



An  
Bord  
Pleanála

## Inspector's Report PL.06D.248863

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<b>Development</b>	Subdivision of rear garden and construction of two houses with individual access off Drummartin Terrace.
<b>Location</b>	76 Cnoc na Si (Knocknashee) , Drummartin Terrace, Goatstown, Dublin 14.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D17A/0079.
<b>Applicants</b>	John Murphy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellants</b>	1. Andrew & Helen Jennings. 2. The Residents of Drummartin Terrace.
<b>Observer</b>	Terence Corish.

**Date of Site Inspection**

27<sup>th</sup> September 2017.

**Inspector**

Dáire McDevitt.

## 1.0 Site Location and Description

- 1.1 No. 76 Cnoc Na Si, also known as Knocknashee, is located within a large housing estate on the southern side of Lower Kilmacud Road (R133), to the southwest of Mountanville in the south Dublin suburb of Goatstown. There is a mixture of house types, designs, scales and densities in the area. Ranging from the low density Cnoc Na Si Housing Estate, a development of detached two storey houses on generous plots with onsite parking and a road layout which is wide enough to accommodate ample on street parking, to, in contrast, Drummartin Terrace, dating from the 1910s and 1930s, located to the rear (west) of Cnoc Na Si which is a relatively narrow cul de sac consisting of attractive stone fronted terraced cottages along its western side, with more recently constructed detached houses along its eastern side including 'The Bungalow' and 'Drummartin House', the house of one of the appellants. At the end of the cul de sac the cottages have a pebble dashed finish and are grouped into smaller terraces. a number of the cottages have dormer windows to the front roof slope.
- 1.2 The site, with a stated area of c. 561.7 sq.m, is part of the rear garden of the applicant's two storey house, No. 76 Cnoc Na Si, and at present is mainly laid out as a tennis court. There is an electricity substation within the site, which is accessed from Drummartin Terrace. The frontage to the Terrace is bounded by an extensive wall with timber fencing to increase its height. 'Drummartin House', adjoining the appeal site to the north, is a detached contemporary style dormer over basement house with a pitched roof and gable window to the front and relatively large windows facing onto the appeal site. Bounding the site to the south at a higher level are No. 80 and 81 Cnoc Na Si, two storey houses with rear windows facing the site. There is no boundary between the site and No. 76. The northern boundary with Drummartin House is a c. 1.6 metre high wall with netting on top. The southern boundary is a wall with mature trees within the curtilage of No. 80 & 81 Cnoc Na Si.
- 1.3 There is an existing vehicular access to the site off Drummartin Terrace, a narrow cul de sac with a footpath along the western side in front of the stone

cottages. There are no road marking, except along the western side close to the junction with Lower Kilmacud Road (R133) where there are double yellow lines. There are no designated parking bays. However, parking was observed along both sides of the road at the time of inspection.

1.4 Maps, aerial images and photographs in file pouch,

## **2.0 Proposed Development**

2.1 Permission is sought for the subdivision of the part of the rear garden of No. 76 Cnoc Na Si and the construction of two houses with individual access off Drummartin Terrace by way of one new vehicular entrance and the relocation of existing vehicular entrance

The overall site has a stated area of c. 561.7 sq.m taken from a larger holding associated with No. 76 Cnoc Na Si.

- House A – c. 153.7sq.m dormer house with c. 92.5 sq.m open space on a plot with an area of c. 280sq.m
- House B – c. 153.7 sq.m dormer house with c. 92.5 sq.m open space on a plot with an area of c. 281.6 sq.m

The houses have a simple slated roof and gable detailing, A wet dash light coloured render finish is proposed. Sash windows will reflect the adjoining cottages.

The boundary along Drummartin Terrace will consist of traditional metal railing and planting similar to existing boundary treatment in the immediate area. A 2 metre high boundary wall is proposed to separate the site from No. 76 Cnoc Na Si to the rear.

On site parking is proposed for each house.

The application submissions include a Services report and associated statutory declaration in relation to Part V.

## 2.2 Revisions under Further Information.

- House design revised under further information, reducing the dormer width by c. 400mm and height by c. 200mm and use of casement windows in place of sash.

The revisions submitted were not considered to be significant, therefore, no revised public notices were required.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission subject to 15 standards conditions, these included:

#### **Condition No.2**

*The northern eastern boundary wall shall be increased to 1.8 metres in height.*

**Reason:** *In the interest of Residential Amenity.*

#### **Condition No. 6**

*The glazing to the ground floor WCs and first floor bathrooms and en-suites shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.*

**Reason:** *In the interests of residential amenity.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planners reports formed the basis for the Planning Authority decision and noted the following:

- The site is not located within a designated Architectural Conservation Area, therefore the relevant policies do not apply.

- The main issues raised under further information related to revised proposals for the front elevation which reflected the proportions and finishes of the existing cottages of Drummartin Terrace, clarification of the height of the north eastern boundary and drainage recommendation as set out in the Drainage Section Report.
- Further Information was submitted which addressed the outstanding concerns to the satisfaction of the Planning Authority and a recommendation to grant permission issued.

### 3.2.2. Other Technical Reports

**Transportation Planning.** No objection subject to conditions.

**Drainage Section.** Initial concerns raised were addressed to the satisfaction of the Drainage Section in the further information submission and no further objection noted.

### 3.3. Prescribed Bodies

**Irish Water.** No objection.

### 3.4. Third Party Observations

Submissions were received from:

- Andrew & Helen Jennings, One of the Third Party Appellants to this appeal.
- Residents of Drummartin Terrace (No. 12, 16, 24, 28, 34, 36, 42, 52), includes some of the signatories of the second Third Party Appellants to this appeal.
- Terence Corish, an Observer on this appeal.

The submissions generally reflect the main grounds of appeal and the issues raised in the Observation. These shall be dealt with in more detail in the relevant sections of this report. Their main points can be summarised as follows:

- Incorrect development description.
- Parking and traffic congestion.
- Overlooking.
- Proposal too close to Drummartin House.
- The site is located within a candidate Architectural Conservation Area.
- Reference made to Policy AR8, AR17, AR12 and Section 8.2.11.3.
- Inappropriate design and materials.

## 4.0 Planning History

**Planning Authority Reference P/0218/17** refers to a 2017 Part V Exemption Certificate.

**Planning Authority Reference D16A/0060. An Bord Pleanála Reference PL.06D.246397** refers to a 2016 refusal of permission for the subdivision of the overall lands at 76 Cnoc Na Si and the construction of 3 no. two storey terraced houses with 2 no. vehicular entrances and relocation of an existing vehicular entrance. The Board decided that the development be refused for the following reason:

*Drummartin Terrace is identified in the Goatstown Local Area Plan (2012) as an attractive collection of single-storey vernacular cottages, and it is an objective of that Plan to investigate the further designation of Drummartin Terrace as an Architectural Conservation Area. Having regard to the height and scale of the proposed two-storey development, and to the form and proportions of the low-key, principally one-storey houses on Drummartin Terrace, it is considered that the proposed development fails to respond sympathetically to the historic character of Drummartin Terrace, would be out-of-keeping with the character of development in the area, would constitute the overdevelopment of a restricted site, would seriously injure the visual amenities of the area and of property*

*in the vicinity, and would, therefore, be contrary to the proper planning and sustainable development of the area.*

*In deciding not to accept the Inspector's recommendation to grant permission, the Board concurred that the changes proposed by one of the appellants in relation to proposed materials would be appropriate; however, it was considered that, notwithstanding the high quality of the design, the scale, height, form and proportions of the houses would be inappropriate in the streetscape setting of Drummartin Terrace, which is cited in the Local Area Plan as an example of buildings that are highly valued by the community for the local historic interest and contribution to the area's sense of place.*

File attached.

**Planning Authority Reference No. D14A/0327. An Bord Pleanála**

**Reference No. PL06D.243723** refers to a 2014 grant of permission for the retention of an existing wooden panel security screen fence, support structure and associated site works, located at 76 Cnoc Na Si rear garden and abutting Drummartin Terrace.

**Planning Authority Reference No. 87A/180** this refers to a 1987 grant of permission referred to in the cover letter for a single storey dwelling house that was not constructed.

## **5.0 Policy Context**

### **5.1. Goatstown Local Area Plan 2012 (extended in 2010 to 2022)**

**Objective AH4** set out the requirement to investigate the designation of Drummartin Terrace as an Architectural Conservation Area.

**Objective UD7** refers to the promotion of the efficient use of land by facilitating higher densities within the Plan area in accordance with County Development Plan policy.



The Appraisal Map, identifies the houses along the western side of Drummartin Terrace as 'Attractive/Historic Buildings'

## **5.2. Dun Laoghaire Rathdown County Development Plan 2016-2022**

**Section 1.3.4.6** refers to the Goatstown Local Area Plan, which was adopted in April 2012. The Plans sets out a vision for the area which is to create a distinctive and vibrant urban village, underpinned by the principles of good urban design. The area would benefit from the proposed Blueline Bus Rapid Transite Corridor, which would run from St. Vincent's Hospital to Sandyford via Goatstown. There is also an objective in the Local Area Plan to investigate the designation of Drummartin Terrace as an Architectural Conservation Area.

Drummartin Terrace is not designated as an Architectural Conservation Area and there are no specific heritage objectives related to this site or to the immediate area in the current County Development Plan

Land Use Zoning Objective '**A**' To protect or improve residential amenity.

**RES3** states that it is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. And as a general rule the minimum default density for new developments in the county (excluding lands on zoning objective 'GB', 'G' and 'B') shall be 35 units per hectare.

**RES4** states that 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.

### **General Development Management Standards:**

**Section 8.2.3.4 (v)** refers to Corner/Side Garden Sites. Such proposals shall be considered in relation to a range of criteria including having regard to the

size, design, layout and relationship with existing dwelling and immediately adjacent dwellings.

**Section 8.2.3.4 (vii)** refers to infill sites. Such proposals shall be considered in relation to a range of criteria including respecting the massing and height of existing residential units.

**Section 8.2.3.1** refers to the objective of the Council to achieve high standards of design and layout and to foster and create high quality, secure and attractive places for living.

**Section 8.2.3.5** refers to the general requirements for residential development including habitable room sizes.

**Section 8.2.8.4 (i)** sets out the private open space requirements for private houses. A figure of 75sq.m of may be acceptable for a 4 bed house in cases where good quality open space is provided. Narrow strips of space along the side of dwellings shall not be included in the calculation. There is provision for a relaxation of the standard where an innovative design response is provided on site.

**Section 8.2.8.4 (ii)** refers to separation distances and the standard garden depth of 11 metres and in certain circumstance 7 m depths may be acceptable for single storey dwellings.

**Section 8.2.4.5** refers to the car parking standards and table 8.2.3 set out the requirement for residential lands use of 2 spaces per 3 bed unit +.

**Section 8.2.4.9 (i)** refers to the minimum width of 3m and maximum of 3.5m required for vehicular entrances.

## **5.2 Natural Heritage Designations**

None of relevance.

## **6.0 The Appeal**

### **6.1. Appeals**

Two Third Party Appeals have been lodged by:

1. Andrew & Helen Jennings, Drummartin House, Drummartin Terrace, Goatstown, Dublin 14.
2. The Residents of Drummartin Terrace c/o 42 Drummartin Terrace, Goatstown, Dublin 14.

Each appeal shall be summarised separately in section 6.2.1 and Section 6.2.2 below.

## **6.2 Grounds of Appeal**

### **6.2.1 Andrew & Helen Jennings, Drummartin House, Drummartin Terrace, Goatstown, Dublin 14.**

This can be summarised as follows:

- Public Notices are incorrect as they refer to an existing vehicular entrance off Drummartin Terrace, when this should refer to a pedestrian access associated with a former substation here.
- Proposed development would result in increased traffic and congestion along Drummartin Terrace. The opening of new access points along Drummartin Terrace would also result in the loss of parking spaces along the site frontage.
- The Council has no right to attach condition no. 2 as this would require works to be carried out to a shared boundary without the consent of all the relevant parties.
- The proposed development is located c. 800mm from Drummartin House which is too close.
- The appellants noted that condition no. 6 which requires opaque windows to be provided for the ground floor and first floor windows facing Drummartin House is not sufficient to protect their residential amenities and that these should be conditioned to be of fixed glazing to prevent overlooking from an open window.

## **6.2.2 The Residents of Drummartin Terrace c/o 42 Drummartin Terrace, Goatstown, Dublin 14.**

This can be summarised as follows:

- Public Notices are inaccurate in their description of the existing entrance.
- Drummartin Terrace was built in the 1910s and 1930s when vehicular access and parking was not in such demand.
- The road is too narrow to accommodate more traffic. This has implications for access for emergency vehicles due to parked cars along the road. The loss of more spaces along the front of the site would result in more congestion and blocking of parked cars.
- At present there is an informal parking code in place amongst the residents and even with this in place there is no parking for visitors or additional cars. The appellants note that most houses along the terrace have only one car per household.
- Of the 28 houses along Drummartin Terrace, three have capacity within their curtilage for 2 cars to park, six have capacity for 1. With the remainder having to avail of on street parking. The site frontage along the appeal site at present provides for 4 spaces, and at times 5. The proposal would result in the loss of at least 3 of these spaces while also generating more traffic along the terrace.
- The proposal would be contrary to Policy RES3 of the Development Plan and Section 11(Parking) of the Urban Design Manual 2009.

## **6.3 Applicant Response**

This can be summarised as follows:

- The applicant is of the view that the appeal should be set aside under Section 37 (1)(a) of the Planning and Development Act 2000, as amended as the appellants under The Residents of Drummartin Terrace (Houses No.20, 26, 28, 32, 34, 36, 40, 42, 44, 46 and 52) are a different partnership

to those who lodged the initial submission with the Planning Authority (Houses no. 12, 16, 24, 26, 28, 34, 36, 42 and 52).

- Drummartin Terrace is not designated as an Architectural Conservation Area in the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- The current proposal addresses the previous reason for refusal by the Board under PL.06D.246397 on the grounds that the 'proposal would be out of keeping with the character of development in the area, would constitute over development of a restricted site'. The development was reduced from three houses to two and the number of vehicular entrances off Drummartin Terrace reduced from three to two. The houses have also been redesigned to take into account the Boards concerns and 2016 reason for refusal.
- In reference to the inaccurate notices, the applicant notes that both the Council and An Bord Pleanala (PL.06D.246397) have accepted the entrance as an existing entrance.
- The proposal would improve vehicle movements along Drummartin Terrace as it would remove parking from this section of the road, which would improve space for turning at the southern end of the Terrace. The issue of traffic management and parking along the road is not the responsibility of the applicant.
- Two entrances are proposed with each house having off street parking for 2 cars as per the Development Plan requirements.
- The appellant's objection refers to the removal of parking spaces along the site frontage. This area is used on an ad hoc basis for parking and is not designated parking area.
- The applicant agrees with the first third party appellant in relation to condition No. 2 relating to works to the boundary wall and request that if the Board is of a mind to grant permission that this condition should be omitted.
- The separation distance of c. 800mm former boundary is considered acceptable.
- In regards to condition No.6 the appellants request is considered unreasonable and the condition should remain as it is.

## **6.4 Planning Authority Response**

The Board is referred to the Planners Report and that it is considered that the appeal does not raise any new matters which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

## **6.5 Observations**

One Observation was received from Terence Corish, 44 Drummartin Terrace, Goatstown, Dublin 14.

- Reference to the Boards refusal under PL.06D.246397 and that the Board made mention of the propriety of any proposed development to the architectural setting of Drummartin Terrace.
- The roofscape of Drummartin Terrace in its form and material is essential to its architectural character. Given that the building proposal is largely based on recreating the roof form of the established older houses on the terrace, the inclusion of dormer windows disrupts the form and rhythm of the roofscape. There are, already dormers to the front of one of the 1930s cottages which was the subject of a retention of permission application.
- If a grant of permission is forthcoming, the Observer has requested that the following be conditioned:
  - The omission of the dormer windows to the front elevation.
  - In the event that the windows are permitted their faces and sides should be finished in zinc or lead with patina oil rather than finished in cementitious render or unspecified panelling material.
  - The use of aluminium or steel rainwater goods instead of uPVC ones.

## **7.0 Assessment**

- 7.0.1 Permission was refused in 2016 under Planning Authority Reference D16A/0060 (An Bord Pleanála Reference PL.06D.246397) for three houses on the appeal site. The reason for refusal was on the basis that Drummartin Terrace is identified in the Goatstown Local Area Plan (2012) as an attractive collection of single-storey vernacular cottages, and it is an objective of that Plan to investigate the further designation of Drummartin Terrace as an Architectural Conservation Area. The Board was of the view that having regard to the height and scale of the proposed two-storey development, and to the form and proportions of the low-key, principally single storey houses on Drummartin Terrace, it was considered that the proposal failed to respond sympathetically to the historic character of Drummartin Terrace, would be out-of-keeping with the character of development in the area, would constitute the overdevelopment of a restricted site, would seriously injure the visual amenities of the area and of property in the vicinity.
- 7.0.2 The main difference between the current application and that refused by An Bord Pleanála under PL.06D.246397 is that the proposal has been reduced from three to two houses with two vehicular entrances, one of which refers to the relocation of an existing entrance, rather than three individual entrances originally proposed off Drummartin Terrace. The houses have also been redesigned to take into account the concerns raised by the Board in 2016.
- 7.0.3 The applicant has requested that the appeal be deemed invalid under Section 37(1)(a) of the Planning and Development Act 2000, as amended as the collective group of residents listed under 'Residents of Drummartin Terrace' differ from those who submitted the original submission to the Planning Authority. I am satisfied that the group of appellants includes parties to the original submission and, therefore, do not consider the appeal to be invalid.
- 7.0.4 The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Traffic.
- Design & Architectural Heritage.
- Residential Amenity.
- Other Issues
- Appropriate Assessment.

## **7.1 Access & Traffic**

- 7.1.1 The issues of traffic and the implications for parking along Drummartin Terrace was raised by both appellant parties in the grounds of appeal. Section 8.2.4.9 (i) in the County Development Plan set out the required dimensions for vehicular entrances and Section 8.2.4.5 refers to the car parking standards.
- 7.1.2 The proposal includes the provision of two vehicular entrances off Drummartin Terrace, one of which is the relocation of an existing entrance. Both of the appellant parties dispute the status of the existing entrance to the site off Drummartin Terrace which they consider should be referred to as a pedestrian/service access. This matter was before the Board under PL.06D.246397 at which time the Board accepted that, based on the evidence presented, the entrance was an established vehicular entrance. I am satisfied that there is no new information on file to dispute this conclusion
- 7.1.3 Traffic and parking was also raised in the grounds of appeal to PL.06D.246397. The Board did not include traffic as reason for refusal in its decision.
- 7.1.4 The appellants have referred to the loss of parking spaces along the site frontage and that this would exacerbate the existing substandard parking along this narrow road. The area in front of the site is not a designated parking area, there are no parking bays marked out and there are no road markings along this section of Drummartin Terrace. As such under existing and proposed conditions the use of the street for parking may be haphazard from time to time. In my view, the use of the area along the front of the site



boundary for parking would cease as a result of the development which would result in improved vehicle movements along the terrace.

7.1.5 The proposed development complies with the Development Plan standards as set out in table 8.2.3 by providing for two car parking spaces on site for each dwelling. This arrangement is in line with the two detached properties immediately to the north of the site, including 'Drummartin House'. I note that the proposed development would result in the removal of a number of unofficial parking spaces from Drummartin Terrace in an area where parking is at a premium but I do not consider that a refusal of permission is warranted on these grounds.

7.1.6 I, therefore, consider that the grounds of appeal in relation to this matter should not be upheld.

## **7.2 Design & Architectural Heritage.**

7.2.1 The observer has raised concerns that the proposed dormer windows to the front elevation and the materials proposed are inappropriate and would detract from the architectural character of the area. I note that there is no report on file from the Conservation Officer.

7.2.2 Section 1.3.4.6 in the County Development Plan refers to the Goatstown Local Area Plan which has an objective to investigate the designation of Drummartin Terrace as an Architectural Conservation Area. It is, however, not designated as an Architectural Conservation Area in the current County Development Plan. Therefore, the relevant policies for development within ACAs do not apply.

7.2.3 Section 8.2.3.4 (v) in the County Development Plan refers to the development of Corner/Side Garden Sites to be of some relevance in this instance having regard to the orientation of the site and its relationship with No. 76 Cnoc Na Si. This sets that such proposals shall be considered in relation to a range of criteria including having regard to the size, design, layout and relationship with

existing dwelling and immediately adjacent dwellings. Section 8.2.3.4 (vii) refers to infill sites which is also of relevance in this instance.

7.2.4 The applicant has sought to overcome the Boards reason for refusal under PL.06D.246397 by addressing the sensitivities and constraints of the site through the use of a design solution that takes inspiration from the cottages along Drummartin Terrace. There is a clear distinction between the terrace of single storey stone cottages which form the western side of Drummartin Terrace and the newer detached houses, 'Drummartin House' and 'The Bungalow', which do not reflect the architectural form of the original terrace. When viewed from the junction of Drummartin Terrace and the access road to Cnoc Na Si with the Lower Kilmacud Road the proposed development would only be partially visible and would integrate with the existing pattern of development along the eastern side of the road. It is my view that the visual impact of the new houses on site would enhance rather than detract from the character of the area by the replacement of a large concrete boundary wall with the proposed revised boundary treatment. I am satisfied that the proposed houses would not have a detrimental impact on the character of the streetscape along Drummartin Terrace and that the current proposal has addressed the Boards reason for refusal under PL.06D.246397.

7.2.5 I consider that the proposed dwellings would be of an appropriate design idiom and scale, and would enhance rather than detract from the amenities of the area. In my view, the proposal would be a sustainable use of a vacant suburban site and would enhance rather than detract from the amenities of the area. I am satisfied that the overall scale, massing, form, height and design of the dwellings is satisfactory in terms of protecting the character of Drummartin Terrace.

### **7.3 Residential Amenities**

7.3.1 The appellants have also raised concerns that the proposal would detract from the residential amenities of adjoining properties by reason of overlooking and

loss of privacy in particular in relation to Drummartin House to the north of the appeal site. Section 8.2.3.4 (v) of the Development Plan sets out the criteria for corner/side garden sites, including layout and relationship with existing houses. Section 8.2.8.4 (ii) refers to the usual requirements for a minimum separation distances of 22 metres between opposing first floor windows.

7.3.2 The proposed eastern elevation (rear) faces the rear of No. 76 Cnoc Na Si. I am satisfied that overlooking does not arise as adequate separation distances are provided between the first floor opposing windows. The owner of Drummartin House in the grounds of appeal has raised concerns regarding condition No. 2 attached to the grant of permission which requires that the ground and first floor windows serving bathrooms and en-suite should be of opaque/frosted glass. The appellants have requested that this should also be conditioned to be of fixed glazing to prevent overlooking from an open window. I am satisfied that the use of opaque/obscure glazing and the nature of the windows proposed are acceptable. The proposed windows would not result in overlooking of Drummartin House, therefore, would not detract from the residential amenities of this property. I am also satisfied that direct overlooking of the private amenity space of Drummartin House or No. 80 & 81 Cnoc Na Si is not a significant issue due to the nature of the windows proposed, the layout of the properties and their relationship to each other

7.3.3 The appellants' have also raised concerns regard the proximity of the proposed houses to Drummartin House. The layout provides for an 800mm separation between proposed houses and the side boundary of Drummartin House. There are large windows on the south facing side façade of Drummartin House which are set back c. 6-7 metres from the site boundary. I am satisfied that the scale of the development and its set back from the boundary with Drummartin House would not result in an overbearing structure which would detract from the residential amenities of the appellants' property.

- 7.3.4 The Proposal complies with the standards for private open space as set out in Section 8.2.8.4 of the Development Plan.
- 7.3.5 I am satisfied that the overall design of the proposed houses has had adequate regard to the existing pattern of development in the area and the residential amenities of existing dwellings, and, as such, the development would not result in an overbearing impact, overlooking, overshadowing or an unacceptable loss of privacy. The proposed development would not detract from the residential amenities of nearby properties.
- 7.3.6 I, therefore, consider that the development is acceptable in terms of the protection of the residential amenities of the houses in the vicinity and that the appeal on these grounds should not be upheld.

#### **7.4 Other Issues**

- 7.4.1 One of the appellant parties has raised concerns that condition No. 2 attached to the grant of permission which would require works to be carried out to a shared boundary which does not have the consent of all the relevant parties. The encroachment on third party lands is a civil matter, I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.
- 7.4.2 The applicant in the response to the appeal has also requested that this condition be omitted as the wording is unclear in relation to where the 1.8 metres should be measure from and concurs with the appellant that they have no right to carry out works to this wall. Having inspected the site and examined the proposal I am satisfied that condition No. 6 as outlined by the Planning Authority is not required and the boundary treatment proposed in the application is acceptable.

## **7.5 Appropriate Assessment**

7.5.1 Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

## **8.0 Recommendation**

I recommend that permission should be granted subject to conditions for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

Having regard to the nature, scale and design of the proposed development and the provision of the Dun Laoghaire Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area, would not detract from the character or setting of Drummartin Terrace, would adequately protect the residential amenity of adjacent properties and would not result in a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1.

The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted to the planning authority on the 24<sup>th</sup> day of May 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development

and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The windows on the northern elevation of House A and the southern elevation of House B shall be glazed with obscure glass.

**Reason:** To prevent overlooking of adjoining residential property.

3. Details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Dáire McDevitt  
Planning Inspector

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13th October 2017