



**An Bord Pleanála**

**Inspector's Report**

<b>Appeal Ref. No:</b>	<b>PL06D.246030</b>
<b>Proposed Development:</b>	<b>130 Apartments and associated works</b>
<b>Location:</b>	<b>Greenacres Convent, Kilmacud Road Upper, Dublin 14</b>
<b>Applicants:</b>	<b>Crekav Landbank Investments Ltd.</b>
<b>Planning Authority Reg. Ref:</b>	<b>D15A/0660</b>
<b>Planning Authority:</b>	<b>Dun Laoghaire Rathdown County Council</b>
<b>P.A. Decision:</b>	<b>Refuse Permission</b>
<b>Appeal Type:</b>	<b>Applicant &amp; Third Party v Refusal</b>
<b>Appellants:</b>	<b>(1) Crekav Landbank Investments Ltd</b>
	<b>(2) Bernard &amp; Deirdre Stuart</b>
<b>Observers:</b>	<b>See list in report</b>
<b>Date of Site Inspection:</b>	<b>25<sup>th</sup> April 2016</b>
<b>Inspector:</b>	<b>Hugh Mannion</b>

## 1. SITE AND SURROUNDINGS

The site has a stated area of 1.23ha and is located to the south of Kilmacud Road Upper about a kilometre from Dundrum village in south County Dublin. The site was in use as a convent (Greenacres), that building remains onsite but appears to be disused. There are no other significant buildings on site and what may have been differentiated garden areas are overgrown. The former convent building is not a protected structure and appears to date from the mid-20<sup>th</sup> century.

The site is rectangular and, generally, oriented north/south. There is a single pedestrian/vehicular entrance on the northern boundary with a hedge for the remainder along Kilmacud Road Upper. The southern boundary adjoins Airfield Farm which is a charitable foundation providing an educational and recreational resource to visitors centred on animal husbandry and vegetable growing. This southern boundary is relatively poorly maintained with a number of trees. The eastern boundary has some wire fencing and is planted with a variety of trees and shrubs. This boundary adjoins an irregular shaped strip of land running the full site boundary from the Kilmacud Road Upper to the boundary with Airfield Farm. A submission on file states that this strip is owned by Sorohan Builders. On the eastern/other side of this strip is the grounds of Drumahill house, a detached two storey house on its own site and with direct access onto Kilmacud Road Upper. Further along this strip towards the south are the rear gardens of a housing development, called Drumahill/Hollywell, accessed separately from Kilmacud Road Upper. This strip is very overgrown and inaccessible.

To the west and running south along the boundary, on the Dundrum side of the site, is an access road. This access road is good repair, provides access to 'Eden Farm' a bungalow at its southern end and may be in the ownership of Airfield Farm as it provides access to a number of service buildings associated with the farm. The boundary on this side (eastern) is relatively densely planted. Close to the junction of this access road with the Kilmacud Road Upper on the left is a house (Gracedieu) with access to Kilmacud Road Upper which has a gable on to this access road.

## 2. PROPOSED DEVELOPMENT

The proposed development comprises;

- The demolition of a vacant convent building and two outbuildings,
- The construction of 130 apartments in four 5 and 6 storey blocks,
- 196 basement parking spaces, 9 surface spaces with 176 bicycle parking spaces,
- Boundary treatment, hard and soft landscaping,
- Bin storage and electricity substation, amended entrance and associated works all at Kilmacud Road Upper, Dundrum, County Dublin.

## 3. HISTORY

There is no relevant planning history for the site.

## 4. PLANNING AUTHORITY DECISION

The planning authority refused permission as follows;

1. Having regard to the design, layout, scale and bulk, proximity to boundaries and balconies close to boundaries the proposed development would unacceptably impact on adjoining property and materially contravene the zoning objective A “to protect and or improve residential amenity” for the area set out in the County Development Plan.
2. The inadequate separation distances between the blocks, the excessive scale of blocks C and D and their relationship with the internal pedestrian perimeter walkway give rise to so poor a standards of living environment and residential amenity as to contravene the zoning objective of the area.

**Irish Water** (24<sup>th</sup> November 2015) reported no objection to the proposed development.

**Drainage Section** commented that the application did not show green roofs, the surface water drainage system is unclear.

**Transport Planning** (8<sup>th</sup> December 2015) commented that the provision of 196 basement car spaces and 9 surface spaces (total 205 spaces)

complies with the Development Plan standards. The transport planning section sought further information in relation to, setting back the entrance on Kilmacud Road Upper and provision of a bicycle path, roads/kerbs/footpaths standards, future permeability to adjoining lands, revised access to storage units between car parks 2 and 3, submission of a mobility management plan, quality audit (including road safety audit, access audit, walking and cycling audit), details of street lighting.

**Housing Department** commented that the proposal would have to comply with Part V of the planning and development acts.

**An Taisce** objected to the proposed development.

## 5. APPLICANT'S APPEAL

The applicant's appeal may be summarised as follows;

- The site is 1.23ha and has mature trees along the boundary. It is 500m from Dundrum shopping centre, Ballally and Kilmacud Luas stations.
- The proposed development complies with RES3 which is to promote higher density.
- The first refusal reason is based on unacceptable bulk and scale. The revisions submitted with the appeal have reduced the overall proposed apartment numbers from 130 down to 119.
- Blocks A and B have a reduced floor area. Block C has been reduced from 33 to 27 units, block D has been reduced from 30 to 26 units and stepped back at 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup>. There are only 2 residential units (Gracedieu and Eden Farm) on the boundaries and the balconies have been revised to reduce impact on these.
- Separation distances have been increased so that the distance between blocks A and B is now 28.4/31m, between blocks B and C is now 19.2/27m and blocks C and D is now 27m.
- The topography of the site means that a podium is required to allow surface water to drain from the proposed development to a surface water drain on Kilmacud Road Upper.

## 6. THIRD PARTY APPEAL

The third party (Bernard & Deirdre Stuart) grounds of appeal may be summarised as follows;

- The appellants occupy the house - 'Drumahill'- located to the east of the application site. The application provides residential blocks 5 or 6 stories high and, therefore, has not had regard to the planning authority's building height strategy which requires, in this area, that new development be two storeys high.
- 130 residential units taking access from a busy and congested Kilmacud Road Upper will exacerbate traffic hazard.
- The provision of underground car parking will require removal of the granite underlying the site. This work will significantly negatively impact on the amenity of the appellant's property.

## 7. OBSERVATIONS

Observations were received from Herbert and Pamela Mitchell, Tom and Margaret Grogan, Philip and Miriam Coyle, Patricia O'Driscoll, Carmel Leahy, Jun Liang Chin, David and Julia Hui, Paul and Patricia Huban, Anne and David Davidson, Paul Cahill, Sorohan Builders, Justin and Emer Lynch, Don and Brigid McQuilan, An Taisce, Tony Delvin and Collette Delvin, Michelle Murray, Jonathan Young, Hollywell/Drumahill Residents Association, Dromartin Estates Company Limited, Claire and Daniel Kiley, Anne Holloway, Niamh Devlin, Linda Zaiter, Brendan and Marie-Helene Brohan, Knocknashee Residents Association, Geraldine and Sarah Parker.

These observations may be summarised as follows;

- The proposed density is too high.
- The proposed development is out of character with the pattern of two-storey semidetached development in the area.
- The proposal will overlook adjoining property including 'Eden Farm' and 'Drumahill House'.
- The proposed development will exacerbate traffic congestion on the local road network. These problems are acute in the adjoining

Knocknashee development, Drumartin link Road/Birches Lane junction.

- The proposed development provides insufficient public open space.
- There is an over provision of car parking.
- The proposal contravenes the zoning objective for the area.
- The amendments made at application stage are cosmetic and do not overcome the reasons for refusal.
- The proposal will give rise to a wind tunnel effect on the Drumahill development.

## **8. APPLICANT'S RESPONSE**

The applicant commented on the third party's appeal as follows;

- The proposal complies with the planning authority's building height strategy and higher blocks are placed in the centre of the site to minimise impacts on adjoining areas.
- The proposed development is 10 and 8 minutes' walk from the Balally Luas stop and the Kilmacud stop respectively. Therefore it should be recognised as an area where higher density is acceptable.
- County Development Plan policy RES3 encourages higher density within 1km of public transport infrastructure.
- The traffic modelling carried out as part of the application preparation demonstrated that no adverse impact would arise for the local road network or junctions.
- The applicant would accept a condition regulating the removal of rock excavation on site related to the provision of a basement.

## 9. THIRD PARTY'S COMMENTS ON APPLICANT'S APPEAL

The third party (c/o Kieran O'Malley and Company) commented on the applicant's appeal as follows;

- The appeal includes a new scheme which should not be considered at appeal stage.
- The amended drawings submitted with the appeal are inadequate to assess the revised application.
- The application site is more than 500m from significant public transport provision. It is 820m from the Balally LUAS and 800m from the Kilmacud Luas station.
- The revisions proposed do not prevent impacts on Durmahill House.
- The precedents referred in the applicant's appeal are not relevant to the present case.

## 10. PLANNING AUTHORITY RESPONSE

The planning authority commented on the applicant's appeal that it is a completely different scheme which has not been assessed by the planning authority and should be submitted to the planning authority as a fresh application.

## 11. FURTHER SUBMISSIONS

The **third party** (see Kieran O'Malley & Co letter of 11<sup>th</sup> March 2016) commented on the planning authority's response to the appeals stating that the planning authority should have referred to contravention of the planning authority's building height strategy in the reasons for refusal.

The **Planning Authority's** childcare committee made a submission to the Board (received 22<sup>nd</sup> March 2016) stating that the application did not provide childcare facilities and therefore does not comply with the requirements set out in Childcare Facilities Guidelines for Planning Authorities (DoE June 2001).

The **applicant** made a submission (received by the Board 23<sup>rd</sup> March 2016) in response to the observations received by the Board. The submission refutes

points made in relation to impacts on adjoining residential amenity, on Airfield Farm, on the strip of land to the east.

The **applicant** refuted the childcare committee's submission (letter received by the Board 18<sup>th</sup> April 2016).

## **12. PRESCRIBED BODIES**

There are no submissions from prescribed bodies.

## **13. PLANNING POLICY FRAMEWORK**

The site is zoned objective A "to protect and/or improve residential amenity" in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

Objective RES3 in the Plan states that;

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- Sustainable Residential Development in Urban Areas (DoEHLG 2009).
- Urban Design Manual - A Best Practice Guide (DoEHLG 2009).
- Quality Housing for Sustainable Communities (DoEHLG 2007).
- Irish Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013).
- National Climate Change Adaptation Framework
- Building Resilience to Climate Change' (DoECLG, 2013).

The **Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December 2015)** sets out the current minimum apartment standards.



## **14. ASSESSMENT**

### **14.01 Introduction.**

**14.02** The application proposes 130 apartment units in four blocks, A, B, C and D set back into the site in a line from the road frontage along Kilmacud Road Upper, Dundrum, Dublin 14. The original application was for 130 units amended in the appeal documents to 119 units. The planning authority refused permission for two reasons. The first refusal reason referred to impacts on adjoining property. The second refusal reason referred to poor internal design quality.

### **14.03 Zoning and Density**

**14.04** The site is zoned “to protect and/or improve residential amenity” in the current county development plan. It is the planning authority’s policy set out in objective RES 3 to promote higher residential density while balancing the protection of the amenity of existing development. The ‘Sustainable Residential Development in Urban Areas’ (DoEHLG 2009) Guidelines for Planning Authorities make the point that, all else being equal, appropriate locations for higher density are where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, a Quality Bus Corridor and/or 1 kilometre of a town or district centre. In these areas higher densities at a minimum of 50 units per hectare will be encouraged.

**14.05** The application site is within a kilometre of two Luas stops and Dundrum town centre which is designated a Major Town Centre in the planning authority’s Retail Strategy. The density proposed in the application is 106 units/ha and the revised density proposed with the appeal is 96 units/ha. An important requirement set out in the County Development Plan and supported by the Sustainable Residential Development in Urban Areas Guidelines is that higher density must be compatible with the protection of the amenity of neighbouring land uses. The larger the site the easier it is to achieve this balance. This application site is relatively small (1.23ha) for the quantum of development to be proposed and therefore greater attention must be paid to the potential for impacts on adjoining property.

### **14.06 First Refusal Reason**

**14.07** The first reason for refusal makes the point that proximity to the boundaries and apartment balconies too close to the boundaries would unacceptably impact on the amenity of adjoining property. The third party appeal from the residents of Drumahill, the house to the east of the application

site make the point that the application has not had regard to the planning authority's building height strategy (BHS).

**14.08** The site was originally that of Greenacres Convent – now disused - and is essentially a rectangle, the northern boundary is along Kilmacud Road Upper. The western boundary abuts an access road to 'Eden Farm' (a single house) and to service sheds associated with Airfield Farm. The eastern boundary abuts a house, Drumahill, and on the southeastern boundary a strip of land in separate ownership which is backed onto by the houses in Drumahill/Hollywell housing development. The southern boundary abuts Airfield Farm.

**14.09** There is a maximum fall in site levels north to south of about 4m. Four apartment blocks are proposed A, B, C and D north to south through the site. This difference in site levels allows two floors of underground parking at the southern end of the site and a single floor of parking in the northern end of the site.

**14.10** Therefor the originally proposed block heights and separation distances off the western and eastern boundaries are as follows;

Block	Floors/height	Distance to west	Distance to east
Block A	5 plus basement	17m	10.5m
Block B	6 plus basement	12m	22m (max), 11m (min)
Block C	5 + 1 & 2 basement floors	25m	11.4m
Block D	5+ 2 basement	12.6m	11.3

**14.11** The shortest distance off the eastern boundary for block A is 10.5m and the elevation will be 16.5m above ground level. The planning authority appears to have viewed the corner balconies unfavourably especially at first, second, third and fourth floors. Having regard to the orientation of these balconies in relation to Drumahill house it is the case they will face directly onto the gable of that house. In my view overlooking from these balconies may be satisfactorily mitigated by the provision of an opaque screen on their eastern end.

**14.12** The amendments submitted with the appeal (see especially 'proposed site plan' drawing number pS(00)-04 Revision A and 'outline of proposed amendments' drawing number pS(00)-02 Revision A received by the Board

on 18<sup>th</sup> January 2016) have amended the distance off the eastern boundary of Block A to about 9m and provided opaque screens at the end of these balconies (see drawing pA(00)-01 Revision A received by the Board on 18<sup>th</sup> January 2016).

**14.13** Block A is separated from the western boundary by about 17m and there are balconies at 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floors overlooking the access road to Eden Farm and the Airfield Farm service buildings and, across that access road, rear gardens of houses facing onto Kilmacud Road Upper. The amendments submitted with the appeal (see typical apartment layouts on pA(00)-01 Rev A) varies the apartment layouts but does not alter the separation distance off the boundary. Some overlooking of the rear of the closest house on Kilmacud Road Upper and Airfield Farm service areas will occur from apartment balconies on block A.

**14.14** Block B is 12m off the eastern boundary at its closest. There are balconies shown on the submitted elevations (see drawing pB(el)-01 submitted to the planning authority on the 19<sup>th</sup> October 2015) but these are not replicated on the plans (see drawing pB(00)-01 submitted to the planning authority on the 19<sup>th</sup> October 2015). Despite amendments to Block B overall there remain balconies on higher level floors on Block B overlooking property to the east in the Drumahill/Hollywell housing development (see drawing pA(00)-01 Revision A submitted with the appeal).

**14.15** Block C has 5 residential storeys over a double basement/car parking and is 11.4m off the eastern boundary at its shortest. There are no balconies on the eastern elevation of this block in the original application but these are introduced at first, second and third floor levels in the revisions submitted with the appeal (see drawing number pC (00)-01 received by the Board on the 18<sup>th</sup> January 2016). It appears that these balconies will remain about 11m off the eastern boundary. There are balconies on the western elevation at first, second, third and fourth floor levels of block C.

**14.16** Block D is the most southern of the four proposed blocks. There are corner balconies at first, second and third floor facing east into the rear gardens of houses on Drumahill/Hollywell estate at a separation distance of about 11m off the site boundary and, because of the intervening strip of land not included in the application site, about 30m to the rear boundary of the houses in Drumahill/Hollywell estate. The revisions to Block D submitted with the appeal appear to provide seven floors in the revised Block D, the revised drawings appear (see pD(00)-01 Rev A) to provide basement car parking, followed by apartments and service areas/bicycle parking at lower ground floor level followed by five floors of apartment accommodation.

Notwithstanding the revisions submitted the balconies on Block D will overlook the rear of houses in Drumahill/Hollywell.

**14.17** An observation made to the Board (Sorohan Builders see Manahan Planners' submission received by the Board on the 9<sup>th</sup> February 2016) draws attention to this strip of land along the eastern boundary and states that, inter alia, it is zoned for residential development. The impact on the residential amenity of the houses on Drumahill/Hollywell is somewhat mitigated by the separation distances of blocks C and D from the rear boundaries of the houses. These separation distances range from a max of 29m (block C to rear of house on Drumahill) to 27m from block D to the rear boundary of a house on Drumahill (see 'outlines of proposed amendments' drawing number pS(00)-02 Revision A received by the Board on 18<sup>th</sup> January 2016). However in the case of the 29m separation distance 17m is accounted for by the adjoining strip of land outside the applicant's ownership and about 18m of the 27m are accounted for by the adjoining strip of land outside the applicant's ownership. Therefore the amenity of this strip of land, zoned as it is for residential development, should also be considered.

**14.18** There is some screening (about 6 to 8 taller trees, perhaps Ash trees which were not in leaf on the day of my site visit) along the eastern boundary to the rear of the houses in Drumahill/Hollywell which will be entirely removed as part of the development works. Accepting that the landscape plan included with the application can be implemented it will take many years to provide any meaningful screening from higher balconies or windows in Blocks C or D.

**14.19** In relation to overlooking from Block D in a southern direction this block is proposed to be between 8m and 16m off the boundary with Airfield Farm. There are balconies proposed at every floor facing due south into a yard and farm animal "petting" area. Airfield Farm is zoned "to preserve and provide for open space with ancillary active recreational amenities". While some intrusion on the amenity of areas so zoned is reasonable in the interest of achieving sustainable densities of residential development it is not evident that the application has had proper regard to mitigating the level of intrusion which would occur for the recreational use in this area. The applicant's response to the observations received by the Board on 23<sup>rd</sup> March 2016 makes the case that the impacts on Airfield Farm have been mitigated. I conclude that the fall of the land to the south will exacerbate this sense of overbearing and, furthermore, from my site inspection it appears that the trees shown on this boundary (see BSM drawing 300 submitted with the application) may be a generous interpretation of what exists on site.

**14.20** The appeal makes the point that the application has not had regard to the planning authority's Building Height Strategy set out in the County

Development Plan Appendix 9 (see especially section 4.8 in the copy attached). The strategy's more significant point relating to the present application is that proposed development should have respect for the pattern of development in the area and that new development should avoid unreasonable impacts, particularly overlooking and overshadowing of adjoining property. Given the location of the site close to good public transport links and its location in a transitional zone between more conventional two storey suburban housing and higher density development, especially the new apartment developments closer to Dundrum along the Kilmacud Road Upper, it would be reasonable that a certain increase in building height over and above two stories would be acceptable. However an increase in height should not unreasonably impact on the residential or visual amenity of other development in the area.

**14.21** Notwithstanding the amendments submitted with the appeal I conclude that the scale, bulk and height of the proposed development in proximity to the boundaries with adjoining properties would seriously injure the amenity of those properties.

#### **14.22 Second Refusal Reason**

**14.23** The second refusal reason refers to the inadequate separation distances between the proposed blocks, use of podium level parking, the scale and bulk of blocks C and D and their relationship with the internal pedestrian walkway.

**14.24** The internal separation distances between the blocks have been amended by the drawings submitted with the appeal. Comparing the original layout (see pS(01)-05 submitted to the planning authority on the 19<sup>th</sup> October 2015) and the revisions made at appeal stage (see proposed site plan drawing number pS(00)-04 Revision A) the separation distance has increased by an average of 4m between Block A and Block B, between 5m and 6m between block B and block C and substantially between Block C and Block D also. This represents a significant improvement for future residents of the proposed development because it allows greater light onto the south facing balconies and living areas of blocks A, B and C.

**14.25** The planning authority was also unhappy with the podium on which block D is set. This podium allows for two floors of car parking; one fully in the basement and a second at lower ground floor. The rationale offered for this arrangement is that it is necessary in order to allow gravity flow of foul and surface water arising within the development to drain to Kilmacud Road Upper. This matter is not commented on in the planning authority's Surface

Water Drainage Report (28<sup>th</sup> October 2015). Irish Water (24<sup>th</sup> November 2015) did not comment on the implications of the podium for foul water drainage.

**14.26** There are two aspects to this; (a) foul and surface drainage and (b) impacts on amenity. From a public health and sustainability perspective it is preferable that foul water and surface water drain by gravity to the closest public foul and surface sewers. The application states that the nearest foul sewer is at Eden Park Avenue some distance to the east and that a connection will be required to be laid along Kilmacud Road Upper. This matter is the subject of disagreement as detailed in the Sorohan submission (see Manahan Planner's submission received by the Board on the 9<sup>th</sup> February 2016) and the applicant's response received by the Board on 23<sup>rd</sup> March 2016). It appears that there may be alternative methods of draining both surface and foul water from the site. However this issue would have benefitted from being raised as further information so that the planning authority could have more thoroughly considered the implications of the proposed arrangements.

**14.27** In relation to the amenity aspects of the podium the requirement to provide car parking to Development Plan standards while providing useable amenity open space in the development has necessitated the provision of two floors of parking under blocks C and D at basement and semi-basement levels. This has resulted in raising blocks C and D so that they do not follow the topography of the site and their visual impacts on adjoining property are exacerbated. Furthermore the long expanse of wall and louvered screens along the amenity open space and perimeter walk is a poor design solution for this important amenity area. Block C will rise about 20m from the side of the proposed perimeter walkway; block D will be 17m up to the setback last floor. The perimeter walkway is about 11.3m wide in the vicinity of blocks C and D. Notwithstanding the comments made in the grounds of appeal in relation to the amenity value of this perimeter walk (see especially the Landscape Report for Planning Appeal – submitted with the appeal) and having particular regard to this width and the relative height of blocks C and D I concur with the planning authority that the amenity value of this walkway space will be compromised.

#### **14.28 Parking Provision**

**14.29** The original application provided 205 spaces in total which the planning authority's Transport Planning section agreed this met the requirements under the previous County Development Plan (the 2010 - 2016 Plan). I concur with this.

**14.30** The new County Development Plan includes table 8.2.3 which sets out requirements for parking provision. In relation to apartment development the requirement is 1 space per one bed unit, 1.5 spaces per two bed unit and 2 spaces per three bed unit. It is not possible on the basis of the amended drawings submitted with the appeal to confirm the number or disposition of the parking spaces and therefore if they comply with the standards set out in the current county Development Plan.

#### **14.31 Apartment Quality**

**14.32** The County Development Plan (Table 8.2.2) sets out minimum floor areas for new apartments as follows; 1 bedroom/55m<sup>2</sup>, 2 bedroom/85m<sup>2</sup> to 90m<sup>2</sup>, 3 bedroom/100m<sup>2</sup>. The plan (8.2.8.2) requires an “absolute minimum” of 10% of overall site area for public or communal open space in residential developments. The mix of apartment sizes and overall quality originally proposed complied with the County Development Plan.

**14.33** The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December 2015) sets out the current minimum apartment standards. Relying on the amended drawings submitted with the appeal (see especially drawing pA(00)-01 Revision A submitted with the appeal including the including the tables of amended floor plans) it appears that the revisions may meet the new standards but without fully scaled floor plan drawings this remains unclear.

#### **14.34 Traffic Safety**

**14.35** The third party appellant makes the case that the proposed development will exacerbate traffic hazard on Kilmacud Road Upper.

**14.36** The application included a Traffic Impact Assessment (O’Connor Sutton Cronin) which concluded that traffic arising from the proposed development would have negligible impact on local road network and nearby junctions.

**14.37** The Kilmacud Road Upper in the area of the site has a speed limit of 50k/hour. There are a multiplicity of entrances both to previously constructed conventional housing, for example Drumahill/Hollywell to the east, to older detached houses facing onto the main road and, between the application site and Dundrum village a number of smaller apartment developments. Having regard to the speed limit on Kilmacud Road Upper, the pattern of development in the vicinity, the TIA submitted with the application and the proximity of Luas stops I do not consider that the proposed development would give rise to traffic hazard.

**14.38** The planning authority's Transport Planning Section has a number of concerns including that the site should be set back along Kilmacud Road Upper to facilitate the continuation of a bicycle path which approaches the site on the same side of Kilmacud Road Upper from the east along the road frontage of Drumahill/Hollywell but is then cut off by the intervention of Drumahill house and the disused strip to the east (claimed by Sorohan builders). To facilitate the provision of a bicycle lane would require amendments to the proposed access and, perhaps, further amendments to the apartment blocks on site.

**14.39** The Transport Planning Report also references the lack of permeability between the application site and the surrounding areas. To the east of the site there is an impressively large parcel of public open space fronting onto Kilmacud Road Upper and probably originally related to the Drumahill/Hollywell development. This public open space adjoins the undeveloped strip of land to the east of the application site between the rear of the Drumahill house site and the Drumahill/Hollywell development. Therefore public open space could be accessed from the site through the unused strip of land along the application site's eastern boundary. While landownership will inevitably impact on the pattern of development in an area; landownership of itself cannot be determinative of the pattern of development and consideration should be given to providing permeability between the application site and that large public open space.

#### **14.40 Remaining Matters**

**14.41** The Planning Authority's childcare committee made a submission to the Board stating that the application did not provide childcare facilities and therefore does not comply with the requirements set out Childcare Facilities Guidelines for Planning Authorities (DoE June 2001). The applicant responded (submission received by the Board 18<sup>th</sup> April 2016) that the guidance does not provide an absolute requirement to provide child care facilities for every development of 75 units, that the planning authority accepted that there should be some flexibility in relation to the provision of these facilities and, in any case, that there is adequate childcare facilities in the Dundrum-Kilmacud electoral division where the site is located.

**14.42** I note that the planning authority did not raise this issue as a reason for refusal and I recommend that in light of the substantive draft refusal reasons set out below it is unnecessary to pursue this matter further.

**14.43** The appeal makes the case that the site is underlain with granite and that excavation relating to the basement car parking would require rock breaking to a degree that would seriously injure the amenity of adjoining



property. In this regard I recommend that site excavations are amenable to control by planning conditions.

#### **14.44 Appropriate Assessment Screening**

**14.45** The application included an AA screening assessment. This assessment identified the South Dublin Bay and River Tolka SPA (004024) and the South Dublin Bay SCA (000210) as being 5km of the site. I have read the submitted screening assessment and the material published by the NPWS in relation to these sites and other sites within a 15kms radius of the application site.

**14.46** Having regard to;

- the AA screening assessment provided with the application,
- the capacity in the public water supply and public sewerage treatment system serving the area,
- the likely additional emissions from the proposed development,
- the nature of the landuses in the area,
- the material submitted in connection with the application and appeal, and my site inspection,

I consider that there is adequate information available to make a screening determination. Therefore I conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the South Dublin Bay and River Tolka SPA (004024) or the South Dublin Bay SAC (000210) or another other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **15. RECOMMENDATION**

I have incorporated an assessment of the amendments to the scheme submitted with the appeal as set out above. The planning authority in its submission to the Board has advised that the amendments comprise a completely different scheme which should be subject to a separate application. I agree with the planning authority on this point and furthermore having regard to,

- a) the ambiguity surrounding the location of balconies,
- b) the ambiguity of the impacts on parking arrangements arising from amendments submitted with the appeal,
- c) any amendments to Kilmacud Road Upper road frontage which may be in the interests of the proper planning and sustainable development of the area, and
- d) the desirability of allowing for public notice and comments on an amended scheme,

I recommend that the Board find that it should determine the application as submitted to the planning authority.

Having regard to the foregoing I recommend refusal for the reasons and considerations set out below.

### **Reasons and Considerations**

1. The proposed development is located in an area zoned “to provide for and/or improve residential amenity” in the Dun Laoghaire Rathdown County Development Plan 2016 to 2022. The site adjoins areas zoned “to provide and/or improve residential amenity” and “to preserve and provide for open space with ancillary active recreational amenities”. Having regard to the scale, bulk and height of the proposed development and the provision of balconies in proximity to boundaries with adjoining residential and other property it is considered that the proposed development would be overbearing when viewed from these properties and would give rise to an unacceptable level of overlooking of adjoining property. The proposed development would, therefore, seriously injure the amenity of adjoining property, materially contravene an objective set out in the County Development Plan and be contrary to the proper planning and sustainable development of the area.

2. The proposed development is located in an area zoned “to provide and/or improve residential amenity” Dun Laoghaire Rathdown County Development Plan 2016 to 2022. Having regard to the limited separation distances between the proposed apartment blocks, the excessive scale of blocks C and D and their relationship with the proposed shared open space it is considered that the proposed development would provide such a poor standard residential amenity as to materially contravene the zoning objective for the site set out in the current County Development Plan and, therefore, would be contrary to the proper planning and sustainable development of the area.

---

**Hugh Mannion**  
**Planning Inspector.**  
**28<sup>th</sup> April 2016.**