proposed side elevation of the closest new dwelling and a distance of 2.4m is proposed between the proposed boundary wall and the eastern side elevation of the protected structure. The dwellings are set back approx. 6.5m from the front elevation of No.23, have an eaves height of 6.6m, a ridge height of 9.445m and a lift shaft extending to a height of 10.3m. The front elevation of each dwelling is 7.5m wide and the side elevation is 18.5m wide. The Protected structure at No. 23 has a ridge height of approx. 13.7m and eaves height of approx. 11.4m. Whilst I acknowledge the ridge height of the proposal is over 4m below the ridge of No. 23 and the proposal is set back from the front building line of No. 23, I consider the proposed height at close proximity to No. 23, along with the bulk and massing of the proposed design, including the massing of the proposed roof, fails to provide for a proposal which is sensitive to the character and setting of the Protected Structure and represents an inappropriate form of development at this location.

8.3.10. I do not consider the information submitted with the appeal addresses these concerns. I note that a minimum separation distance between a protected structure and new development is not explicitly defined as outlined in the appeal, however I consider the proposal as a result of scale, massing and proximity fails to respect and

complement the Protected Structure and its setting and has the potential to adversely impact on the special character of the Protected Structure. I therefore consider the proposal fails to comply with Development Plan Policy Objective HER8 which requires that any development affecting the setting of a Protected Structure is sensitively sited and designed and is appropriate in terms of proposed scale, mass, height, layout, and materials and that permission should be refused for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure. I also consider the proposal fails to comply with Section 12.11.2.3 of the CDP which seeks the retention of an appropriate setting for Protected Structures. I therefore consider permission should be refused.

8.3.11. I note an observer raises concerns in relation to potential impacts on No. 21 Cross Avenue to the east which is also a Protected Structure (RPS 101). The proposal will be set back approximately 12.8m from the main front elevation and approx. 4.4m from the rear side elevation of No. 21 and will be of a similar height. I note that the AHIA submitted does not provide an assessment of the impacts on No. 21. I also note that the CO did not raise concerns in relation to the impact on No. 21 and that the observer to the appeal has not submitted information to substantiate the concerns relating to impacts on No. 21. Noting my findings above in relation to the impact on No. 23 Cross Ave, the proximity of the proposal to No. 21, and the absence of any assessment of the impact of the proposal on No. 21 in the AHIA I have concerns that the proposal also has the potential to impact the setting of the Protected Structure at No. 21 Cross Avenue. I note for the Commission that this is a new issue.

8.3.12. I note the precedents referred to in the appeal, and I do not consider these are comparable in terms of site context, separation distance from protected structures and scale and massing. I also note that some precedents referred to were permitted under a previous Development Plan for the area. I do not consider the precedents referred to provide sufficient grounds to permit the proposal contained herein.

8.3.13. The appeal outlines that no works are proposed to the Protected Structure and that works to the curtilage are minor interventions. I note that the proposal seeks to incorporate two opes into an existing wall within the garden to provide access to the dwellings, as well as a break in the front boundary wall to provide vehicular access.

No objection was raised by the CO to these works. I am satisfied that these works to the curtilage are acceptable and I do not consider the proposed revisions to the vehicular entrance as required in the Transportation Report (discussed in Section 8.5 below) will negatively impact the character of the Protected Structure.

8.3.14. An observer raises concerns in relation to impact of removal of trees on the Protected Structure. I have considered the proposed removal of trees in Section 8.6 below. In this regard I note that the CO and Parks Department of the Local Authority did not raise concerns regarding the proposed removal of trees subject to conditions and I am satisfied that the proposed removal of trees is unlikely to adversely impact on the special character of the Protected Structure.

8.3.15. In relation to the case made in the Conservation Note attached to the appeal that the proposal is located on the footprint of a previously existing building, I do not consider this sufficient grounds to support the proposed development, noting the scale, massing and design of any previously existing structure at this location is not clear and noting the concerns outlined above in relation to potential impacts on the Protected Structure.

8.3.16. I note the planning history on the overall site wherein permission was granted by the PA to No. 23 under permission D26A/0146/WEB for renovation works. I note the case made in the appeal that this will ensure the long-term protection of the main house and setting of the protected structure and at the time of my site inspection works to No. 23 were underway. I do not however consider these sufficient grounds to support the proposed development having regard to my findings in relation to the potential impact of the proposal on the protected structure as outlined above.

8.3.17. In relation to concerns regarding impact on the cACA, I note the CO and the Planning Officer did not raise concerns in this regard. The appeal site is outside of, but adjacent to, the cACA boundary. Policy Objective HER18 in the CDP states that development proposals within a candidate Architectural Conservation Area will be assessed having regard to the impact on the character of the area in which it is to be placed. Having regard to the location of the site outside of the cACA, to the pattern of development in the vicinity of the appeal site located within the cACA, and to the nature and scale of development proposed, I am satisfied that the proposal is acceptable with regard to objective HER18.

8.4. Impact on Residential and Visual Amenities

8.4.1. Observers to the appeal raise concerns in relation to impacts on residential and visual amenities of neighbouring properties as a result of overlooking, perceived overlooking, overdevelopment, and overbearing and that no assessment of residential amenities on neighbouring properties was undertaken. Concerns are also raised that the proposal is incongruous on the streetscape and that the proposal fails to provide for sufficient private amenity space for No. 23.

8.4.2. I note that the Planning Officers report states that the proposal is acceptable with regards to overshadowing, overbearance and overlooking and no concerns are raised in relation to impacts on residential amenities of neighbouring properties.

8.4.3. With regard to overlooking, I note that proposed windows on the western side elevation serve walk in wardrobes at first floor and a stairs at second floor. A window at second floor on the eastern side elevation of unit 2 serves a bathroom and is proposed to be provided with obscure glass. The rear elevation upper floor elevations are located in excess of 13m from the rear site boundary and there are no existing directly opposing windows located beyond the rear boundary.

8.4.4. Having inspected the site and reviewed the documents submitted with the application and appeal I consider the proposal is in compliance with Compact Settlements SPPR 1 and Development Plan requirements relating to separation distances. I am satisfied that the proposal will not give rise to unacceptable overlooking or perceived overlooking into neighbouring properties.

8.4.5. In relation to concerns that the proposal fails to provide for adequate amenity space for No 23 Cross Avenue, I note that a rear garden in excess of 130 sq.m. and a substantial front garden will be retained to serve No. 23 which I consider is in accordance with Development Plan Standards and the requirements of SPPR 2 of Compact Settlements Guidelines and is acceptable.

8.4.6. I note observers concerns that the proposal will be overbearing and result in unacceptable impacts on the streetscape. Notwithstanding my assessment set out in section 8.3 above in relation to the impacts on the character of the adjoining Protected Structure I consider the scale of development proposed is unlikely to result in overbearing impacts on neighbouring properties or negative impacts on the visual

amenities of the area and I do not consider the proposal would result in overdevelopment of the site.

8.5. **Vehicular Access**

8.5.1. The proposal includes a shared vehicular entrance to serve the two dwellings. The Local Authority Transportation Planning report notes no objection subject to condition that the maximum number of car parking spaces per dwelling be limited to one space. Concerns are raised in relation to the height of the proposed pillars and gate and it is recommended that a condition be attached to either recess the access and provide a splayed boundary or reduce the height of the piers and vehicular gates to allow adequate visibility. The appeal includes drawings outlining a reconfigured vehicular access to ensure adequate visibility for pedestrians and vehicles as required in the Transportation Planning report.

8.5.2. I consider the revised proposal as submitted with the appeal addresses the concerns raised by Transportation Planning in relation to visibility at the proposed entrance. I consider the requirements relating to reduction in car parking spaces can be addressed by a condition if the Commission decides to grant permission.

8.6. **Tree Removal**

8.6.1. The proposal includes the removal of trees within the site and one street tree within the grass verge adjoining the road. Replacement trees are proposed as outlined on a landscape plan submitted with the application. Concerns are raised by observers to the appeal in relation to proposed tree removal.

8.6.2. The CDP includes a map based objective ‘To protect and preserve Trees And Woodlands’ in front of the existing dwelling at No. 23 and outside of the appeal site close to its southwestern boundary. Section 12.8.11 of the Development Plan relates to existing trees and hedgerows and states that ‘*new developments shall have regard to objectives to protect and preserve trees and woodlands (as identified on the County Development Plan Maps). The tree symbols on the maps may represent an individual tree or a cluster of trees and are not an absolute commitment to preservation. Decisions on preservation are made subject to full Arboricultural Assessment and having regard to other objectives of the Plan. Arboricultural Assessments carried out by an independent, qualified Arborist shall be submitted as part of planning applications for sites that contain trees or other significant*

vegetation. The assessment shall contain a tree survey, implications assessment and method statement. The assessment of the site in question will inform the proposed layout, in relation to the retention of the maximum number of significant and good quality trees and hedgerows'.

8.6.3. An Arboricultural Report including Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement was submitted with the planning application. The report outlines that the proposed development will require the removal of 1 tree of moderate quality and value (B Category) and 12 trees, 2 shrubs, 1 tree group and 4 shrub groups of low quality and value (C Category). The report finds that the loss of trees required to facilitate the development has been assessed and will not have a significant impact on the character and appearance of the site or the local surrounding landscape and that the majority of trees to be removed are of low quality. A Tree Removals Plan outlines trees to be removed and a Tree Protection Plan and Landscape Plans have been prepared in relation to the proposal. Replacement planting has been proposed as part of the landscape design.

8.6.4. A report on the file from the Local Authority Parks and Landscape Services section states that the proposal is acceptable subject to conditions including in relation to the requirement for a financial contribution in lieu of the loss of a street tree and implementation of the Arboricultural drawings including protection of existing trees.

8.6.5. Having reviewed the Aboricultural Report I consider the proposal to remove the identified trees in order to facilitate the development of the site for residential development is acceptable and in line with Development Plan Policy Objective PHP18 and Policy Objective PHP20 which seek to increase housing supply and promote compact urban growth. I consider the applicant has complied with the requirements of Section 12.8.11 of the Development Plan relating to the requirement for an Arboricultural Assessment.

9.0 **AA Screening**

9.1. Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive.

I have considered the proposal for permission of 2 no. dwellings and related works on lands adjoining 23Cross Avenue in light of the requirements S177U of the

Planning and Development Act 2000 (as amended). The proposed development is located in an established predominantly residential area on zoned and serviced lands. It is located approx. 700m to the south-west of South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and South Dublin Bay SAC (Site Code 000210).

The proposed development comprises the construction of 2 no. new dwelling houses together with all ancillary site works. No issues relevant to AA were raised in the appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The nature and scale of the proposed development.
- The urban and serviced nature of the site.
- The location-distance from the nearest European Site and lack of connections.
- Taking into account the screening report/ determination by the PA.

I conclude that, on the basis of objective information, 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 (Stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 **Water Framework Directive**

10.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects. In addition, the proposed development will not adversely affect the achievement of established environmental

objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

11.0 Recommendation

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

12.0 Reasons and Considerations

Having regard to the location of the site within the curtilage of 23 Cross Avenue which is listed as a protected structure (reference number 100) in the Dun Laoghaire Rathdown County Development Plan 2022-2028, it is considered that, by reason of its scale, massing and proximity to the protected structure the proposal does not sufficiently comply with the requirements of Policy Objective HER8 and Section 12.11.2.3 of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, which seek to ensure that development within the curtilage of a Protected Structure protects and enhances its character, setting and special architectural interest. The Commission is not satisfied that the proposed development would preserve the special character or setting of 23 Cross Avenue. The proposed development would therefore be contrary to the proper planning and sustainable development of the area and would set an undesirable precedent for similar development.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way."

Bernadette Quinn
Senior Planning Inspector

29th September 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501600-DR-26
Proposed Development Summary	Protected Structure (RPS no. 100) Construction of 2 houses with associated works.
Development Address	Lands Adjacent to 23 Cross Avenue, Blackrock, Co. Dublin A94 TV27 (A Protected Structure)
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, No further action required.
(For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified **in Part 1.** **EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.**	**State the Class here**
☒ No, it is not a Class specified in Part 1. Proceed to Q3	

3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. **No Screening required.**	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. **EIA is Mandatory. No Screening Required**	**State the Class and state the relevant threshold**
☒ Yes, the proposed development is of a Class but is sub-threshold. **Preliminary examination required. (Form 2)** **OR** **If Schedule 7A information submitted proceed to Q4. (Form 3 Required)**	**State the Class and state the relevant threshold** Class 10(b)(i) (infrastructure – Dwelling Units)
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	

No ☒	**Pre-screening determination conclusion remains as above (Q1 to Q3)**

Inspector: _____ Date: _____

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	PL-501600-DR-26
Proposed Development Summary	Protected Structure (RPS no. 100) Construction of 2 houses with associated works.
Development Address	Lands Adjacent to 23 Cross Avenue, Blackrock, Co. Dublin A94 TV27 (A Protected Structure)
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (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).	**Briefly comment on the key characteristics of the development, having regard to the criteria listed.** The proposal for two dwellings and associated works 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.
Location of development (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,	**Briefly comment on the location of the development, having regard to the criteria listed** The development is situated in a densely populated suburban area on a brownfield site and is located at a remove from sensitive natural habitats, designated sites and landscapes of significance identified in the Development Plan. The development is located within the curtilage of a Protected Structure.

densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	
Types and characteristics of potential impacts (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 characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.** 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.
Conclusion	
Likelihood of Significant Effects	**Conclusion in respect of EIA**
There is no real likelihood of significant effects on the environment.	**EIA is not required.**

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)