

13th August 2026

An Coimisiún Pleanála
64 Marlborough Street
Dublin 1

Reg. Ref.: D26A/0397/WEB

Proposal: (i) Modification and widening of vehicular entrance (ii) the construction of 8 no. dwelling units comprising 2 no. semi-detached three-storey three bedroom dwellings (127 sq. m. and 138 sq. m.)) and 6 no. detached three-storey four bedroom dwellings (4 no. @ 184 sq. m. each and 2 no. @ 202 sq. m. each) (iii) 1 no. on curtilage car parking space and 2 no. cycle parking space per dwelling (iv) repair and part replacement of existing damaged boundary walls and new fence over portion and, (v) landscaping, planting and boundary treatments, infrastructure, lighting, foul/surface drainage and all associated works on a c. 0.2013 ha. site at Charlemont, Avoca Avenue, Blackrock, Co Dublin, A94Y6P4

Decision Date: 17th July 2026

Appeal By: 13th August 2026

Re: FIRST PARTY PLANNING APPEAL

Dear Sir or Madam,

This is a first party planning appeal on behalf of the applicant, **Brinnin Holdings Limited, 129 Strand Road, Sandymount, Dublin 4** against the notification of decision to refuse planning permission by Dun Laoghaire Rathdown County Council for the above proposed development. We attach a copy of the Council's decision and payment of € 1,500 being the appeal fee. The Commission is requested to overturn the decision and grant planning permission for the proposed development which is a modest infill residential scheme that is consistent with the character and pattern of development in the area and won't materially affect residential amenity of adjoining properties. There were two reasons for refusal; each is addressed in turn.

1. ***Having regard to the location of the proposed development within an established residential area, the residential zoning objective 'A' of the Dún Laoghaire-Rathdown County Development Plan 2022–2028, which seeks “to provide residential development and improve residential amenity while protecting the existing residential amenities”, and having regard to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), it is considered that the proposed development, by reason of the scale, footprint and detached housing typology proposed, together with the overall height, massing and site layout configuration, has resulted in an inappropriate form of development that exceeds the capacity of the site to successfully absorb the proposed design scheme. In particular, the proposed arrangement would give rise to unacceptable overbearing and overshadowing impacts on adjoining residential properties, resulting***

in a significant diminution in residential amenity afforded to existing dwellings, including 2 no. Protected Structures, which would be contrary to Policy PHP 18 of the County Development Plan 2022-2028. Accordingly to permit the proposed development would be contrary to the proper planning and sustainable development of the area.

This lengthy reason for refusal can be distilled to two words, namely overbearing and overshadowing that the planning authority deem to cause significant diminution in residential amenity to existing dwellings. Prior to addressing both and the overall reason for refusal, it is considered appropriate to describe the site context and layout relative to adjoining properties.

As a site visit will confirm, the prevailing character at Avoca Avenue is set by the predominantly detached housing typology on substantial plots – the appeal site being part of the former garden of the adjoining dwelling, Charlemont. There are also a number of semi-detached dwellings and 2 no. three storey apartment buildings called Avoca Court and Avoca House. Recent developments on the road comprise renovations and extensions plus a few backland dwellings. The most significant or notable recent infill scheme is at Dal Riada (a protected structure) which included the construction of eight no. two storey over basement, three bedroom semi-detached dwellings within the curtilage of Dal Riada House with access at Grove Avenue (see Reg. Refs.: D19A/0140 and D21A/1151).

The appeal site was previously part of the side and rear garden of Charlemont, which is to the east and owned by an unrelated third party. It is an irregular shaped site that has a narrow road frontage to Avoca Avenue, which is the existing site entrance and the location of the proposed modified site entrance – there is no other location to access the site. The width of the site then widens in a sort of V shape between Tanrego (a protected structure) to the west and Charlemont to the east before a substantial rectangular area to the rear that was previously a tennis court. As has been noted in the planning authority assessment, there was previously a line of over mature trees across the rear boundary of the site that dominated the setting to Nos. 7 - 12 Marino Park and blocked all sunlight and daylight at the rear of those properties. The following image is from the sales brochure with the now felled trees circled and the Commission will note that the shallow rear gardens (c. 8.8 metres) at Marino Park are not even visible due to the dominance of the now felled trees:

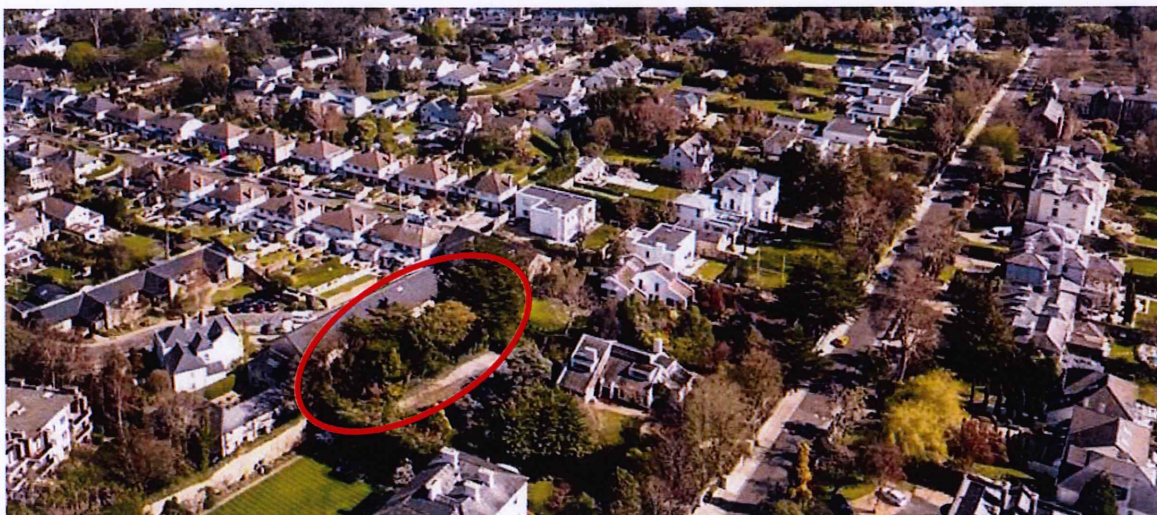


Figure 1: Aerial photograph of the appeal site (source: Lisney Sotheby's sales brochure)

The existing boundary to Tanrego to the west comprises a fence with extensive established landscaping, primarily on the adjoining property. There is effectively no visibility across this boundary but it is proposed to enhance part of it as set out on Drg. No. XT-592 – 011 submitted with the application. There is no defined boundary on the ground to Charlemont but this proposal includes a new boundary matching that proposed by the adjoining landowner in her application for a new gateway and boundary (see Reg. Ref. D26A/0393).

The appeal site has little or no visual presence or visibility at Avoca Avenue or to/from Tanrego, the protected structure to the west. At present, there is an open aspect to Charlemont and the properties at Marino Park (accessed at Mount Merrion Avenue via The Elms apartment development) are also visible as a result of tree felling early this year. Rockley to the east on Avoca Avenue is somewhat visible but that dwelling is over 20 metres from the site boundary. The appeal site is part of Avoca Avenue and can only be accessed at Avoca Avenue, so this proposal is for detached and semi-detached housing consistent with the prevailing character of the area and site context.

The Council has highlighted overbearing and overshadowing as the issues that would create a significant diminution on residential amenity. It is not accepted that the height, mass, or layout of any of the proposed dwellings would materially affect the residential amenity of adjoining properties. The compliant setbacks to the east and west site boundaries and the design of the respective floor plans (with no rear facing windows at second floor level) fully respect and protect residential amenity.

With regard to any potential impact at Tanrego, which is a protected structure to the west, it is noted that the Conservation Officer was unsure about any impact as opposed to concluding there would be an injurious impact on Tanrego. For completeness, the Commission is referred to the attached assessment by Rob Goodbody, Historic Building Consultant dated 13th August 2026 that concludes *“The majority of the trees along this boundary are in the grounds of Tanrego and will screen the development, thereby negating the claim of any impact on the protected structure at Tanrego”* and *“it is now proposed to modify the design as originally submitted to remove the high roof of the proposed house that would be adjacent to this protected structure [outbuildings at Marino Park] and this will eliminate any potential impacts that are cited in the reason for refusal.”* Any alleged impact on protected structures as claimed by the local authority will not arise.

It is accepted that the aspect to Marino Park will be altered as a result of this proposal but it is submitted to the Commission that any assessment should also consider the total lack of sunlight and daylight at those properties before the over mature and dominant trees, unsuited to this suburban location, were felled earlier this year. No one disputes that there was a line of substantial trees across the northern boundary of the site, which have been removed for safety reasons as confirmed by apb Treecare Ltd. in their letter dated 9th May 2026 submitted with the application. Those trees also permanently overshadowed the rear gardens at Marino Park as shown in the following shadow diagram at noon on 21st March as prepared by Extend Architects:

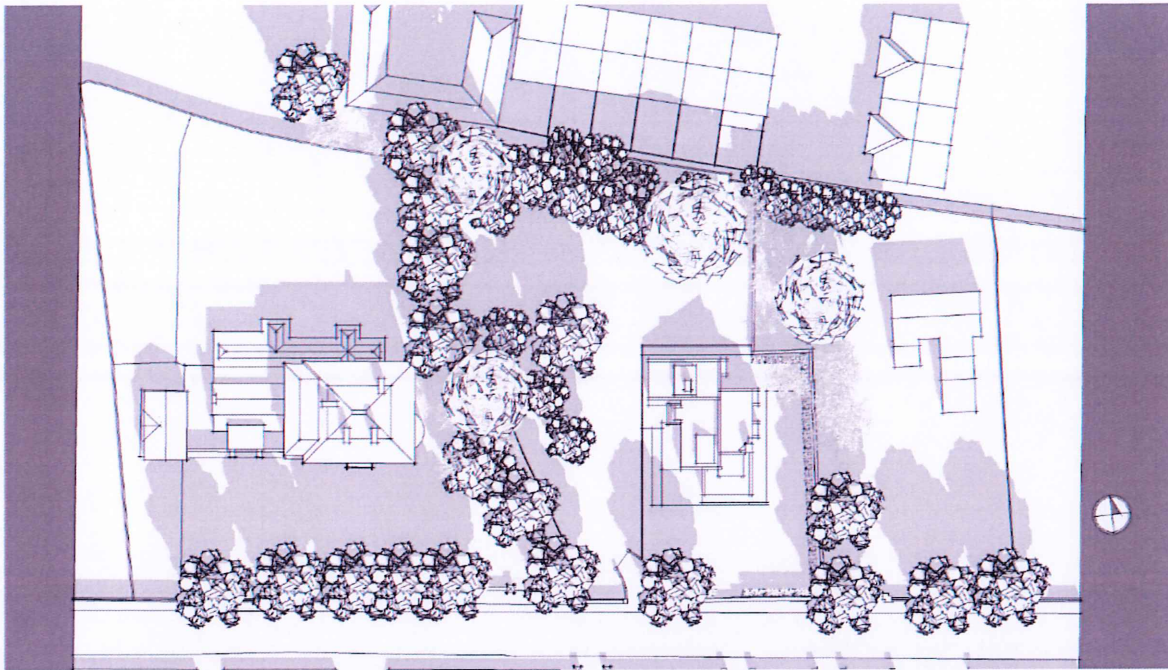


Figure 2: Shadow diagram with pre-existing trees (source: Extend Architects)

Notwithstanding that our position is that the receiving environment should have regard to the previous extensive tree cover along the boundary to Marino Park and that the proposal as presented to the planning authority would not significantly affect residential amenity at Marino Park, the appellant submits the following modifications to the proposal:

- (i) Omit a floor from proposed unit no. 6 thus reducing the overall height from +42.570 to +38.425; a reduction of 4.145 metres. The house would be reduced to a three bedroom dwelling.
- (ii) Amend the roof profile to proposed unit nos. 7 and 8 thus reducing the overall height from +41.910 to +40.990; a reduction of 0.92 metres.
- (iii) Lower the ridge height of proposed unit nos. 3, 4 and 5 from +42.570 to +42.225; a reduction of 0.345 metres to match the ridge heights of proposed unit nos. 1 and 2.

The following drawings are enclosed to demonstrate the above proposed changes:

- Drg. No.: XT-592-020: AMENDED DESIGN FOR APPEAL - CONTEXTUAL ELEVATIONS
- Drg. No.: XT-592-021: AMENDED DESIGN FOR APPEAL - HOUSE TYPE ELEVATIONS
- Drg. No.: XT-592-022: PROPOSED ROOF PLANS - Amended design for appeal

In addition, updated shadow diagrams are enclosed. Having regard to the size, prominence and dominance of the existing mature trees within the environs of the site, the shadow assessment also includes a version with the existing trees. Like at all urban and suburban locations, all buildings cast shadows on adjoining properties but any impact is transient as the sun moves from east to west through the day. The existing shadow diagrams confirm Tanregio overshadows part of the appeal site whereas nos. 4, 5 and 6 Marino Park overshadow their communal open space, No. 6 Marino overshadows the rear garden at No. 7, etc.

There will be additional shadowing at Marino Park from the revised proposal submitted with this appeal but it is our opinion any additional overshadowing, which will be transient and vary through the day, won't create a significant impact on amenity at those properties. The Commission is reminded that prior to the felling of the dangerous trees at the boundary to Marino Park, there was no sunlight or daylight to those properties. Further and as confirmed by the shadow diagrams, the short rear gardens at Marino Park (which are c. 8.8 metres and not 11 metres which would have been the development plan standard when those dwellings were constructed) with 2.4 metre high boundary walls result in significant overshadowing of the rear gardens through out the day on the 21st March before any impact from this proposal is considered.

Having regard to the pre-tree felling scenario before February 2026, the transient nature of overshadowing, and the fact that buildings overshadow adjoining properties in suburban areas, the Commission is invited to agree that any additional overshadowing at Marino Park as presented on the enclosed shadow diagrams won't significantly affect the residential amenity of those properties.

With regard to overbearing impacts, the revised proposal omits a floor from proposed unit no. 6 and the roof profile at no. 7 has been amended. Unit No. 6 is proposed to the rear of Nos. 7 and 8 Marino Park. It is setback at least 1 metres from the rear boundary and has been reduced in height by over 4.1 metres to 6.475 metres. The revised relationship per this appeal is similar to that approved by the Council at the rear of St. Heliers (see Reg. Ref.: D25A/0925 and PL-500847-DR-26) where a two storey dwelling is proposed to the rear of Nos. 13, 14, and 15 St. Heliers Copse. This proposal is also significantly better than 4 no. two storey dwellings approved by the Council (Reg. Ref.: D22A/0508) and the Board (ABP-315388-22) at the rear of Chadsley House (a protected structure). At Chadsley House, the approved dwellings were 200 sq.m. each with an overall height of 7.25 metres and c. 0.5 metres separation to Foxrock Manor boundary. The following image is the approved site layout plan and overbearing at Foxrock Manor was not considered an issue:

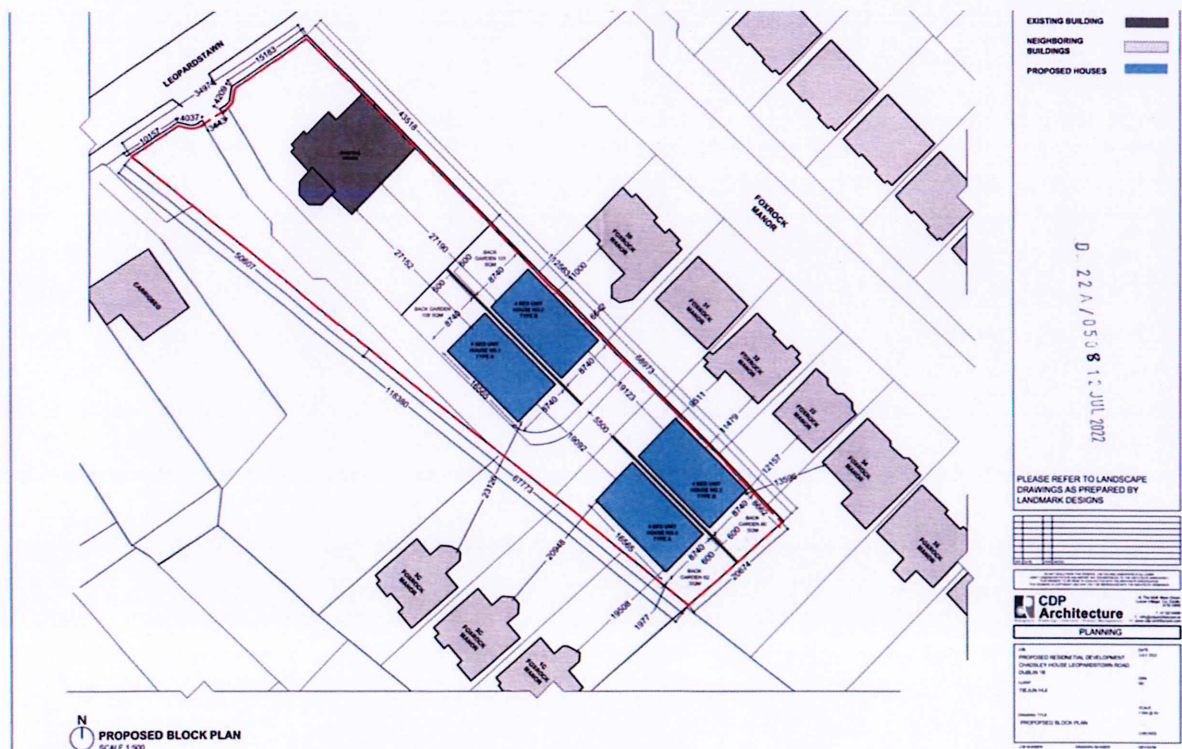


Figure 3: Proposed Block Plan (source: Reg. Ref.: D22A/0508)

The revised north elevation to proposed Unit No. 7 is shown on Drg. No. XT-592-021 with this appeal. The proposed dwelling will be to the rear of nos. 10, 11 and 12 Marino Park but having regard to the limited amount of the proposed unit directly to the rear of nos. 10 and 12 plus the separation distances especially to No. 10, it is submitted that the proposed dwelling won't have any significant or injurious overbearing impact at Nos. 10 or 12 Marino Park.

With regard to No. 11, proposed unit no. 7 is setback from the rear boundary wall at No. 11 by 2.15 to 3.18 metres with a stated separation distance of c. 11.5 metres to the rear elevation of No. 11 Marino Park on the proposed site layout plan. The two storey portion of proposed unit no. 7 will be 6.15 metres (38.150 - 32.000) above the level of the rear garden at No. 11 with the revised ridge height a further 2.84 metres. To reduce any injurious visual impact, the roof of proposed unit No. 7 will be finished with metal cladding whereas the rest of side elevation will be a painted render finish in a light colour to further reduce any visual impact at Marino Park. If required, some screen landscaping can be provided at the side boundary of No. 7 but in our opinion it is not required because the proposed development and the revised proposal with this appeal won't significantly affect the amenity at Marino Park by way of overbearing.

The appropriate design and layout approach to developing this site is as presented in this application. The established character of Avoca Avenue is set by the detached and semi-detached housing typology of the road. This proposal aims to respect that while pursuing a sustainable infill scheme that respects residential and visual amenity of the area. It is undeniable that the proposal will alter the site context and its relationship to adjoining properties most notably at Marino Park as the over mature, dominant and inappropriate trees were felled earlier this year. As presented in the computer generated images of the scheme included with this application, a high quality development is proposed that will assimilate into its receiving environment without undue or significant impacts on residential and visual amenity. With or without the proposed revisions, the Commission is invited to reject this first reason for refusal.

2. ***The Planning Authority considers that the proposed development, comprising 8 dwellings at a density of approximately 39.7 units per hectare, fails to achieve the density anticipated for a 'Suburban-Intermediate' location, which seeks a density range of 40-150 uph and therefore, does not make efficient use of a serviced and accessible residential site. The proposed development would therefore be contrary to the residential zoning objective of the County Development Plan, the principles of compact growth and sustainable residential development set out in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), and would be contrary to the proper planning and sustainable development of the area.***

It is submitted that the density of the proposed development is suitable for this location, it exceeds the default minimum per the development plan, and it complies with the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). In section 4.3.1 Delivering and Improving Homes in the development plan, it clearly states "As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives 'GB', 'G' and 'B') shall be 35 units per hectare (net density¹)."

The gross density of this proposal is 39.7 units per hectare, which exceeds the minimum default in the development plan. Higher densities are "encouraged" as opposed to being required, so 35 units per hectare is the default minimum.

Addressing the Guidelines, it is our opinion that the net density range for this site is 40 – 80 units per hectare as the location is City - Suburban/Urban Extension per Table 3.1 in the Guidelines. Net density up to 150 units per hectare is open for consideration at this location. The reference to a density range of 40 – 150 uph in this reason for refusal is misleading and should be ignored. Setting aside that error, the Commission's attention is drawn to section 3.4.1 Step 1: Consideration of Proximity and Accessibility to Services and Public Transport, which states "[while] **densities within the ranges set out will be acceptable**" before encouraging densities at or above the mid-density range at the most central and accessible locations in each area, densities closer to the mid-range at intermediate locations and densities below the mid-density range at peripheral locations.

It is accepted by the planning authority and the appellant that the gross density of this proposal is 39.7 units per hectare, which is effectively 40 units per hectare. If the planning authority intends to argue on the basis of 0.3 units per hectare 'below' the range, we trust the Commission will deem that unreasonable and irrational.

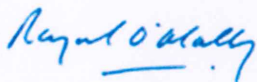
With regard to net density, which is the correct metric, it wasn't considered by the planning authority. To do so, any area within the site that isn't developable should be omitted. In this case, this would be calculated by excluding c. 150 sq.m. of the site between the side elevation of No. 1 and Avoca Avenue i.e. respecting the established building line. This provides a net density is 42.9 units per hectare (8 units/0.1863 hectares). Whether you consider the gross or net, the density of this proposal is within the density range and thus "**will be acceptable**" per the Guidelines.

In the event the Commission intends to consider public transport accessibility in assessing density, the site location would be classified as intermediate as it is c. 850 metres from the Stillorgan Quality Bus Corridor. In our opinion, this does not change our position that the gross and net density of the proposal is within the density range per the Guidelines.

The Commission is also invited to reject the second reason for refusal and issue a decision to grant.

Please acknowledge receipt of this appeal and direct all future correspondence to this office.

Regards,



Raymond O'Malley

Kieran O'Malley & Co. Ltd.

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| Enclosures | <ol style="list-style-type: none">1. A copy of the local authority decision2. Payment of € 1,500 being the appeal fee3. Rob Goodbody assessment dated 13th August 20264. Extend Architect Drawings:
Drg. No.: XT-592-020: AMENDED DESIGN FOR APPEAL - CONTEXTUAL ELEVATIONS
Drg. No.: XT-592-021: AMENDED DESIGN FOR APPEAL - HOUSE TYPE ELEVATIONS
Drg. No.: XT-592-022: PROPOSED ROOF PLANS - Amended design for appeal5. Shadow Analysis |
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