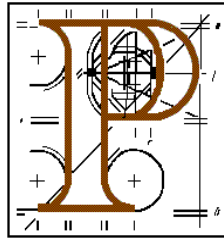


# An Bord Pleanála



## Inspector's Report

### Development

108 apartments and refurbishment of protected structure to provide 6 duplex units at Gort Mhuire, Wyckham Place, Wyckham Point, Dundrum, Dublin 14.

### Planning Application

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Authority Register Reference: D15A/0772

Applicant: Crekav Landbank Investments Ltd.

Type of Application: Permission

Planning Authority Decision: Refusal

### Planning Appeal

Appellant(s): Crekav Landbank Investments Ltd.

Type of Appeal: First Party

Observer(s):

Board of Management of St. Tiernan's  
Community School

An Taisce

James & Averil Leonard

Wyckham Place Management Ltd.

Ballinteer Educate Together national  
School

Date of Site Inspection:

19<sup>th</sup> May, 2016

**Inspector:**

**Kevin Moore**

## 1.0 APPLICATION DETAILS

- 1.1 There is a first party appeal by Crekav Landbank Investments Ltd. against a decision by Dún Laoghaire-Rathdown County Council to refuse permission for the development of 108 apartments and the refurbishment of a protected structure to provide 6 duplex units at Gort Mhuire, Wyckham Place, Wyckham Point, Dundrum, Dublin 14.
- 1.2 The proposal would provide for the construction of 108 apartments in two separate blocks, each containing 54 units. Each would be four stories in height with basement car parking sited within a walled garden. In total the blocks would provide – 8 no. one bed units, 80 no. two bed units, 16 no. three bed units and 4 no. three bed duplex units. It is also proposed to retain, refurbish and relocate an existing fountain within the walled garden and to retain and refurbish stable buildings and yard to provide six duplex units – 1 no. one bed, 3 no. two bed and 2 no. three bed units. A separate vehicular access would be provided for the latter units, using the existing site entrance with modifications. Ancillary development would include the provision of 139 basement parking spaces, 7 surface parking spaces, bicycle spaces, bin storage, play areas, open spaces and boundary treatment. The walled garden and farm building complex of Gort Mhuire comprise protected structures. The overall site has an area of 1.078 hectares. The submitted application included a planning report, an urban design statement, a conservation report, an engineering report, a landscape report, an Appropriate Assessment screening report, and a construction management plan.
- 1.3 Public submissions to the proposal were received from Stephen Webster, James and Averil Leonard, Ballinteer Educate Together National School Parent Teacher Association, and the Board of Management of Ballinteer Educate Together. The observations raised issues relating to vehicular access into the adjoining school lands, design, impact on a protected structure, overshadowing and basement car parking provisions.
- 1.4 The reports to the planning authority were as follows:

The Public Lighting Section Engineer considered the floodlight layout to be adequate.

The Housing Department considered that the proposal was capable of compliance with Part V subject to agreement.

The Conservation Officer referred to her strong opposition to the proposal voiced at pre-planning consultation, to County Development Plan policies relating to protected structures and residential density and to the proposed works to the outbuildings. The scale and height of proposed Blocks A and B were considered to have a dominating effect on the original outbuildings and would fail to respect the heritage significance of the walled garden. The proposal was found to be contrary to Plan policy. Concern was also expressed about the impact on the original walls on the site by the construction of the proposed underground car parking and the creation of a new opening within the walled garden to access the development was opposed. While the restoration of the outbuildings and conversion to residential use was regarded as acceptable in principle, the proposed interventions were considered to show a complete lack of sensitivity. A refusal of permission was recommended.

The Building Control Engineer requested the development works to be compliant with Council guidance and for roads, open spaces and services to be conditioned to be private.

An Taisce submitted that the proposal would fail to respect the character of the protected structure and raised concerns in relation to design, overshadowing, excavation works, impact on the adjoining Victorian house, and the interventions to the stable buildings.

The Department of Arts, Heritage and the Gaeltacht noted the proposal is in an area of high archaeological potential and recommended the attachment of a condition with any grant of planning permission. No comment was submitted on architectural heritage.

The Drainage Engineer requested a detailed schedule of further information on surface water drainage.

Irish Water requested further information in relation to wayleaves, foul water design, and watermain layout.

The Parks Superintendent indicated deficiencies relating to inadequate open space provision, open space being in shade for much of the year, the basement car park affecting open space provision, inadequacy of grass verges for tree planting, lack of a tree survey, and lack of details on

boundary proposals and street furniture. A refusal of permission was recommended.

The Transport Engineer noted the proposal has the potential to provide vehicular access via the northern site boundary to St. Tiernan's Community School lands. Deficiencies highlighted included road surfacing, proposed access road widths, footpath provision, and cycle access. Further information was requested in relation to tie in at Wyckham Place, access arrangements for refuse collection, a traffic impact assessment, internal access road design, a quality audit, access to cycle parking, provision of additional surface level cycle parking, street lighting, and a mobility management plan.

The Planner noted the site's planning history and pre-application consultation, recent planning history of adjoining lands, departmental reports received, observations made, the site's zoning provisions and relevant Development Plan policy under the 2010-2016 Development Plan, and provisions under the Architectural Heritage Guidelines. Conclusions drawn in the assessment were that the application was significantly deficient in four main areas:

- Impact on protected structures,
- Inadequate public open space and general layout,
- Overlooking, overbearing and overshadowing impact, and
- Surface water, foul water and water detail.

It was considered that further information would not address these concerns and a refusal of permission for four reasons was recommended.

- 1.5 On 5<sup>th</sup> February, 2016, Dún Laoghaire-Rathdown County Council decided to refuse permission for the development for four reasons relating to the impact of the development on protected structures, the unacceptability of the proposed layout, the overlooking/overshadowing/overbearing impact, and the inadequacy of details on drainage and water supply.

## **2.0 SITE DETAILS**

### **2.1 Site Inspection**

I inspected the appeal site on 19<sup>th</sup> May, 2016.

### **2.2 Site Location and Description**

The site of the proposed development is located at the eastern end of Wyckham Avenue, off Wyckham Way, in Dundrum, Dublin 14. It comprises a disused walled garden with derelict stable buildings at its south-eastern end. The site would formerly have been part of the curtilage of Gort Mhuire, a protected structure, which is a nursing home to the south-east occupied by the Carmelite Friars. The walled garden and outbuildings form part of a protected structure and the walls, approximately 4m in height, remain relatively intact throughout. A granite basin, originally associated with a fountain, remains within the gardens. The outbuildings are in a poor state of repair. The garden area is overgrown in parts and there is extensive building waste scattered throughout the site. Wyckham Avenue presently serves an existing apartment complex and three detached houses to the west of the site and the Gort Mhuire complex. The site is bounded to the east by St. Tiernan's community school and to the north by the grounds of this school. It is bounded to the west by housing for the travelling community on Wyckham Avenue, and to the south by Gort Mhuire and its curtilage.

### **2.3 Dún Laoghaire-Rathdown County Development Plan 2016-2022**

#### Zoning

The site is zoned 'Objective A' with the objective: "to protect and-or improve residential amenity."

#### 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. It is further stated that in some circumstances higher residential density development may be constrained by Architectural Conservation Areas (ACA) and Candidate Architectural Conservation Areas (cACA) designations, Protected Structures and other heritage designations. To enhance and protect ACA’s, cACA’s, Heritage Sites, Record of Monuments and Places, Protected Structures and their settings new residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity.

### Architectural Heritage

#### *Policy AR1:*

It is Council policy to:

- i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).
- ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht ‘Architectural Heritage Protection Guidelines for Planning Authorities’ (2011).

iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

Gort Mhuire Centre is listed in the Record of Protected Structures in Appendix 4 of the Plan and this listing applies to the water gardens, garden walls and farm building complex (i.e. the appeal site), house, ornamental ironwork, conservatory and water tower.

### Development Management

#### *Architectural Heritage – Protected Structures*

The Plan states that all development proposals potentially impacting on Protected Structures shall have regard to the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities', (2011).

#### **Works to a Protected Structure**

In assessing works (inclusive of extensions/alterations/ change of use etc.) to a Protected Structure, the Planning Authority will seek to ensure that alterations and interventions to Protected Structures shall be executed to the highest conservation standards, and shall not detract from their significance or value. Also, original features of architectural and historic interest are to be retained.

#### **Development in Proximity to a Protected Structure**

Any proposed development within the curtilage, attendant grounds or in close proximity to a Protected Structure has the potential to adversely affect its setting and amenity. The overall guiding principle will be an insistence on high quality in both materials and design which both respects and compliments the Protected Structure and its setting.

Any proposal for development will be assessed in terms of a schedule of requirements listed including the proximity and potential impact in terms of scale, height, massing and alignment on the Protected Structure, to ensure that harmony produced by particular grouping of buildings and the quality of spaces and views between them is not adversely affected.



## 2.4 Planning History

### Planning Authority Ref. D06A/1588

Permission was granted in 2007 for 47 houses – 40 mews type houses and 7 units within the refurbished farm building complex. An extension of duration of this permission was granted under Ref. D06A/1588/E to July, 2017.

### Planning Authority Ref. D07A/0820

Permission for the retention of temporary parking for a twelve month period for 110 vehicles was granted in 2007.

## 3.0 FIRST PARTY APPEAL

3.1 The grounds of the appeal may be synopsised as follows:

### Background

- \* The Council has formed an attachment with the former low density housing scheme permitted on the site and this has clouded its willingness to assess the current application with an open mind.
- \* The Board recently refused permission for the applicant's site in Lucan (Ref. PL 06.245215) due to inappropriate densities on the site. The proposed site should have a density double that previously permitted to promote sustainable densities.
- \* The applicant is prepared to facilitate access to school lands through the site, which is a significant planning gain for the locality.

### Reason No. 1 – Impact on Protected Structures

- \* The planning authority has overstated the case on height, scale, bulk and massing.
- \* The immediate area features multiple new apartment buildings ranging in height between 3-7 storeys. The height of the proposal is in keeping.

- \* The scale of development is in keeping with the general scale of development on adjoining sites.
- \* The two apartment buildings are redesigned for this appeal to address concerns in respect of bulk and mass – drawings attached with appeal submission. Revisions are made to the top storey and the length of the blocks have been reduced, with sections removed on the western elevation of Block A and the eastern elevation of Block B. This reduces the number of units in each block from 54 to 51.
- \* The proposal enriches the setting of the protected structures and the character of the former stable building. It provides for an appropriate landscape buffer with Gort Mhuire. It is a chance to bring the derelict 19<sup>th</sup> century garden and stable yard back to good condition for a socially useful purpose.

A report is attached from the applicant's conservation advisor further addressing concerns raised by the planning authority in respect of the effects of the proposed development on protected structures.

#### Reason No. 2 – Public Open Space

- \* The proposal does not materially contravene the residential zoning objective for the site.
- \* The proposal provides 16% open space and the applicant would be happy to increase the quantum to 24%. The depth and width of open space has been addressed through the redesign of the scheme to the Board. Alternatively, a financial contribution in lieu of open space would be acceptable.
- \* Concerns in respect of the quality of public open space have been addressed by the applicant's landscape consultants. A revised landscape strategy proposal addresses concerns raised.

#### Reason No. 3 – Overlooking, Overshadowing, Overbearing

- \* The proposal has been redesigned to take account of the refusal reason relating to the overlooking, overshadowing and overbearing

impact. Each apartment block is revised to keep 11m separation distance between building and boundary wall, the mass of the third floor is revised, and a new usable terrace space is created at 3<sup>rd</sup> floor level with the removal of 3 apartments. The position of the western core in Block B is revised to 4 additional visitor parking spaces. Proposed plant rooms are relocated in the basements.

- \* The scheme is redesigned to mitigate any unreasonable overshadowing. Sunlight will flood into the public open space area and will enjoy maximum evening sun. Living spaces have been designed to maximise the sunpath.
- \* The redesign has now achieved the minimum required 11m separation distance between site boundaries and adjoining ground floor apartments, with 22m separation between higher blocks. This will address internal overshadowing, potential overlooking between opposing units and externally, and overshadowing of adjoining properties. Solid walls are introduced within the southern elevation of Block A and the northern elevation of Block B to prevent direct overlooking. Revisions are made at ground, first and third floor levels.

#### Reason No. 4 – Drainage and water Supply

- \* The planning authority's concerns are overstated. The Drainage Department and Irish Water recommended that additional information be submitted.

A drainage report in respect of the appeal is attached to address the concerns raised.

## **4.0 PLANNING AUTHORITY'S RESPONSE TO THE APPEAL**

4.1 The planning authority's response to the appeal may be synthesised as follows:

- \* The planning authority has a responsibility to ensure that development affecting protected structures and other built heritage items is carried out in an appropriate manner.

- \* The planning authority has no issue in principle with the provision of a vehicular access to the proposed adjoining school. However, it cannot permit a highly inappropriate development to achieve this planning gain.
- \* Apartment blocks in the wider area are not located within a walled garden that is a protected structure. The applicant appears to take no notice of the responsibility to maintain the character and setting of these heritage items. The alterations proposed are very limited and would not have resulted in a more favourable decision.
- \* The fundamental concerns with regard to public open space remain.
- \* If further information had been sought a response similar to the appeal submission would have been made. Refusing the application was the appropriate method of dealing with the application.
- \* With regard to drainage and water supply concerns, not all issues raised were addressed. A response to the appeal from the Council's Municipal Services itemises matters required to be addressed prior to commencement of construction.

In conclusion, the planning authority considers the decision to refuse permission is the appropriate decision.

## **5.0 OBSERVATIONS**

### **5.1 Observation by St. Tiernan's Community School**

The Board of Management of the school submits that its interest in the appeal site arises from the need to provide a second entrance to its lands for a new primary school. Reference is made to a previous Board decision to refuse permission for a new school due to traffic hazard. It was considered the proposal now before the Board could facilitate the provision of a primary access to the future school and a secondary access to the existing school. It was considered that overlooking, overbearing and overshadowing were not significant concerns for the school.

## **5.2 Observation by An Taisce**

The observer submits:

- \* The potential access to a school site to the north is not an element of the proposal and can only be considered in a separate application;
- \* The submitted revisions in the appeal are small and do not significantly reduce the bulk and mass of the buildings.
- \* The existence of other large buildings in the area should have no influence at all. The walled garden is unlike any other sites in the area. The observer agrees with the planning authority's decision.
- \* There was no protected structure in the case the appellant refers to in Lucan.
- \* There is no engineering report addressing the impact of the underground car park on the protected structure.
- \* The concerns raised previously in relation to the farm building complex have not been addressed. Redesign of this part of the proposal is urged.

## **5.3 Observation by James and Averil Leonard**

The observers, with an address at 14 Belgrave Road, Rathmines, express conditional support for the proposal and submit they are concerned parents of children attending Ballinteer Educate Together National School. Reference is made to the proposed internal roadway of the scheme having the potential to provide access to St. Tiernan's school lands via an opening in the wall at the northwest corner of the site and it is submitted that this would solve a long-standing access problem to the adjoining school to address traffic concerns relating to development of a new national school. A drawing is submitted with the observation showing the suggested access arrangement and wayleave provision.

## **5.4 Observation by Wyckham Place Management Ltd**

The observer supports the planning authority's decision. The proposal is seen as overscaled and it is considered that the high density would be achieved at an unacceptable cost to future residents and the surrounding heritage context, with poor quality open space that would be severely

overshadowed and constrained by surrounding blocks. With reference to a proposed school access through the site, it is submitted that such a future access would need to be subject to a detailed Traffic Impact Assessment and it is noted that the most basic level of information is not provided to enable the Board to make an informed assessment of the traffic impact.

## **5.5 Observation by Ballinteer Educate Together National School**

The observer supports the development as a means of ensuring a school will be built by solving the access issue relating to the school's provision.

## **6.0 SUBMISSION FROM DÚN LAOGHAIRE-RATHDOWN COUNTY CHILDCARE COMMITTEE**

6.1 The Childcare submitted that, as the application does not include proposals in relation to provision of a childcare facility, it is considered the proposal does not comply with the recommendations and standards set out within the childcare guidelines which seek the provision of one childcare facility for each 75 residential dwellings.

## **7.0 ASSESSMENT**

### **7.1 Introduction**

7.1.1 I consider that the principal issues requiring consideration in this assessment are:

- The density, form, scale, character and layout of the proposed development;
- The impact on a Protected Structure;
- The impact on potential residents and on adjoining properties;
- Drainage and water supply;
- Access to school lands; and
- Precedent.

I will also address the issues of Appropriate Assessment and childcare provision.

## 7.2 Density, Form, Scale, Character and Layout of the Proposed Development

- 7.2.1 A first observation that must be made in relation to this issue is that the proposed site is not a 'greenfield' site in a suburban area. Rather, it is a former walled garden whose structures are protected structures. This is a first constraint that must be acknowledged when considering the issue of density, form, scale, character and layout of the proposed development. The applicability of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas*, the complementary *Urban Design Manual: A Best Practice Guide* and the guidelines set out in the current Dún Laoghaire-Rathdown County Development Plan are themselves to be marshalled by this constraint. Indeed, a further observation that can be made is that the walled garden is inextricably linked to Gort Mhuire immediately to the south. The density, form, scale, character and layout of any development of this site, given these observations, and the fact that the whole frame of the site is a protected structure would suggest that these matters require particular careful consideration, with a need to vigorously prevent an excessive density of development and overscaling of development that firstly extinguishes the open character of the lands that prevail and secondly erodes the value of the protected structure within which the proposed development would effectively be set. One clearly cannot ignore the very particular context in which this proposed development is intended to be placed.
- 7.2.2 I acknowledge the provisions of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas*, the *Urban Design Manual: A Best Practice Guide*, and the County Development Plan as they relate to density, layout and quality of development. A number of the relevant provisions are worth examining in this instance.
- 7.2.3 I note that minimum net densities of 50 units per hectare are promoted. It is evident that the proposal to provide 114 units on 1.078 hectares greatly exceeds that minimum. While acknowledging the availability of public services, the ability to accommodate ancillary services such as parking on the land, and the ability to make land area available to provide for amenities on the site, one cannot ignore that this is not a commonplace

brownfield site close to public transport corridors. This cannot be compared to neighbouring sites on which other apartment developments have been constructed. There must be an obligation to demonstrate respect for the setting in this instance and to demonstrate that, if high density development is to be pursued, it may only be done so by producing high quality development that understands its context and that provides quality accommodation for its occupants. In my opinion, this proposal fails in a comprehensive way to meet these requirements.

7.2.4 The above referenced Guidelines and Manual relate to the provision of quality development for residents of new build and it is Council policy to have regard to the policies and objectives in these documents. Having regard to my considerations above, I submit to the Board that this proposed development fails first and foremost by way of a complete misunderstanding of 'context'. The Manual, structured around 12 criteria to encapsulate the range of design considerations for residential development, identifies 'Context' first. The height, scale, massing and density of the proposed four-storey over basement apartment blocks are not sensitive to the site's historical context. Its association with Gort Mhuire would be entirely lost. The proposal is by no means a natural evolution of its surroundings as espoused by the Manual. It does not respect the historic landscape in which it is set. The form and pattern of relevant development to this particular site have not been utilised to influence the design of the apartment blocks and the design for the redevelopment of the stable buildings. I strenuously submit that the proposal would not positively contribute to the character and identity of the neighbourhood in which it is set. It is fundamentally contextually different at a site-specific level to that of all other such apartment-type developments in the local area. The overscaling and excessive extent of the development undermines the opportunity to avail of a highly valuable framing for this site, namely the boundary wall. The context is entirely lost. The development in context is perhaps the critical criterion when assessing this proposed development against fundamental principles for sustainable development on such a site. Here it fails. Two large blocks are squeezed into the constrained walled garden almost from one end of the garden to the other, with room provided for an access road and the breathing space between blocks providing the open space. The monotonous elongated blocks tower over the former lower stable block and all sense of understanding of an historic walled garden is lost. I



suggest that there is no inkling of innovation and respect in the form and character of this development in this highly sensitive setting.

7.2.5 The public realm and the provision of open space are further features of the proposed development where it fails. The Guidelines promote public open space that requires it to be appropriately designed and properly located. They state that this is one of the key elements in defining the quality of the residential environment and submit that well-designed open space is even more important in higher density residential developments (Section 4.15). The proposal is clearly higher density residential development. The Guidelines further state that the provision of adequate and well-designed private open space for apartments is crucial in meeting the amenity needs of residents and, in particular, usable outdoor space is regarded as a high priority for families (Section 7.9). The Manual recommends that areas of open space should be sited to take advantage of sunlight and that the core objective of public realm design is to create spaces that are attractive and pleasant to use. I suggest to the Board that this proposal fails to achieve this by the location and layout of its principal open spaces that comprise the leftovers after buildings are placed in the garden. The functionality of the principal open space must be called into question. The appellant has submitted that sunlight will flood into the open space. It is my submission that it is very evident that the orientation and scale of the blocks and the siting and layout of the open space will ensure that this is an overshadowed, underutilised piece of ground if this development was to proceed. It would not function as a practical communal space. I note that no shadow analysis has been provided to demonstrate how the proposed development would impact on such space. Suffice to indicate that the outcome is self-evident. This would not be a space flooded with sunlight and would gain such light in parts only at the end of daytime.

7.2.6 Finally on this issue, it must be stated that there is a duty of care and responsibility with development of this site as a former walled garden where the frame of the site and the stable block comprise elements of a protected structure. Because it is a site close to quality public transport and it is in the immediate vicinity of other new apartment developments, this does not allow for the shoe-horning of as much building footprint as is conceivably possible into such a constrained sensitive site. This proposal constitutes significant overdevelopment. It is contextually misplaced. It clearly runs contrary to the provisions of the current Dún Laoghaire-

Rathdown Development Plan that requires new residential development to enhance and protect protected structures and to minimise any adverse effect in terms of height, scale, massing and proximity. The minor tweaking forming part of the appeal submission does not address this serious issue.

### 7.3 Impact on a Protected Structure

- 7.3.1 While much has been alluded to above in relation to impact on the protected structures on this site, further considerations are now offered on the proposed development as it relates to the provisions of the Dún Laoghaire-Rathdown County Development Plan and the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities'.
- 7.3.2 The Council's Conservation Officer identifies a range of issues and consequential problems arising from the proposed development as designed. In concurring with the assessment undertaken, I submit that the scale, height, massing and layout of the proposed apartment blocks will result in the blocks dominating this site and I further am of the view that they would have a significant overbearing impact on the stable block. All sense of the heritage value of the site would be eroded. I acknowledge the concerns about the excavation impacts by the provision of underground parking and the potential to undermine the structural integrity of the established structural features on this site. It is notable that the appellant did not seek to constructively address this issue by undertaking, and providing the findings of, an engineering assessment. The sensitivity of the approach to the redevelopment of the stable block must also be called into question with regard to the proposed roof design, fenestration treatment, introduction of new opes, etc. There is clearly a need to avail of direct input by a conservation architect to guide any such refurbishment. The sensitivity of the response to the needs of the redevelopment is lacking in this instance.
- 7.3.3 In acknowledging these considerations, the proposal cannot be seen to sit comfortably with the provisions of the Dún Laoghaire-Rathdown County Development Plan as they relate to protected structures. The proposal is clearly at odds with Policy AR1 of the Plan. This proposal unquestionably negatively impacts on the special character and appearance of the

protected structures on this site. It is incompatible with the character and special interest of the protected structures. The alterations and interventions to protected structures would detract from their significance and value. Set within a walled garden, where the walls themselves form part of the protected structure, the proposed layout, scale and design of the development masks all sense of their heritage value. The development adversely affects their setting and amenity. Thus, this proposal conflicts with the Plan provisions.

- 7.3.4 The Plan also espouses regard to be had to the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities'. These Guidelines promote protecting the special interest of protected structures and minimising intervention, as well as utilising specialist input on matters of structural stability in relation to impacts on walls or other structural elements. They also refer to the importance of understanding the contribution of structures and other features within the curtilage or attendant grounds to the character of a protected structure and to the need to avoid inappropriate development that would be detrimental to the character of a protected structure. With due regard to the assessment above, it can be determined that the proposed development conflicts with this guidance.

#### 7.4 Impact on Potential Residents and on Adjoining Properties

- 7.4.1 I acknowledge that the appellant has sought to address impacts on potential residents of the scheme and on adjoining properties by proposing alterations. These alterations are at best fragmented and piecemeal, seeking to meet minimum separation distances between units and between building blocks and boundaries. The dilemma with such an approach is that the critical issue of quality development is evaded. These changes do not alter the inappropriate overdevelopment of this site within its explicit sensitive context. While one can tinker at the design to seek to meet minimum development plan separation distance requirements, this does not address a response to context. Notwithstanding the meeting of such plan requirements, it remains that the appellant has failed to demonstrate how the scheme would function for occupants in terms of the overshadowing effects by the layout, scale and height of the blocks and their relationship to one another. This remains a concern. In addition, the overbearing impact arising from the scale and proximity of Block B to the

stable building also remains a concern and this reinforces the constraints of the site as the applicant seeks to impose such overscaled development in an inherently unsuitable manner.

## 7.5 Drainage and Water Supply

7.5.1 I note the substantive deficiencies in relation to water supply and drainage in the application that was submitted to the planning authority. I particularly note the submissions of Irish Water and the Municipal Services Drainage Engineer during the assessment of the application by the planning authority. It is clear from these reports that there was not a recommendation to refuse permission arising from the deficiencies highlighted but rather there were requests seeking the applicant to provide further information of a technical nature. In my opinion, if the applicant had been afforded the opportunity to respond to the issues raised, it is possible that adequate drainage and water supply provisions would have likely, or would have potentially, been made. I draw this conclusion based upon the acceptability of the development of the site as so determined previously by the planning authority in dealing with other applications and in the knowledge of the serviceability of significant development in the immediate vicinity of this site.

## 7.6 Access to School Lands

7.6.1 The Board will note a number of submissions relating to the potential of the proposed development to provide access to adjoining lands at St. Tiernan's School to facilitate the development of a new Educate Together national school. The applicant has indicated its support for such a proposal.

7.6.2 It must first be observed that such a tentative proposal does not form part of the planning application and has only been tagged on as a consideration as the proposal has proceeded. One cannot reasonably consider such a desire at this stage of the process when there is a significant dearth of necessary information to begin assessment of the impact arising for the local community, in addition to the lack of opportunity for necessary public and prescribed body inputs before any proposal could be contemplated. This suggested access arrangement to adjoining lands

does not form part of the residential proposal. The lack of any traffic impact assessment, assessment of the damage to a protected structure and an understanding of the legal provisions to provide access across private lands are some of the basic needs in the context of a separate application that would be required. Notwithstanding the applicant's desire to facilitate the proposed access, it is clear from the drawings provided in the application and the appeal that this scheme is intended to be a private development that would be gated and is one which is clearly not intended to provide a road to serve the needs of adjoining landholders. The Board could not facilitate such an access under this application. Finally, I must counter the appellant's submission by concluding that there is no significant planning gain for the locality by permitting a residential development such as this that is unsustainable, poor quality residential accommodation on a particularly sensitive site, with significant adverse impacts for a protected structure.

## 7.7 Precedent

7.7.1 I note that the applicant makes reference in the appeal to the Board recently refusing permission for the applicant's site in Lucan due to inappropriate densities on the site, arguing that the proposed site should have a density double that previously permitted to promote sustainable densities. This application is irrelevant to the appeal. The Board will note that the development the subject of Planning Appeal Ref. PL 06S.245251 was for the demolition of a gate lodge and the construction of 74 residential units. It did not incorporate a protected structure and was not associated with development within the curtilage of a protected structure.

## 7.8 Appropriate Assessment

7.8.1 The applicant submitted a screening statement for Appropriate Assessment. The first observation to make is in reference to the 'Introduction'. Therein it is stated in the opening line:

"The information in this report forms part of, and should be read in conjunction with the documentation accompanying the application for planning permission for a proposed residential development at lands at St. Marys, Baldoyle, Dublin 13."

The report identifies the competent authority as Fingal County Council. Evidently, this does not relate to the proposed site currently before the Board. The report then goes on to accurately refer to the development at hand and identifies Dublin Bay South SAC (Site Code 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) as being the nearest Natura 2000 sites, each being approximately 4.6km from the site. The report concludes that there would be no likelihood of significant effects on any European sites.

7.8.2 In considering the impact on Natura 2000 sites, I first acknowledge that there is no known flora or fauna species of particular conservation value on 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 accept 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 cumulative impacts.

7.8.3 Overall, 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 Dublin Bay South SAC or South Dublin Bay and River Tolka Estuary SPA. A Stage 2 Appropriate Assessment is, therefore, not required.

## 7.9 Childcare Facilities

I acknowledge the lack of any provision for childcare facilities in the proposed development. In light of the principle planning concerns arising from the above assessment, I do not consider that it is necessary to seek details from the applicant in relation to proposed provisions.

## 8.0 RECOMMENDATION

It is recommended that permission is refused in accordance with the following:

### Reasons and Considerations

1. It is a policy of the planning authority as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 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. In promoting more compact, good quality, higher density forms of residential development, it is the policy to have regard to the policies and objectives contained in 'Sustainable Residential Development in Urban Areas' and the 'Urban Design Manual - A Best Practice Guide'. Furthermore, it is a requirement of the Plan that new residential development minimises any adverse effect on protected structures in terms of height, scale, massing and proximity in order to enhance and protect these structures and their settings. It is considered that the proposed development, by reason of the design, height orientation, scale, and massing on a constrained site, would cause unacceptable overbearing impacts on the existing elements of a protected structure on this site, would constitute significant overdevelopment of a site of particular heritage sensitivity, and would result in a poor quality layout which would be substandard in amenity, and in particular in terms of the provision of public amenity space for the new residential units. The proposed development would, therefore, conflict with the provisions of the development plan, would adversely impact on residential amenity, would provide a poor quality of residential amenity for future residents, and would, thereby, be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development comprises a former walled garden with associated farm buildings, of which the garden walls and farm building complex form part of a protected structure listed in the Record of Protected Structures in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 (RPS No. 1453). It is a policy of the planning authority to protect structures included on the RPS from any works that would negatively impact their special character and

appearance and to ensure that new and adapted uses are compatible with the character and special interest of the protected structure. Furthermore, it is a requirement of the Plan that alterations and interventions to protected structures do not detract from their significance or value and that original features of architectural and historic interest are retained. Having regard to the proximity of the proposed apartment blocks to the garden walls, to their adverse overbearing and visual impacts in terms of the scale, height, massing and alignment of the development relative to the designated features of the protected structure on this site, as well as the overbearing impact on the farm building complex, the potential adverse impacts on the integrity of this structure arising from proposed excavation works, and the incongruous proposals as they relate to the design and redevelopment of this structure, it is considered that the proposed development would significantly impact on the special character and appearance of the elements of the protected structure on this site, would be incompatible with the special interest of the protected structure, would detract from their significance and value and would adversely affect their setting and amenity. The proposed development would, thereby, conflict with the policy of the planning authority and would, thus, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore

Senior Planning Inspector

May, 2016.