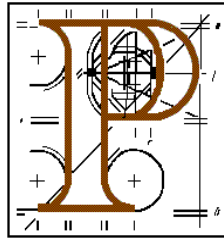


An Bord Pleanála



Inspector's Report

Development

Demolition of three dwellings at Church Road, demolition of outbuilding and extensions to Kylemore Clinic, replacement of three vehicular accesses with one pedestrian access, construction of 65 residential units with access onto Watson Road, redesign of No. 43 Watson Road, and redesign of a gate lodge with access onto Church Road, Killiney, County Dublin.

Planning Application

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Authority Register Reference: D15A/0778

Applicant: Crekav Landbank Investments Ltd.

Type of Application: Permission

Planning Authority Decision: Refusal

Planning Appeal

Appellant(s): Crekav Landbank Investments Ltd.
Watson Killiney Residents Association

Type of Appeal: First & Third Party

Observer(s):

James & Bernice Lalor

Church Road Property Maintenance
Company Ltd.

Rosalind Matthews

Richard & Marie Hooper

Hugh McLoughlin

Date of Site Inspection:

7th June, 2016

Inspector:

Kevin Moore

1.0 APPLICATION DETAILS

1.1 There is a first party appeal by Crekav Landbank Investments Ltd. and a third party appeal by Watson Killiney Residents Association against a decision by Dún Laoghaire-Rathdown County Council to refuse permission for the demolition of three dwellings at Church Road, the demolition of an outbuilding and extensions to Kylemore Clinic, the replacement of three vehicular accesses with one pedestrian access, the construction of 65 residential units with access onto Watson Road, the redesign of No. 43 Watson Road, and the redesign of a gate lodge with access onto Church Road, Killiney, County Dublin.

1.2 The proposal comprises:

- * The demolition of three houses (Smallacre, Rockwinds and Woodlawn) on Church Road;
- * The demolition of an outbuilding and extensions to the Kylemore Clinic building on Church Road;
- * The replacement of three vehicular accesses onto Church Road with one pedestrian and cycle access;
- * The construction of a residential development with access onto Watson Road consisting of 65 units – 20 semi-detached two and three-storey houses, 11 detached three-storey houses, a four-storey apartment block containing 28 apartments, and change of use of Kylemore Clinic to 6 apartments.
- * The redesign of No. 43 Watson Road to include an extension and the removal of part of the house to provide for a services wayleave;
- * The redesign of a gate lodge to include removal of part of the house and provision of an extension;
- * The provision of 130 car parking spaces (surface and underground);
- * The provision of a new entrance onto Watson Road from the Kylemore Clinic lands; and
- * All associated site development, landscaping, boundary treatment and services.

1.3 The site area is 2.4 hectares. The application details included a planning report, design statement, EIA screening report, Natura Impact Statement Stage 1 Screening Report, Traffic Impact Assessment, tree survey report and tree protection strategy, a conservation report, an engineering services report, an energy statement, and a construction management plan. The TIA was undertaken for the proposed development together with a proposed residential development further north of the site for 14 houses. Each development would access Watson Road.

1.4 Objections to the proposal were received from an extensive number of residents in the wider area, inclusive of Watson Killiney Residents Association. The issues raised related to traffic, drainage, residential amenity, visual amenity, and planning standards. The grounds of appeal reflect many of the residential concerns raised.

1.5 The reports received by the planning authority were as follows:

The Housing Department required a condition to be attached with any grant of permission requiring the developer to enter into an agreement in accordance with Part V of the Planning and Development Act.

The Building Control Engineer set out conditions to be specified.

The Municipal Services Drainage Engineer raised concerns in relation to infrastructure provisions and sought a range of revisions to the drainage provisions.

Irish Water in two reports requested revised proposals for water and sewerage provision.

The Parks Superintendent considered the proposal not to be in accordance with the provisions of the County Development Plan. Concerns were raised in relation to the loss of mature trees and the unsuitability and inadequacy of open spaces. A refusal of permission was recommended.

The Transportation Planning Engineer requested further information in relation to future access roads to adjacent sites, boundary wall treatment onto Church Road, a Quality audit, car parking provisions, a traffic management plan, a range of drawings relating to layout, sightlines, compliance with taking-in-charge requirements, entrance details,

footpaths, road markings, etc. and details on street lighting, signage and bicycle stands.

The Planner noted the zoning provisions for the site, planning history, pre-planning consultation, and the third party submissions received. Each of the internal reports received were wholly re-stated. The main issues were considered to be planning policy, development density, institutional lands, mix of units, the standard of development, impact on visual and residential amenity, access and transportation, works to existing buildings, and third party concerns. A residential development was considered acceptable in principle. The density of development was regarded as being too low and the mix of units was inadequate. The proposed residential use on institutional lands was accepted. A masterplan for the lands was not seen to be necessary. Kylemore House and its gate lodge were seen to have merit in terms of their architectural style and setting. Concerns were raised about the scale and location of the proposed apartment block relative to the existing house. Private open space for houses and the provisions for apartments were regarded as acceptable. There was concern about the quality and location of public open space and the loss of trees. It was considered that there were no significant overlooking, overshadowing or overbearing impacts for adjacent properties. The Transportation Engineer's request for further information was noted. Clarity on pedestrian/cycle access via the Kylemore avenue was considered necessary. Works to the gate lodge, to Kylemore House and to No. 43 Watson Road were regarded as acceptable. Third party concerns about drainage were noted and the Municipal Service Drainage Engineer's request for further information and Irish Water's report were acknowledged. A refusal of permission was recommended for five reasons.

- 1.6 On 5th February, 2016 Dún Laoghaire-Rathdown County Council decided to refuse permission for the development for five reasons relating to the impact on Kylemore House, inadequate housing density, inadequate mix of house types, deficiency of open space provision, and tree loss.

2.0 SITE DETAILS

2.1 Site Inspection

I inspected the area in which the appeal site is located on 7th June, 2016. The accesses to the lands of “Woodlawn”, “Smallacre” and “Rockwinds” were restricted, notwithstanding correspondence with the applicant prior to the site inspection. Reliance on site-specific information is based upon an inspection of Kylemore House and its curtilage and No. 19 Watson Road, a peripheral examination of the site of the three detached houses proposed for demolition, photographic materials contained in the application and photographs attached with previous inspector’s reports for “Smallacre” and “Woodlawn”, and aerial photography.

2.2 Site Location and Description

The site comprises the residential properties of “Rockwinds”, “Smallacre” and “Woodlawn” and Kylemore Clinic and its associated curtilage, each with frontage onto Church Road, and No. 43 Watson Road. The Kylemore Clinic property also adjoins a cul-de-sac end of Watson Road. The site may be understood in two parts. The northern part comprises three dormer bungalows with large gardens and frontage onto Church Road and No. 43 Watson Road to the rear. One of the dormer bungalows, “Woodlawn”, is a fire damaged building. No. 43 Watson Road is a single-storey detached house in an estate and is flanked by structures of similar form. The southern part of the site comprises Kylemore Clinic, its gate lodge and its associated curtilage. Kylemore is a large two-storey over basement Victorian structure, previously in use as a nursing home, which is bounded by existing residential properties. Its single-storey gate lodge adjoins the entrance from Church Road. The site is bounded to the east by Church Road, to the north-east along Church Road by two-detached houses which separate the two parts of the site, to the north-west by a large detached house, to the south-west by the rear gardens of Nos. 67 and 70 Watson Road and Nos. 66-76 Watson Drive. The lower south-west section of the site bounds St. Matthias Wood residential estate, a small estate of detached two-storey houses.

2.3 Dún Laoghaire-Rathdown County Development Plan 2016-2022

Zoning

The site is zoned A with the objective “To protect and/or improve residential amenity”.

The lands at Kylemore have a specific local objective “To protect and/or provide for Institutional Use in open lands.”

Residential Development

Policy RES 3:

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 Plan states that where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged.

Policy RES4

It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

Policy RES5: Institutional Lands

Where distinct parcels of land are in institutional use (such as education, residential or other such uses) and are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs.

A minimum open space provision of 25% of the total site area will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site with development proposals structured around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council. In the development of such lands, average net densities should be in the region of 35 - 50 units p/ha. In certain instances higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands.

Policy RES7: Overall Housing Mix

It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy.

Architectural Heritage

Policy AR5 - It is Council policy to retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of a streetscape in preference to their demolition and redevelopment.

The Plan also acknowledges that there are many older buildings and structures in the County, whilst not strictly meeting the criteria for inclusion in the Record of Protected Structures, are often modest buildings which make a positive contribution to the historic built environment of Dun Laoghaire-Rathdown. The retention and reuse of these buildings are seen

to add to the streetscape and sense of place and to have a role in the sustainable development of the County.

Open Space

Policy OSR5: Public Open Space Standards

It is Council policy to promote public open space standards generally in accordance with overarching Government guidance documents 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009) and the accompanying 'Urban Design Manual - A Best Practice Guide'.

Development Management

Public/Communal Open Space –Quality

Where any open space is to be provided on foot of a planning permission, the space in question should be well overlooked and designed and located to sympathetically complement the layout of the development and should be visible from, and accessible to, the maximum number of dwellings.

Trees and Hedgerows

New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow

2.4 **Planning History**

Kylemore

ABP Ref. PL 06D.202169 (P.A. Ref. D99/0333)

Permission was granted for the development of 7 two-storey detached houses.

ABP Ref. PL 06D.202189 (P.A. Ref. D00A/1168)

Permission was granted for a change of house type for the previously approved 5 houses.

ABP Ref. PL 06D.202189 (P.A. Ref. D02A/1314)

Permission was refused for the demolition of the existing clinic building and the development of a 64-bed care centre for the elderly.

ABP Ref. PL 06D.203680 (P.A. Ref. D02A/1218)

Permission was granted for a sheltered housing development comprising a block of 6 units, a block of 4 units and an apartment for residential staff with access from Watson Road cul-de-sac.

ABP PL 06D.212056 (P.A. Ref. D04A/1290)

Permission was granted for the consolidation and expansion of the residential institution.

P.A. ref. D04A/1418

Permission was granted for alterations to the approved plans for sheltered housing.

P.A. Ref. D05A/0008

Permission was granted for the retention of railings, gates and walls.

Smallacre, Woodlawn and No. 43 Watson Road

ABP Ref. PL 06D.244194 (P.A. Ref. D14A/0107)

Permission was refused in 2015 for the demolition of Woodlawn and Smallacre, the construction of 8 houses, the extension and alteration of No. 43 Watson Road, and replacements of accesses for one reason relating to traffic impact.

P.A. Ref. D10A/0254

Permission was refused for the demolition of Smallacre and Woodlawn, the development of 20 houses, and part demolition and extension to No. 43 Watson Road.

ABP Ref. PL 06D.226711 (P.A. Ref. D07A/1322)

Permission was refused for the redesign of No. 43 Watson Road, the demolition of Woodlawn and Smallacre, and the construction of 44

apartments and 7 houses for reasons relating to injury to residential amenity, traffic hazard, and deficiency in foul sewerage.

ABP Ref. PL 06D.213079 (P.A. Ref. D04A/1114)

Permission was refused for the demolition of Smallacre and the construction of 8 houses for reasons relating to the deficiency in foul sewerage.

3.0 PLANNING APPEALS

3.1 First Party Appeal by Crekav Landbank Investments Ltd.

The Board is asked to consider the application in conjunction with the appellant's other application in the immediate vicinity (P.A. Ref. D15A/0777 / ABP Ref. PL 06D.246229). The grounds of the appeal may be synopsised as follows:

Setting of Kylemore House

- Kylemore House is not a protected structure and will be restored. The front faces Church Road and the setting of the front, the most important aspect, will be maintained. The house is no longer fit for purpose as a nursing home or any other institutional use.
- On lands zoned for residential/institutional use, one would expect to find groupings of buildings.

Computer-generated images are included to demonstrate how the apartment block will fit in.

Inadequate Density

- Minimum densities are only intended to be recommendations. The proposed density of 27 units per ha. is an appropriate density for this brownfield site, and has been doubled since the previous application that was granted. A density of 35 units per ha. is sought for new residential developments in the Development Plan and the Plan notes that this density may not be suitable in all parts of the built-up area. It is

also noted that there is a requirement to retain 25% open space on the Kylemore site and so a net density would be 30 units per hectare.

- Due to the previous Board decisions access to the site is now from Watson Road. The existing pattern of development is mainly low density residential units. The scheme respects the existing neighbourhood character. Densification needs to have careful consideration of the established pattern of development.
- Reference is made to Policies RES3 and RES4, to the protection of residential amenity, the established character of areas and the constraints of brownfield redevelopment sites. The site is now a back-land situation, where it is not considered appropriate to achieve normal densities.

Inadequate Mix of House Types

- An application was lodged on an adjoining site (P.A. Ref. D15A/0777) in the hope that the applications would be considered in conjunction. A mix of house types across the two schemes range from 1-5 bed units.
- The proposal offers large houses which are flexible and suitable for families, the houses are different to the houses on Watson Road and Church Road, and provide a variety of housing types in the immediate area.
- A full range of housing type and mix on the site is achieved under very difficult site conditions.

Deficient Open Space Provision

- The open space to the south is overlooked by 28 apartments and will have ample passive surveillance.
- Open space provision is well in excess of Development Plan standards.
- The landscape/open space strategy is outlined in support of the appeal. The approach complies with Council policy on tree and hedgerow protection.

- The main open space is situated to accommodate the retention of the vast number of trees placed into category A. Access to this open space is provided with direct access to the largest number of residential units and its siting complies with Council policy.
- The attributes of the open space areas are numerous and comply with Council policy.
- Planting and landscaping will be in compliance with development plan policies.

Tree Loss

- The scheme open space was chosen because of its southerly aspect, the retention of mature trees, the necessity to provide attenuation at the site's lowest point, and the green buffer between the site and St. Matthias estate and joining up open space there.
- You cannot achieve densification on small infill brownfield sites without removing existing trees. You can replant in more appropriate locations to suit the new layout.
- Development Plan policy tries to preserve significant trees where possible. Choices have to be made.

The appeal submission includes a copy of the appeal relating to P.A. Ref. F15A/0777 on lands to the south of this appeal site.

3.2 **Third Party Appeal by Watson Killiney Residents Association**

The grounds of the appeal may be summarised as follows:

- In supporting the planning authority's decision, the Board is asked to include the specified reasons for refusal and to include further reasons for refusal.
- The proposed access arrangement is wholly inadequate via Watson Road which has inadequate capacity to serve the level of traffic to be generated. The proposal remains premature pending the necessary upgrade of strategic road infrastructure, namely Church Road.

- The proposal is premature pending adequate overall resolution of the existing deficiencies in the foul water system and in the absence of identified capacity in the surface water system to cater for the proposal.
- The proposal would materially contravene the zoning objective for the land as it would have very significant impacts on the surrounding residential amenity due to the height and scale of the development and the proximity to site boundaries.

It is requested that the undesirable precedent that would be established should also be acknowledged in the determination.

4.0 PLANNING AUTHORITY'S RESPONSE TO FIRST PARTY APPEAL

- 4.1 The planning authority directed the Board to the planning report and the deficiencies highlighted therein on the impact on Kylemore House, density, mix of house types and open space provision. The report received from the Parks and Landscape Section was acknowledged. It was noted that the Transportation Planning report did not raise any concerns regarding the proposal to create a vehicular access onto Watson Road. A submission from the Municipal Services Department is attached. It is submitted that the proposal before the Board does not address the concerns raised in Items 1, 2, 4 and 5 of the further information request on drainage matters and that it may not be feasible to satisfy these requirements without significant changes to the scheme. It is submitted that Items 3, 7 and 9 could possibly be addressed by precisely worded conditions. The Board is reminded that the planning authority is no longer in a position to condition the requirements of Irish Water. It is further submitted that the site lies within the catchment of a surface water system that has existing deficiencies. The authority is not aware of the deficiencies causing problems in the public system but it has commenced the process of preparing a rehabilitation scheme. Finally, it is submitted that a properly designed surface water system will be required to restrict run-off to existing greenfield run-off rates.

5.0 FIRST PARTY'S RESPONSE TO PLANNING AUTHORITY'S RESPONSE TO FIRST PARTY APPEAL

- 5.1 The response re-addressed the matters raised in the first party appeal. An engineering report is attached which addresses the concerns of the local authority relating to drainage and transportation.

The Board will note that this report addresses the Municipal Services Department request for further information relating to drainage issues.

6.0 APPLICANT'S RESPONSE TO THIRD PARTY APPEAL

- 6.1 The response to the third party appeal may be summarised as follows:
- The reason the planning authority failed to cite matters relating to traffic hazard, piecemeal development and deficiencies in foul and surface water in its grounds for refusal is because each of the reasons has been overcome in the current application. It is noted that the Board had previous concerns in relation to traffic and drainage in 2015. The applicant has proved to the local authority that the infrastructural issues can be solved. Two houses were purchased on Watson Road to provide access and bring services onto that road, thus eliminating piecemeal development and addressing the Board's access concerns. There will be very little impact on Watson Road in terms of turning movements. Construction traffic could come off Church Road to address the third party concerns on this matter.
 - The third party has failed to submit an engineering report to substantiate drainage deficiency claims. The Board did not refuse previous schemes on the basis of foul sewer deficiencies. The applicant undertook a survey to ascertain the current condition of the foul and storm water network and identified remedial works to be addressed. The survey confirmed there is capacity and made provision for some small scale improvement works. Specific proposals were previously submitted to upgrade the foul and drainage deficiencies along the route the outflows will take and were accepted by the local authority. A pre-connection enquiry was also submitted to Irish Water.

- The quantum of open space provision is in excess of Development Plan standards. The open space is adequately overlooked and easily accessible. The landscaping proposal is sustainable in every sense.
- The additional proposed grounds for refusal were not identified as material planning issues by the planning authority because the proposal is fully compliant with relevant development standards.

An Engineering Report accompanies the submission addressing traffic issues and deficiencies on foul sewerage raised by the third party and the Irish Water submission on the application.

7.0 THIRD PARTY APPELLANT RESPONSE TO FIRST PARTY APPEAL

7.1 The response to the first party appeal may be synthesised as follows:

- The appeal has failed to address the Council's five reasons for refusal in any meaningful manner.
- Concerns raised in the third party appeal are reiterated.
- The Board's previous decisions in respect of the appeal site clearly demonstrate that the development of properties onto Church Road is premature pending the upgrade of Church Road as required under the Development Plan. The routing proposed will create a traffic hazard and will feed significantly greater volumes of traffic onto Church Road. This prematurity should be included as a reason for refusal.
- The applicant has failed to have any regard to other concerns raised, such as piecemeal development, deficiencies in foul and surface water sewerage, and the impact on surrounding residential amenity.

8.0 THIRD PARTY APPELLANT RESPONSE TO PLANNING AUTHORITY RESPONSE TO ITS APPEAL

8.1 The third party supports the views expressed by the planning authority and draws particular attention to the concerns of the Municipal Services Department.

9.0 THIRD PARTY APPELLANT RESPONSE TO FIRST PARTY RESPONSE TO ITS APPEAL

- 9.1 The appellant refutes the first party submission and requests the Board to uphold the planning authority's decision and to include its proposed additional reasons for refusal.

10.0 SUBMISSION FROM IRISH WATER

- 10.1 Irish Water submitted that it made a submission to the planning authority anticipating problems that can only be resolved through analysis as part of a pre-connection enquiry. It was noted that the developer had submitted a pre-connection enquiry since the planning authority's decision. It was submitted that the applicant had not demonstrated that it had the necessary rights to connect to an existing manhole in the rear garden of a private dwelling. It was further acknowledged that Irish Water had sought the proposed water supply to be via Church Road rather than Watson Road to better manage water pressure. A current proposal by the applicant (now on appeal – ABP Ref. PL 06D.246229), was referenced and it was submitted that the same issues in relation to deficiencies in the foul sewerage system apply to this proposal.

11.0 OBSERVATIONS

11.1 Observation by James & Bernice Lalor

An observation by James and Bernice Lalor, 50 Watson Road, raised concerns about excessive density, overlooking, scale, bulk and height of the development, and connections to sewerage and surface water systems.

11.2 Observation by Church Road Property Maintenance Company Ltd.

The observation from the management company for St. Matthias Wood estate relates to the impact of the development on the estate and raises concerns in relation to traffic hazard, drainage, conflict with zoning and residential provisions of the Dún Laoghaire-Rathdown Development Plan, and impacts on residential amenities.

11.3 **Observation by Rosalind Matthews**

An observation by Rosalind Matthews, 47 Watson Road, raised concerns relating to the proposed access onto Watson Road resulting in adverse traffic impacts for her property, for health and safety and for property devaluation.

11.4 **Observation by Richard and Marie Hooper**

An observation by Richard and Marie Hooper, 45 Watson Road, raised concerns in relation to the development surrounding their property, drainage, vermin, removal of trees, exposure to crime, and impact on an established right of way.

11.5 **Observation by Hugh McLoughlin**

An observation by Hugh McLoughlin, 61 Watson Avenue, raised concerns relating to loss of trees, traffic impact, and impact on the sewerage system.

12.0 **ASSESSMENT**

12.1 Introduction

12.1.1 I consider the issues requiring consideration in relation to the proposed development relate to the following:

- The principle of the proposed development and the context of the Dún Laoghaire-Rathdown County Development Plan.
- The impact on Kylemore House
- Open space provision and tree loss
- Traffic impact
- Impact on residential amenity
- Provision of sanitary services

12.1.2 One other issue that will be considered in this assessment is Appropriate Assessment.

12.2 The Principle of the Proposed Development and the Dún Laoghaire-Rathdown County Development Plan

Zoning

12.2.1 I consider the principle of the proposed development to be wholly acceptable. The proposal is compatible with the zoning provisions for the land, which seeks to protect and/or improve residential amenity. It is a conforming use with the zoning provision and is a proposal that has been designed and laid out to minimise potential adverse impact on the amenities of adjoining residential properties, which will be referred to later in this assessment.

Development Density

12.2.2 I acknowledge the provisions of the current Dún Laoghaire-Rathdown County Development Plan, wherein higher residential densities are promoted under Policy RES 3 and where it is policy to densify existing built-up areas under Policy RES 4. The Plan also states that, where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged. Furthermore, under Policy RES 5, relating to institutional lands, it is policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs. A minimum open space provision of 25% of the total site area is required on such lands and average net densities on such lands are required to be in the region of 35 - 50 units per hectare.

12.2.3 I first note that the proposed development would be sited on institutional lands so designated in the current development plan. Thus the higher density of a minimum of 50 units per hectare does not apply in this instance. I further note that the proposal provides in excess of 25% of open space in order to maintain the open character of the lands – 3389 square metres as compared with a required minimum of 3250 square metres. I further note that with the proposed development seeks to provide a density of some 27 units per hectare.

12.2.4 Important in the consideration of the issue of density are the policy provisions of the development plan to guide desired densities. Policies RES 3 and RES 4, while emphasising higher density development, also seek new development to ensure a balance between the reasonable protection of existing residential amenities and the established character of areas (RES 3) and to give due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities (RES 4).

12.2.5 In acknowledging the above, I note that the proposed development has been designed and laid out to seek a significantly higher density of development over that which is generally prevalent in its environs and it has sought to protect the amenities of neighbouring residents. It has made provision for the standard of open space in accordance with the plan provisions. I am of the opinion that the applicant has sought to reasonably address the needs of the development plan while seeking to protect established residential amenities. I consider that the densification of development on this site has been adequately provided for in the context of developing institutional lands in close proximity to established residential properties. One cannot ignore the context and character of the area in which the development is proposed to be set and, indeed, the plan expressly requires this. The deliverance of 35 units per hectare cannot be advocated as a minimum that must be met before development may proceed in such a location. It may function as guidance and I would suggest that many examples can be provided where minimum development densities are not met for the very reasons that are required to be considered in this instance, namely the protection of the amenities of established residents of an area and respect for the character of an area. I, therefore, conclude that the proposed density of 27 units per hectare in this instance is a reasonable and responsible approach to the development of these lands.

Mix of Residential Units

12.2.6 I first note that this proposed development was submitted to the planning authority at the same time as another application by the applicant for residential development in the immediate vicinity. This other application is subject to appeal also – ABP Ref. PL 06D.246229. It is clear that these two proposals, while separate applications, were submitted to the planning authority to allow the authority to consider the overall development in its context. With due regard to this, there may be some merit in the

applicant's contention that the proposed development must be understood in the overall development of lands in this location, albeit that it must also be acknowledged that each application is required to be considered on its own merits.

12.2.7 The proposed development seeks to develop 2 no. detached three-bedroom houses, 6 no. detached five bedroom houses, 5 no. detached four bedroom houses, 9 no. semi-detached five bedroom houses, 11 no. semi-detached four bedroom houses, 20 no. two bedroom and 8 no. three bedroom apartments in a new block, and 5 no. two-bedroom and 1 no. three bedroom apartments in Kylemore House. It is my submission that this proposed development adequately seeks to provide for a mix of family living accommodation in an established area of family living accommodation with the variety of units proposed. I do not accept that the proposed scheme lacks in a variety of residential units and I contend it would meet the needs of a wide range of prospective occupiers.

12.2.8 Policy RES 7 of the development plan seeks to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the county. It is clear that the proposed development introduces a very substantial change to the established restricted mix of housing at this location and could not be seen to be contrary to the express aim of the development plan in seeking an appropriate variety of housing and apartment types and sizes.

12.3 The Impact on Kylemore House

12.3.1 I acknowledge the former use of Kylemore House as a nursing home and, consequently, as a structure that was in a residential use. I note the house is subject to structural decline as an alternative use remains not to be put in place. Kylemore House is a Victorian house that is not a protected structure. However, it clearly is a structure that makes a positive contribution to the character and appearance of this area. Its redevelopment for apartment use is wholly accepted in principle. The acceptable standard of accommodation being provided for prospective occupiers of the proposed six apartments is acknowledged. The redevelopment as proposed is considered an appropriate intervention and the demolition of more modern recent additions and replacement with a more compatible extension and expansion of apartment space is regarded

as appropriate. It may reasonably be considered that the proposal meets with the requirements of Policy AR5 of the development plan, which seeks to retain and encourage the rehabilitation and suitable reuse of existing older buildings that make a positive contribution to the character and appearance of a streetscape.

12.3.2 I acknowledge that the lands on which the house is sited are specifically designated 'institutional lands' under the development plan. I note once again that the proposed development seeks to retain the open character of these lands by providing in excess of 25% of the land area as open space and by providing a density of development below 35 units per hectare in order to protect established residential amenities.

12.3.3 I note that the planning authority's concerns focus on the separation of Kylemore House from the main open space on the site by the siting and location of the proposed apartment block and that it is concluded that this fails to retain the openness within the site and it diminishes the relationship between the house and the open amenity area to the front. I note that, in seeking to achieve a reasonable density of development and a mix of residential units on this site, the applicant proposes to provide the new apartment block. This is a reasonable approach, where peripheral development proposed seeks to be more compatible and less intrusive on neighbouring properties, taking the form of housing units. Indeed, they can be seen to be more respectful of the character of established development in the immediate vicinity. The opportunity to densify in this context is extremely limited with the configuration of the institutional lands and the location of Kylemore House itself. I suggest to the Board that the applicant's response to the siting of the proposed apartment block is suitable in this context and responds to these limitations. In seeking to respect the amenities of established residents adequate provisions are required to be made with regard to separation distances, landscape treatment, etc. It is evident that the applicant has sought to respect the visual approach to the existing house, retaining the driveway, providing open spaces within the immediate curtilage of the house and setting the apartment block back to not excessively intrude on the visual context of the house, which again is acknowledged as a structure that is not a protected structure. With regard to these observations, I suggest that the siting of the proposed open space, where such limitations apply, is a responsible approach to the proposed development of these lands. Furthermore, while the house would be redeveloped to accommodate six

apartments I note that the proposed block would accommodate some 28 apartments. The main open space could be viewed as suitably located and it is acknowledged that it would remain accessible to all within the proposed development.

12.3.4 With due regard to the above, I do not accept that Kylemore House is significantly intruded upon by the redevelopment as proposed on these institutional lands, with the approach thereto and open space provisions around it so proposed. While I acknowledge the housing at the northern end of the site is somewhat separated from the main open space, I note that the main public open space remains accessible, that additional public open space is proposed to be provided in the immediate vicinity to the east of these houses, and that each dwelling is provided with individual private open spaces that are compliant with development plan requirements. I, thus, do not concur with the planning authority's conclusions drawn on this issue.

12.4 Open Space Provision and Tree Loss

12.4.1 In considering the issue of open space provision, the Board will note that I have addressed this issue to a degree previously in this assessment. The proposal seeks to provide in excess of the requirement for open space in the development of institutional lands. Furthermore, it makes adequate provision for private amenity spaces for individual houses. In addition, the main open space is located where it is overlooked by the component of the development that provides the greatest density of development, namely the apartment block and functions as a buffer between the proposed development and established housing. Open space is provided around Kylemore House to clearly separate it from new development and to accommodate its setting. Finally, additional open spaces are proposed to be provided in close proximity to proposed housing to provide for additional needs.

12.4.2 With regard to tree loss, it is firstly observed that there are extensive tree and shrub species throughout this site. These form part of the suburban gardens in which existing structures are set. The site is zoned for residential purposes and the planning authority seeks densification of development on these lands in the pursuit of new development. In seeking to provide residential accommodation on these lands and in the manner expressly desired by the planning authority, i.e. higher densities than that

which prevails at present in the area and with a greater variety in residential unit type, it is very clear that new development will remove most of the tree and shrub species that exist on the site. It is evident that choices are required to be made.

12.4.3 I acknowledge that there are many examples of mature trees that are well established on the site. The tree survey report is acknowledged in identifying the type, condition and merit of species. It is noted that there are no Tree Preservation Orders relating to the site. 10 of the identified 15 Category A trees are proposed to be retained on the site. It is observed that the siting of the main public open space would protect and maintain a significant number of the most important trees on the site. It is evident that the layout of the scheme seeks to maintain the maximum number of the site's more valuable trees while also seeking to balance that with a reasonable density of development and protection of established residential amenities. Furthermore, the landscaping proposal for the site seeks to introduce a significant planting scheme.

12.4.4 Further to the above, one must be required to undertake a balanced approach to the development of these lands. One cannot attain a reasonable density of development, introduce a variety of residential unit types, make public open space provisions, make private open space provisions, and develop an internal road network to facilitate movement throughout a residential scheme without the removal of a significant number of trees and shrubs on this site. On balance, the proposed development seeks to employ a reasonable approach.

12.4.5 Finally, I note that the development plan requires new developments to be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow. What must be realised in this proposal is the practicality of developing the lands in a manner close to that desired by the planning authority. The proposal seeks to incorporate, in a practical manner, the amenities offered by most of the trees of the greatest value on the site. Tree loss, and indeed significant tree loss, is invariably a substantial component of the development of these lands, which of course must be understood to be lands in a suburban setting and context.

12.5 Traffic Impact

- 12.5.1 In considering this issue I first note that the planning authority had no objection to the proposal on traffic grounds. Indeed, the report of the planning authority's Transportation Planning Engineer acknowledged the likely adverse impact new residential development would have on Church Road and understood the provision for the alternative access arrangements for the development of this land via the Watson estate. The planning authority was not opposed to this proposal and raised no concerns about the traffic impact for residents of Watson estate, the carrying capacity of the estate roads, junction deficiencies, etc.
- 12.5.2 I acknowledge that the third party appellant and observers have submitted no technical report or supporting traffic data that would suggest that the proposed development would result in any traffic hazard for the residents of the estate. The deficiencies of the road network, in this context, can only be understood to be conjecture at this time. The proposed opening of the existing wall to allow access onto Watson Road, with appropriate oversight, should have no adverse impacts for the residents adjoining this boundary wall. There can be no reasonable conclusion drawn that this arrangement would cause a health and safety concern for the residents of established housing in the immediate vicinity as adequate road widths, alignment, etc. are being provided to facilitate vehicular movement.
- 12.5.3 Further to the third party claims, one must acknowledge that Watson is a long-established estate with established junctions with the wider road network. There are no details provided that could result in one reasonably concluding that the road network does not have the carrying capacity to accommodate the relatively modest additional traffic generated by the addition of 65 residential units to this locality. Further to this, the provision of sufficient on-site car parking is acknowledged, which addresses concerns about potential overflow to adjoining estate roads.
- 12.5.4 Finally, I acknowledge the Board had determined previously, under Appeal Ref. 06D.244194, that Church Road cannot facilitate traffic generated by new development from these lands. The applicant has responsibly sought to make alternative provisions in response to the Board's refusal reason in this most recent decision. The only alternative option is for future development to access Watson estate and the proposal satisfactorily makes provision for this option. I also note that, contrary to third party claims, the Board did not consider the development of these lands to be

premature in the context of plan objectives relating to Church Road. There was no question of prematurity. Access to Church Road was seen to be unacceptable from a traffic safety perspective. Thus, under the current application the applicant has sought to provide the only feasible option to develop these lands by providing access via Watson estate. A Traffic Impact Assessment was undertaken and relevant surveys and modelling were undertaken and findings provided for consideration. This assessment has demonstrated that the local road network is capable of catering for the proposed residential development.

12.5.5 Having regard to the above, there are no grounds for refusing the proposed development on traffic safety grounds or the resulting traffic impact on the residents of Watson estate.

12.6 Impact on Residential Amenity

12.6.1 I note the report of the Council's Planner expressly concludes that, with regard to overlooking, overshadowing and overbearing impacts, the proposal would not give rise to such adverse impacts on adjacent property. I note the claims of third parties on the impacts on residential amenity, while I further note that such submissions have not been substantiated in terms of information provided that would refute the planning authority's conclusions on this issue.

12.6.2 It is my submission to the Board that the proposed development would not result in significant adverse impacts on neighbouring residents by way of overlooking, overshadowing or overbearing impact and that it can reasonably be concluded that the proposed development would not result in any consequential significant loss of privacy or disturbance. The Board will note the layout and design of the residential development such that the proposal is designed to follow the pattern of established housing to the south-west, rear gardens of proposed new housing adjoins rear gardens of established housing, gable ends of blocks adjoin other boundaries, gable elevations facing neighbouring properties have not included windows creating the potential for overlooking, building height for dwelling units are not oppressively high when compared to established housing and when seeking to provide an acceptable density of residential units and an appropriate mix of residential units, etc. Further to this, it is noted that separation distances between proposed units and established housing is

in compliance with development plan requirements. In spite of the height of the apartment block, its location, layout and separation distance from established properties would not result in significant impacts for established residential amenity.

12.6.3 Overall, it may be concluded that the proposed development would not likely result in any significant adverse impact on residential amenity.

12.7 Provision of Sanitary Services

12.7.1 I first note that the planning authority did not decide to refuse permission for the proposed development due to the deficiency in sanitary services. Indeed, the Water Services Engineer and Irish Water sought additional information. If this information had been requested, I would suggest that the applicant would have been in a position to respond in a meaningful manner to address the concerns raised. I further note that the Board in its most recent decision relating to the development of housing at the Smallacre, Woodlawn and No. 43 Watson Road part of the site (ABP Ref. PL 06D. 244194) did not refuse permission for that development because of the deficiency of sanitary services. I note that in its Direction the Board stated:

Note:- The Board was not satisfied, notwithstanding the proposed remedial works to the foul and surface water sewers in Watson Road, that the development could be adequately accommodated into the existing public foul and surface water systems, and in particular was not satisfied that the applicant had adequately demonstrated that the foul drainage system in the wider area had sufficient capacity to accommodate additional flows from the proposed development (and related proposed development under appeal register ref. PL06D244195), even after the provision of these remedial works. However, the Board did not consider it appropriate to seek further information on this matter having regard to the substantial reason for refusal ...

12.7.2 I acknowledge firstly that the applicant has substantially dealt with the Board's previous reason for refusal which related to traffic concerns. I further note the survey undertaken by the applicant, the engineering report and related submissions received as part of the application and appeal process, the mitigation measures proposed, and the correspondence

received from the Water Services Engineer of the planning authority and from Irish Water. It is my submission to the Board, in due regard to the latter two submissions and to the Board's previous concerns, that the applicant should be afforded the opportunity to provide information seeking to address sanitary services requirements to allow for the development of these lands. This should be pursued by way of further information and the Board could then so determine if the sanitary services network is adequate to accommodate the development, if the development is laid out in a manner that allows for appropriate connection to services, and to otherwise determine if such development is or is not premature pending any necessary upgrading of services.

12.8 Appropriate Assessment

12.8.1 In considering the impact on Natura 2000 sites, I first note that the proposed site is not on or near any Natura 2000 site, the nearest being Rockabill to Dalkey Island SAC some 2.6km away. I acknowledge that there is no known flora or fauna species of particular conservation value on the site, with the exception of one foraging pipistrelle bat recorded during fieldwork that did not originate from the site. I note that there are no watercourses within the holding that form part of any catchment that feeds into watercourses in the wider environment or any other natural features that could function as a pathway. I consider that the relevant source-pathway-receptor links relate to generated foul and surface waters via the drainage network and the proposed construction works. It is considered that these are not likely to pose any significant impact on the existing European sites. The attenuation, treatment and disposal of foul and surface waters leaving this site would not result in any known deleterious impact on the qualifying interests of the Natura 2000 sites. The separation distances, short-term nature, and application of the construction management plan provisions should ensure there would be no likelihood of any impacts on the conservation sites. There are no known developments in the vicinity of this site that would give rise to any significant cumulative impacts.

12.8.2 It is reasonable to conclude that, on the basis of the information on the file which I consider adequate in order to issue a screening determination, the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Rockabill to

Dalkey Island SAC, Dalkey Islands SPA or any other Natura 2000 site in the wider area. A Stage 2 Appropriate Assessment is, therefore, not required.

12.9 Conclusions

12.9.1 There are evidently many ways of seeking to undertake a residential development on these lands. The approach must be a fine balance between gaining an appropriate mix of residential units, being assured of attaining a reasonable density of development, while at the same time respecting the character of the area in which such development would be sited, as well as protecting established residential amenity. A mix of apartments through the provision of a new block(s) and the redevelopment of Kylemore House and a range of different house types and sizes is appropriate for these lands and would constitute sustainable development in this serviced suburban area. There are many limitations and constraints associated with the development of these lands, including the site's configuration, the designation of the lands as institutional lands, the existence of Kylemore House, the inability to serve new development via Church Road, the proximity, nature and extent of neighbouring residential development, the extensive number of trees on the site, etc. In noting these constraints, I am satisfied that the proposed development can be accommodated on this site in the form proposed such that it would not undermine the pattern and character of development in the area. However, I acknowledge that there is a requirement to obtain further details relating to the provision of sanitary services to meet the needs of the new development while sustaining the needs of the established community.

13.0 **RECOMMENDATION**

I recommend that further information is sought on drainage-related matters in accordance with section 132 of the Planning and Development Act as follows:

Surface Water Drainage

- Submit details, inclusive of supporting plans, comprising alternative in-line attenuation storage tank proposals, with the attenuation storage tanks located at the low points within the respective catchments and with the proposed design avoiding under tank interception storage.
- Submit a site-specific flood risk assessment addressing concerns arising from possible surcharging of sewers leading to localised flooding.
- Submit revised details showing the removal of the proposed by-pass separator in catchment “B” that is located on a section of pipe that would be subject to two-way flow.
- Submit detailed proposals for a Green Roof for the apartment block in catchment B in accordance with the Green Roof policy of Dún Laoghaire-Rathdown County Council.
- Submit details demonstrating that the applicant has the necessary rights or permissions from all existing properties allowing connection of the surface water runoff from catchment B into the 225mm dia. surface water drain and submit details of the adequacy of the receiving surface water drain to accommodate the proposal.
- Submit details of both of the proposed hydrobrake chambers. The applicant is requested to note that an overflow arrangement within the hydrobrake chamber is not acceptable.
- The “Summary of Results for 100 year Return period (+10%)” contained in Appendix B of the Engineering Services Report submitted with the planning application to the planning authority indicates various pipes are at flood risk. You are requested to provide details of the reasons for this and to provide details to address such risk.
- Submit matching sets of drawings and re-run the calculations contained in Appendix A of the submitted Engineering Services Report for both catchments to demonstrate consistency in drawings and documentation submitted in support of the application.
- The planning authority notes that the routing of drainage pipes to the side of proposed houses and through adjoining existing properties is a satisfactory arrangement as a means of accessing the public surface

water sewer on Watson Road but it would not accept this arrangement for the purposes of future taking-in-charge of these pipes, as well as the surface water drainage system and associated elements within the estate that drain through them. You are requested to submit detailed arrangements to address the concerns raised.

Foul Sewerage

Irish Water has submitted in response to the application:

- The proposed water supply should be via Church Road rather than Watson Road in order to better manage water pressure;
- Drawing No. N250-H02 shows that it is proposed to connect the foul sewage into an existing manhole (FSB 15) located in the rear garden of a private dwelling and the applicant has not demonstrated that it has the necessary rights or permissions to connect to this drain or if an alternative connection is available.
- The problems in relation to foul sewage and water supply services in the area of the site can only be resolved through analysis as part of a pre-connection enquiry.

It is understood that the applicant has submitted a pre-connection enquiry with Irish Water. You are requested to submit details to the Board of the outcome of this enquiry, to submit your proposals in response to the revised arrangements required by Irish Water in relation to provision of water supply via Church Road, and to provide details on your right / permission to connect to the foul sewer in manhole FSB 15.

Kevin Moore

Senior Planning Inspector

June, 2016.