



An
Bord
Pleanála

Inspector's Report PL 06D.249205

Development	50 apartments
Location	Castle Park School, Castle Park Road, Dalkey, County Dublin
Planning Authority	Dún Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D17A/0551
Applicant(s)	Curve Devco Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Curve Devco Limited
Observer(s)	Richeal Crowley Etsuko Kanamori & Espen Bremserud Castlelands Grove Management Clg Tony & Joan McLoughlin Winifred McDonald A. O'Boyle

Caitriona O'Brien & Others
Dalkey Community Council
D. & S. McVeigh
E.A. Morgan
James & Margot Keogh & Others
David & Naomi Shipley
Adrian Brooks
Richard Mossop
Ciara Lyons
Castlelands Residents Association
Richard & Brid Mossop & Others
Ann Maria & Denis Lucey
An Taisce

Date of Site Inspection

30th November, 2017

Inspector

Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development consists of part of the grounds of Castle Park School in Dalkey, County Dublin. This part of the school property is primarily covered by trees and woodland. A school overflow car park is located at the north-eastern corner of the site and this is accessed from the avenue to the school. There is a fall across the site running in a north-west to south-east direction towards Hyde Road. The site also falls steeply to the south-west corner. A central rock outcrop forms the highest point within the site.
- 1.2. Castle Park School buildings, playing fields and car parks are sited to the east and south-east. Detached housing in Castle Close is located to the north-east and an apartment development (Castle Park Residence) is located to the north-west. The rear gardens of detached residential properties on Hyde Road adjoining the site's western boundary and terraced and detached housing in Castlelands and Castlelands Grove are located to the south-west.

2.0 Proposed Development

- 2.1. The proposed development comprises 50 no. apartments consisting of five one-bedroom, 30 two-bedroom and 15 three-bedroom units. They would be provided in eight blocks connected by seven glazed atria. The blocks would be provided to a height of 3-4 storeys over a basement level. The development would include the provision of 80 car parking spaces at basement level, four drop-off car spaces at surface level and 60 cycle spaces at basement and surface level. Each of the apartments would have a balcony/terrace space. The development would be served by public open space, a children's play area and garden pavilion. Vehicular access would be provided via the existing avenue serving Castle Park School. A pedestrian/cycle access is also proposed connecting to the adjoining estate of Castle Close. The existing gate to the school from Castlelands would be used for emergency/fire tender access purposes, for pedestrian access and for temporary construction access.
- 2.2. Details submitted with the application included a Solicitor's letter in respect of rights of way, a planning application report, an architectural design statement, a drainage design report, a landscape design report, a flood risk assessment, a lighting scheme

report, a sustainability and energy report, a daylight report, an arboricultural assessment, a construction management plan, an appropriate assessment screening report, an ecological impact assessment, and a conservation report.

3.0 Planning Authority Decision

3.1. Decision

On 10th August, 2017, Dún Laoghaire-Rathdown County Council decided to refuse permission for the development for three reasons relating to the impact on the adjoining protected structure of Castle Park, injury to visual and residential amenities, and lack of demonstration that the development would not undermine the educational use of the school lands at this location.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history, the public submissions made, and repeated each of the interdepartmental reports received. Residential development on the site was considered acceptable in principle. It was submitted that the design of the development had not adequately taken into account the need to safeguard the setting of the protected structure, with concerns expressed about the building height of Block A facing the avenue, tree loss, excessive scale, massing and uniformity of the buildings. Visual impact concerns were also raised, as were the proximity of Block A to Castle Close, a visually overbearing impact on adjoining residential property, the unsatisfactory nature of the submitted visual impact assessment, the lack of details on the future needs of the existing school and lack of a masterplan. The density and residential mix of units were considered acceptable. It was noted that no traffic safety concerns were raised by the Transportation Planning Engineer and no flooding concerns were raised by the Drainage Engineer. It was concluded that the proposed development would be excessive in scale, overly prominent within the grounds of the protected structure, and would be visually overbearing on the outlook from adjacent residential areas. A refusal of permission was recommended for three reasons.

3.2.2. Other Technical Reports

The Public Lighting Engineer submitted that a comprehensive lighting design was required for the proposed development.

The Conservation Officer submitted that the proposed development would negatively impact on the setting of the existing protected structure on the site due to its scale, height and massing, it was considered to be out of keeping with the sylvan character of the area and it failed to respect the built heritage and landscape features of the site. It was recommended that the proposal was contrary to best conservation practice and Development Plan policy.

The Drainage Engineer had no objection to the proposal subject to conditions.

The Landscape Architect of the Parks Department requested further information relating to the arboricultural assessment, revised engineering services, impacts on surveyed trees and hedges, a revised tree protection plan, and proposals relating to bicycle storage.

The Transportation Planning Engineer requested further information relating to 'Taking-in-Charge' requirements, a Quality Audit, further details on signage, car parking, footpaths, the basement car park, bicycle spaces, and access via Castlelands.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal subject to conditions.

3.4. Third Party Observations

48 third party submissions were received by the planning authority. These referred to a wide range of concerns, including impact on residential amenity, scale and character of the development, traffic hazard, flooding, effect on the setting of Castle Park School, and loss of woodland. The observations submitted to the Board address the range of principal planning concerns raised.

4.0 Planning History

Planning history relating to the site and school includes the following:

P.A. Ref. D17A/0016

Permission was granted for an extension to a school playground.

ABP Ref. PL 06D.247159

Permission was refused by the Board for an overflow car park to serve the school.

P.A. D14A/0501

Permission was refused for 15 houses.

P.A. D11A/0570

Permission was granted for the installation of new entrance gates and signage.

P.A. D08A/0043

Permission was granted for the retention and completion of modifications to the redevelopment of the school.

ABP Ref. PL 06D.227213

Permission was refused by the Board for a residential development of 47 units.

P.A. Ref. D06A/0406

Permission was refused for a headmaster's house to replace the existing headmaster's house.

ABP Ref. PL 06D.215646

Permission was refused by the Board for 81 residential units.

ABP Ref. PL 06D.215520

Permission was granted for the redevelopment and extension of the existing school.

5.0 Policy Context

5.1. 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 site has three specific local objectives relating to it. It is designated 'Institutional Lands' with the objective 'To protect and/or improve institutional use in open lands'. There are also two objectives 'To protect and preserve Trees and Woodlands'.

Built Heritage

Castle Park School – House and Entrance Gateway are protected structures.

Policies include:

Policy AR1: Record of Protected Structures

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.

Principles of Development

Development in Proximity to a Protected Structure

The Plan states that 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. Innovative design in accordance with international best practice is encouraged.

Any proposal for development will be assessed in terms of the following:

- 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.
- The quality and palette of materials and finishes proposed.
- Works to the Protected Structure should take place in tandem with the proposed development to ensure a holistic approach to the site.
- Impact on existing features and important landscape elements including trees, hedgerows and boundary treatments.
- Impact of associated works including street furniture and car parking.

Institutional Lands

Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the area's zoning objectives and the open character of the lands being retained. The Plan notes that there are still a number of large institutions in the established suburbs of the County which may be subject to redevelopment pressures in the coming years. The principal aims of any eventual redevelopment of these lands will be to achieve a sustainable amount of development while ensuring the essential setting of the lands and the integrity of the main buildings are retained.

In order to promote a high standard of development a comprehensive masterplan is required to accompany a planning application for institutional sites. Such a masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns. Public access to all or some of the lands may be required. Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed masterplan for the overall

site. Should any proposed development deviate from the agreed masterplan then a revised masterplan shall be agreed with the planning authority. A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision is required to be sufficient to maintain the open character of the site - with development proposals built around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council.

In addition to the provision of adequate open space, on Institutional Lands where existing school uses will be retained, any proposed residential development is required to have regard to the future needs of the school and allow sufficient space to be retained adjacent to the school for possible future school expansion / redevelopment.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal may be synthesised as follows:

- The proposal responds to the chronic shortage of housing in Dublin.
- It will assist in meeting the Government's objectives in 'Rebuilding Ireland – an Action Plan for Housing and Homelessness'.
- It provides a sustainable residential density on a residentially zoned site within easy walking distance of Dalkey Village and Dart stations in the vicinity.
- It will make a positive and sustainable contribution to the consolidation of the Metropolitan area in accordance with the Regional Guidelines.
- It is in line with the aspirations of the Core Strategy of the County in terms of consolidation and intensification of built form.
- It accords with the 'A' zoning objectives applying to the site.
- The apartments comply with the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities*.

- The residential mix is compliant with Development Plan standards.
- The development will provide apartments in a mature residential area and will support a functioning market.
- The building height complies with the planning authority's Building Height Strategy.
- The quantum of open space exceeds Development Plan standards.
- Car parking and cycle parking accords with Development Plan requirements.
- The proposal should not unreasonably impact on the visual amenity of the area or the setting of Castle Park School.
- Undue overlooking has been avoided through building separation and careful angling of habitable windows and balconies and existing trees and new planting will act as a natural screen.
- A submitted Shadow Study shows that the development does not unduly overshadow neighbouring residential development.
- An attached 'Option A' modified proposal, incorporating amendments to Block 1A, shows the development will not negatively impact on the visual and residential amenity of No. 5 Castle Close.
- An attached modified drainage and arboricultural proposal provides for the retention of additional trees adjoining Castle Close and to correct inaccuracies.
- The school body does not have any control over the site and the site cannot be considered as part of the school landholding for future development proposals or master planning associated with the school. An attached legal opinion submits that the school has divested itself of any interest of the site and it can no longer be regarded as an "institutional site" or a site in institutional use.

The appeal also includes an 'Option B' which consists of Option A and the omission of Blocks 4B and 5A to address impacts on No. 5 Castle Close and to provide a physical break to address the planning authority's concerns relating to the continuity of the built form.

The appeal submission included a planning report, a legal opinion, an architectural response, an arborist response, a landscape and visual impact assessment, a shadow study, and a conservation and visual impact assessment.

6.2. Planning Authority Response

The planning authority noted that the applicant had submitted significant modifications to the Board. The proposed changes to Block A under Option A were considered to reduce the visual impact on adjoining property at Castle Close. However, the lack of revised contextual elevations was raised. It was submitted that the omission of Blocks 4B and 5A would help break up the continuity of the built form. However, the lack of revised contextual elevations was also raised. It was stated that the proposed modifications are piecemeal interventions rather than a site-specific design approach. Concern was also raised about the reliance on existing tree cover and it was submitted that trees should not be used to screen a development which would not otherwise be acceptable. The site was viewed as having the potential to accommodate a quality residential development of reasonable density. In conclusion, it was stated that, in view of the significant modifications being proposed, the Board should have particular regard to the statutory rights of third parties within the planning process.

6.3. Observations

Richael Crowley, 9 Castle Close, raised concerns about the proposed pedestrian access, the use of the school driveway as an access road, the scale and character of the development, and loss of woodland and habitat.

Etsuko Kanamor and Espen Bremserud, 43 Castlepark Residence, raised concerns about loss of trees and habitat, loss of sunlight, loss of privacy and noise and disturbance at the construction and operational phases.

Castlelands Management Clg, representing the twelve owners of Castlelands Grove, raises concerns in relation to loss of trees, impact on drainage, and the development's excessive scale and impact on the setting of the protected structure.

Tony and Joan McLoughlin, 6 Castle Close, raised concerns relating to accommodating pedestrian and cycle traffic at Castle Close, the use and widening of the school avenue, and the impact on residential amenity.

Winnifred McDonald, 18 Castlelands Grove, raised concerns in relation to overlooking, light pollution, loss of mature trees, drainage, rock blasting, and height and scale of the development.

Ann O'Boyle, 20 Castlelands Grove, raised concerns in relation to overlooking, loss of woodland, drainage, the development height, and rock blasting.

Caitriona O'Brien and others of Hyde Road and Castlepark Road, raised concerns relating to the development's size, scale and bulk, flooding, the removal of trees, excavation and construction works, and traffic impacts.

Dalkey Community Council raised concerns relating to the scale and massing of the development, impact on the setting of a protected structure, the loss of woodland, impact resulting from the removal of granite, traffic impacts, inadequacy of parking, the lack of clarity on Part V units, and inadequate amenity provisions, in terms of light permeability, for occupiers of the apartments.

D. & S. McVeigh of 7 Castle Close raise concerns relating to impact on visual amenity, ecology, and local residents, use of a Castle Close access, inadequacy of the vehicular access, and congestion.

E.A. Morgan of 27 Castlelands Grove raises concerns relating to loss of woodland, flooding, overlooking, noise, and compliance with the Building Control Act.

James and Margot Keogh, 75 Hyde Road, and Breege and Laurence Kennedy, 75 Hyde Road, raise concerns relating to the height and scale of the proposal, overbearing impact on Castle Close, excavation of large volumes of granite, privacy and security issues, loss of woodland, flooding, and traffic and parking.

David and Naomi Shipley, 9 Castlelands, raise concerns relating to loss of residential and visual amenity, and traffic impacts.

Adrian Brooks, 1 Hyde Park, raises concerns relating to the timing of the application, the submission of revised plans to the Board, the scale and massing of the development, loss of woodland, and traffic impact.

Richard Mossop, 2 Castle Close, raises concerns relating to the submission to the Board of new proposals, the scale of the development, extensive use of glass and light pollution, loss of woodland, overlooking, and access via Castle Close.

Ciara Lyons, 27 Castlelands Grove, raises concerns relating to the loss of trees, drainage impacts, and the excessive scale of the development and impact on the setting of the protected structure.

An Taisce raises concerns relating to the development being contrary to the Architectural Heritage Protection Guidelines, the policies in the Dún Laoghaire-Rathdown Development Plan relating to built heritage, and the loss of woodland.

Ann Maria and Denis Lucey, 4 Castle Close, request that the development be refused for reasons relating to detrimental visual impact, loss of woodland, impact on the character and setting of the protected structure, and adverse impact on residential amenity.

Richard and Brid Mossop and others of Castle Close raised concerns relating to impacts on residential amenity, loss of woodland, the height, scale and density of the proposal, impact on architectural heritage, the intention to use the existing school access as the main vehicular access for the development, and the proposal to provide a vehicular and pedestrian access from Castle Close. The observation included a legal opinion in respect of development of institutional lands in this instance.

Castlelands Residents Association raised concerns relating to loss of woodland, access through Castlelands, construction impacts on residents, reasons for refusal of previous applications not being addressed, impact on residential and visual amenity, and the proposal being contrary to the Sustainable Residential Density Guidelines, the Architectural Heritage Protection Guidelines, the Council's Building Heights Strategy, and Dún Laoghaire-Rathdown County Development Plan objectives.

7.0 Assessment

7.1 Introduction

7.1.1 I acknowledge that the Board has made decisions previously on planning applications for residential development on these lands, namely ABP Refs. PL 06D.215646 and PL 06D.227213. Having regard to the planning history of this site and the issues arising, I consider that the principal matters requiring consideration are:

- the principle of the development on these lands,
- the loss of woodland,
- the impact on the protected structure of Castle Park School,
- the wider visual impact of the development,
- impact on residential amenity,
- the development of institutional lands and the need for a Master Plan, and
- access.

7.1.2 I note that a wide range of miscellaneous issues have been raised by observers and the principal planning matters arising will be referred to.

7.2 The Principle of the Development on these Lands

7.2.1 The site of the proposed development is zoned 'A' with the objective "to protect and/or improve residential amenity." This land has three specific local objectives relating to it. It is designated 'Institutional Lands' with the objective "to protect and/or improve institutional use in open lands". There are also two local objectives "to protect and preserve trees and woodlands". Notwithstanding these local objectives, it is apparent that the principal land use zoning objective allows for residential development on this plot.

7.2.2 Further to the above, I note that the principle of residential development has been accepted by the Board previously on these lands. In its most recent decision the

Board refused a residential development for one reason relating to the loss of woodland (PI 06D.227213). In its Direction, the Board stated:

“The Board had no objection in principle to a residential development on this site but considered that the development as proposed, by reason of (1) the proximity of the apartments, including basement, to the site boundary, and (2) in particular, the location of the houses spanning the entire length of the south west boundary incorporating trees in private gardens, would endanger the survival of trees on the boundaries and militate against the future maintenance of the sylvan character of the area.”

7.2.3 It is, thus, apparent that the principle of the development of these lands for residential purposes is accepted.

7.3 Loss of Woodland

7.3.1 The site of the proposed development is primarily covered by trees and woodland. However, the natural state of a section of the lands at this location has been altered by the development of a school overflow car park at the north-eastern corner of the site. The footprint of the proposed development seeks to utilise the area disturbed by the car park and then cuts a swath, in the form of an arc, through a centralised section of the site.

7.3.2 I submit to the Board that the layout of this proposal, on residentially zoned lands, seeks to minimise the physical impact on the woodland of particular importance, namely the boundary tree screen buffer with neighbouring residential properties to the rear. The effect of retaining this dense woodland behind the proposed blocks of apartments ensures that, in the development of new residential units, the amenities of these neighbouring properties may be adequately protected. In the knowledge that these lands are zoned for residential development and that there is no objection in principle to such development, the approach to maximise the retention of woodland to keep with the local objective and to protect neighbouring properties is a welcome provision which this layout accommodates. Another important provision that the proposed layout on these residentially zoned lands makes is to maintain a very

significant buffer to the front of the proposed blocks which physically segregates the new development from that part of Castle Park School which forms the protected structure, providing a most important screen and minimising any potential interference with the setting of the school.

7.3.3 Overall, it is my submission that the proposed development has taken a most sensitive approach to the development of this residentially zoned land. This proposal is in keeping with this zoning objective, while seeking to comply with the local objective through the protection of the most important sections of woodland that prevail at present. The proposal also seeks to enhance the natural state of the overall site by introducing further landscaping and planting to reinforce the natural character of the area, which assists in maintaining the visual qualities of these open lands where new development is proposed to be introduced.

7.4 Impact on the Protected Structure

7.4.1 I note that the protected structure at this location comprises the original building which forms part of Castle Park School complex of structures and the school entrance gates. The Board will note that the proposed development would have no notable impact on the entrance gates. These gates are used as a vehicular entrance to the school and would remain in such use as a vehicular entrance serving the school and the proposed new residential development.

7.4.2 I note the location of the proposed development, lying west of the internal school access road, bounding detached houses, and an apartment block to the north and west, terraced and detached housing to the south-west and south, and the tarmacaded parking areas within the curtilage of the school along its western and southern sides. The proposed development seeks to maintain and enhance a very substantial section of woodland along the site's eastern side to retain a buffer between new building blocks and the protected structure which forms part of the school complex. The new development is set back at its nearest point over 64 metres from the protected structure. The proposed development, set within woodland, with an extensive tarmacaded forecourt between the site and the protected structure, and where a very substantial array of modern additions has

been made to the school complex, could not in any reasonable manner be determined to form part of the curtilage of the protected structure. Its curtilage at the location in proximity to the appeal site can reasonably be determined to be the adjoining tarmacadamed parking areas and those lands to the front of the protected structure which are now laid out in playing fields and which have been corralled by way of hedgerow and tampered with by tarmacadamed footpaths, modern railings, lighting, etc. Further to this, it is evident that the location of the site to the west of the driveway and the placing of the development within the woodland ensures that the proposal will not interfere with the views of the main protected structure on the approach to the school. The arcing nature of the development ensures that most of the development stretches away from the protected structure, with the majority being effectively behind the protected structure.

7.4.3 Overall, I am satisfied that the siting of the proposed development does not, and cannot, be visually dominant and overly prominent when considering how the development would relate to the protected structure. To consider this issue rationally and to place the development in perspective, I put it to the Board that the extent of recent modern development to expand the school complex immediately abutting the protected structure is immeasurably greater in terms of impact that affects the context, setting and relationships of structures when compared with the proposed development sited behind woodland that is offset from the curtilage of this protected structure. The proposed development itself is clearly appropriate in terms of height, scale, bulk and mass, it introduces a compatible palette of finishes in the woodland setting, and it is carefully screened from any potential interference it may have on the integrity and setting of the protected structure. Having regard to this, it is considered reasonable to conclude that the proposed development does not run contrary to the policies and provisions of the Dún Laoghaire-Rathdown County Development Plan as they relate to built heritage and it does not contradict any provisions set out in *Architectural Heritage Protection Guidelines for Planning Authorities*.

7.5 The Wider Visual Impact of the Development

7.5.1 The details set out in previous sections of this assessment adequately describe the context for the proposed development. It would not be visually incongruent with the

protected structure itself or its setting, being somewhat secluded, screened and relatively tame in terms of building height, scale and mass. Thus, within the context of the school grounds, the proposed development is not seen to have any distinguishable impact that in some way devalues the setting for the school and its protected structure.

7.5.2 With regard to the effects on the wider community, two salient points are worth noting. Firstly, the proposed development would be placed within woodland, thus masking the development from the wider public realm, retaining trees along boundaries that would effectively maintain the visual experience for adjoining properties in the main, while protecting many of these properties as a means to control the introduction of adverse impacts by way of overbearing impact, overshadowing and overlooking. Secondly, the proposed development is sited immediately abutting a range of residential accommodation to the north, west and south, such that it presents itself, in land use terms, as a natural extension to residential development on and in the immediate vicinity of Castle Park School lands.

7.5.3 The applicant has provided a range of photomontages that seeks to demonstrate how the development would appear within its context. Any potential adverse impact that could result from a prominent or domineering structure has been demonstrably minimised by the siting of this development, its form and the screening measures adopted to control the visual impact. I am satisfied that the proposed development could not be construed as visually overbearing on the outlook from adjacent residential areas as maintained by the planning authority. Such a conclusion, in my opinion, is misplaced where it is apparent that substantial existing woodland will be retained, which does not permit such overbearing impact to result and, due to this screening, the layout and the building heights of the structure, the development is significantly controlled such that the potential for prominence and visual incongruity will not arise.

7.5.4 With specific regard to the form, layout and design of the proposed development, it is my submission that it is a most sensitively designed development, suited to its location in terms of building heights, finishes and associations with adjacent

developments. It will provide a high standard in terms of visual quality of new development and is clearly designed with direct intent and purpose for this actual site, honing the design to reflect its woodland setting, reviewing building heights to address topographical variation, and introducing linkages and materials that sensitively take advantage of the natural amenity that the site provides.

7.5.5 With regard to the planning authority's view on 'uniformity of design', I hold a counter view. There are significant variations in design. It presents a specific design response to the site conditions, which seek to minimise the footprint impact on the existing woodland. The curved form of the building, use of the existing car park, and provision of a basement provide for the opportunity to maintain woodland to the front and rear to be used as both amenity features and as a stable and robust form of screening. The design continues to reflect the site conditions and context by the changes in building heights that are introduced, reducing heights on approach to adjoining properties lower in height. The building provides different designs to the end of the overall terrace. It provides atrium links to join definable blocks and, in the provision of balconies, it is notable that there are alternating designs. The palette of finishes, design layout and orientation are highly responsive to the woodland setting and facilitate dual aspect living and appreciation of the woodland context. In contrast to the position of the planning authority, I consider the design response to be extremely well-informed, adequately suited to its context, and a qualitative form of development.

7.5.6 Having regard to these considerations and to the considerations on the impact on the protected structure, I conclude that the first reason for refusal issued by the planning authority is not merited. The scale, form, character and design of the proposed development is suited to this site.

7.6 Impact on Residential Amenity

7.6.1 I note the second reason for refusal by the planning authority expressly relates to the impact of the proposed development on No. 5 Castle Close and that the concerns arise from the impact of proposed Block A due to its height, scale and proximity. It is apparent from the reasons given by the planning authority that the authority did not

have any further concerns about impacts on the residential amenity of other residential properties in the vicinity of the site. I acknowledge the minor revisions proposed by the appellant to address the concerns about the impact on No. 5, referred to as 'Option A'. This comprises the reduction of Block 1A from four storeys to two and three storeys. The two-storey element of the revised Block 1A would have an overall ridge height of +24.5m, set back more than 16m from No. 5, which itself is estimated to have a ridge height of +24.145m. The proposed three-storey element of revised Block A would be set back by some 24 metres from No. 5. I further note that the layout of drainage lines has been revisited and that this allows for the retention of trees that would have been susceptible to loss close to the site's boundary. It is my submission that such provisions would ensure that there would be no overbearing impact on the adjoining No. 5. I further note the layout of balconies and fenestration arrangements proposed in Block 1A and it is apparent that the issue of potential overlooking would be adequately addressed, with loss of privacy not being a significant adverse impact. Further to this, I note the layout and orientation of the proposed development and the shadow analyses that have been undertaken and provided as part of the application and the submission to the Board. I am satisfied to conclude that the proposed development would not result in any significant adverse impact by way of overshadowing of this property. In my opinion, it can reasonably be determined that the proposed development, that includes the minor alterations proposed by the applicant in its appeal submission, will not result in significant adverse impacts on the amenities of No. 5 Castle Close.

7.6.2 With regard to the impact on residential development on other adjoining residential properties, I am satisfied to note that the proposed development does not have any greater potential impact on these other properties than that which could arise for the adjoining No. 5. Such properties avail of either significantly additional separation distances where substantial rear and side garden space exists, the retention of a more dense woodland buffer, or, as in the case of Castlelands Residence, is acceptable in building height terms and causes no notable conflict for established residents. The design of the proposed apartments has been sensitively approached in terms of fenestration and balcony provision and the development is laid out in a manner such that issues of overlooking and overshadowing have been greatly reduced and principally avoided. Similar to the planning authority, I do not have

concerns about the potential impact of the proposed development on other adjoining residential development in this area.

7.7 The Development of Institutional Lands and the Need for a Master Plan

7.7.1 I first note that Castle Park School has undertaken significant development in recent years, expanding the facilities and services of the school. Further to this, the school has engaged in the sale of the appeal site and this sale agreement has been in place for a number of years. It could reasonably be inferred that the sale of the appeal site clearly intimates that the land is not required by the school for any further development of the school in the future. In addition, the sale of the lands implies that these lands cannot be utilised in any future development of the school complex. It is also noted that the school has a significant land bank remaining. These observations make the consideration of a Master Plan in this application, and the role of the appeal site therein, somewhat a futile issue when these observations are accepted.

7.7.2 I accept that the site forms part of the lands with the local objective 'institutional use'. However, its true relationship with the school property (albeit that it presents itself as part of the overall holding with no distinguishable boundary separating it from the school lands) must be fully understood. Thus, the issue of a need for a Master Plan as part of this planning application is misplaced, in my opinion, while the more relevant issue of abiding by the development requirements for institutional lands must gain prominence.

7.7.3 Having regard to the provisions of the current Dún Laoghaire-Rathdown County Development Plan, it is apparent that the proposed development is in accordance with Plan requirements associated with this local objective. The proposed development sits comfortably with the residential land use zoning objective. The development is sustainable in terms of its density and scale, having regard to its relationship with the nearby protected structure and to neighbouring residential properties, as well as to the need to address the woodland objectives affecting the site. I note that the proposed density of development, at over 39 units per hectare, is in accordance with Development Plan provisions requiring net densities of 35-50 units per hectare. The development does not intrude on the essential setting of the

functioning school lands or its buildings. Thus, the integrity of the school remains unaffected. It distinctly affords the opportunity for public access to the lands. Some 33% of the site is provided as open space (well in excess of 25% required by the Plan). It clearly maintains the open and sylvan character of the site through this provision of open space, the retention of woodland, and the consequential buffers provided by this woodland. The design and layout of the development have particularly addressed the valuable existing features of the site by reference to retaining woodland, as well as dense bands of boundary trees and boundary walls.

7.7.4 Overall, I conclude that the refusal of permission for the proposed development, based upon the lack of any Master Plan, is misplaced and is not merited in this instance. In addition, it may reasonably be concluded that the proposed development complies adequately with the specific Development Plan requirements as they relate to the local objective 'institutional use'.

7.8 Access

7.8.1 I note previous decisions relating to proposed residential development on the appeal site. The most recent appeal, ABP Ref. PL 06D.227213, related to a development of 47 residential units (houses and apartments), which included the use of the existing school entrance off Castlelands for construction purposes and its use subsequently as an access for emergency vehicles. The Board did not raise any concern in its decision on this appeal in relation to this proposed access arrangement for that residential development. Having regard to this and to the nature and extent of the development now proposed, I see no reason to question the Board's decision on this issue. This access can adequately accommodate vehicular movements on and off the site to the wider road network to facilitate the construction of the proposed development over the short lifespan of the construction period. Adherence to the construction management plan, agreed with the planning authority, can sufficiently deal with the utilisation of this access to minimise disruption for neighbouring residents. The ongoing use of this access for emergency access purposes causes no particular concern and its use by pedestrians will greatly improve permeability via the school lands and the appeal site.

7.8.2 With regard to the proposed pedestrian/cycle access gate connecting to Castle Close, it is my submission that this is a most appropriate provision to improve permeability within, to and from the site. The nature of this access leading onto a minor residential street causes no particular traffic or amenity concerns and is an important element to meet the needs of more vulnerable road users needing increased suitable access arrangements.

7.8.3 In addition to the above, I note that it is proposed to widen the proposed internal access road marginally and that it is not intended to affect the existing school gate entrance which forms part of the protected structure. These proposed changes along the margin of the internal access road about the block walls of adjoining houses that form the boundary with the school property and the alterations will not encroach on the setting of the protected structure. The existing access arrangements onto Castle Park Road will remain unaffected.

7.8.4 Further to the above, it is also worth noting that the Transportation Planning Section of the planning authority did not object to the proposed arrangements. I acknowledge that a number of items of further information were requested. It is entirely reasonable to conclude that the issues raised could be agreed with the planning authority prior to the construction of the proposed development and would not constitute significant additional development requirements. The requirements are not matters that merit any refusal of permission on traffic safety grounds and are achievable to enhance the sustainability of the development at this location.

7.9 Miscellaneous Issues

7.9.1 A wide range of other issues were raised by the observers and my consideration on those matters considered to be of particular planning relevance are as follows:

- Drainage and flooding concerns were not matters of previous concern for the Board when considering residential developments at this location. It is evident that a boundary ditch is in need of repair but there is no significant flooding concern, demonstrated by the submitted flood risk assessment. Drainage off

this site would be adequately controlled. It is particularly noted that the Council's Drainage Section had no objection to this proposal.

- Reference has been made to rock blasting concerns. Once again I note that basement car parking was proposed in the previous application before the Board (PL 06D.227213) and that the Board expressed no concerns about the potential structural or other impacts arising from such a proposal. I see no why the Board would determine basement parking to be unacceptable in this instance. Furthermore, I note the excavation methodology submitted as part of the application does not propose blasting or prolonged mechanical rock breaking, but rather a designed grid of drill holes using expanding chemical rock breaking techniques. The construction methodologies that would be provided in the submitted construction management plan would clearly address for the planning authority and wider community how it is proposed to manage noise, vibration and other impacts arising at the construction phase to ensure the construction of the basement car park is undertaken in a controlled and appropriately engineered manner to minimise intrusion.
- Light pollution was also raised as a concern. It is noted that neither the planning authority or the Board have raised particular concerns on this issue previously. It is not a matter of any significance in a location where substantial woodland is being retained and where concerns are being raised from established residential areas, lit in times of need, and from which the proposed development is an orderly expansion therefrom.
- Ecological impact was raised also. It is accepted that this residentially zoned site is considered suitable for residential development. Notwithstanding this, significant retention of woodland is being proposed to permit an adequate approach to the local woodland objective. Certainly, there will be a knock on effect for flora and fauna. However, this site has no known particular importance from an ecological perspective.
- Compliance with the Building Control Act is a matter the local authority would be required to oversee and is not a matter of any concern relating to this appeal. Meeting Part V requirements can be adequately addressed by way of attachment of an appropriate condition with a grant of planning permission.

- Controlled access arrangements and suitable site boundary treatment are being proposed. There are no significant security concerns arising as a result.
- Regarding the revised design submissions to the Board with the appeal, it is my opinion that 'Option A' constitutes minor amendments to the scheme to address the effects on one neighbouring house. Tweaking the layout of drainage lines to ensure protection of boundary trees is also considered a minor change to the scheme. The Board can reasonably consider such minor amendments in determining this appeal. With regard to 'Option B', it is my submission that such changes proposed therein are not warranted. The need for a physical break in the scheme undermines the integrity of the site-specific design proposal.

7.10 Appropriate Assessment

7.10.1 It is acknowledged that the habitats within and adjacent to the site are of low conservation value and the site is not within or adjacent to any Natura 2000 site. The nearest European sites are Dalkey Islands SPA (Site No. 004172) and Rockabill to Dalkey Island cSAC (Site No. 003000). There is a minimum of a 1.1km buffer of urban development and open water between the proposed site and these sites. The proposed development is to be a fully serviced development.

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

8.0 **Recommendation**

8.1. I recommend that permission is granted in accordance with the following reasons, considerations, and conditions.

9.0 Reasons and Considerations

Having regard to the zoning provisions for the site as set out in the current Dún Laoghaire-Rathdown County Development Plan and to the design, character and layout of the development proposed, it is considered that the proposed development would not adversely affect the character and setting of the protected structure of Castle Park, would not adversely impact on the residential amenities of adjoining properties, would be acceptable in terms of visual impact, would not endanger public safety by reason of traffic hazard and would otherwise be in accordance with the provisions of the current Dún Laoghaire-Rathdown County Development Plan. 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 the further drawings and details as they relate to 'Option A' and revised drainage and watermain layouts submitted to An Bord Pleanála on the 6th September, 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. Details of the materials, colours and textures of all the external finishes to the proposed apartment block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity

3. Prior to the commencement of development, the following shall be submitted to, and agreed in writing, with the planning authority:
- (a) detailed drawings showing internal access road, shared surfaces, footpaths, etc. to meet the requirements of the planning authority;
 - (b) traffic management provisions, inclusive of road signage and internal footpath connectivity;
 - (c) an independent Quality Audit in accordance with the Design Manual for Urban Roads and Streets (DMURS);
 - (d) layout and provision of car parking for designated residential units and provision of cycle parking;
 - (e) detailed access arrangements to Castlelands, inclusive of gateway elevations and provision of pedestrian and cycle links.

Reason: In the interest of traffic safety.

4. The site shall be landscaped in accordance with the submitted landscaping scheme and trees to be retained shall be protected in accordance with the submitted tree protection measures. The following details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:
- (a) provisions relating to the management and monitoring of the development by an arboricultural consultant and landscape consultant during the construction phase;
 - (b) a tree protection plan;
 - (c) the provision of a tree bond to secure the protection during construction of trees to be retained, the form and amount of which shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination; and
 - (d) proposals for all boundary treatment interventions and proposed boundary finishes.

Reason: In the interest of residential and visual amenity.

5. Water supply and drainage arrangements, including the 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.

6. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of communal open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and vibration management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 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.

9. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

10. Proposals for street name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and apartment numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

11. No dwelling units within the proposed development shall be sold separately, independent from the associated car parking provision. All the proposed car parking spaces shall be for occupants of the residential units and shall be sold off with the units and not sold separately or let independently from the residential development.

Reason: In the interest of orderly development.

12. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment.

Reason: In the interests of amenity and public safety.

13. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

15. 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.

Kevin Moore
Senior Planning Inspector

4th December 2017