



An
Bord
Pleanála

Inspector's Report PL.06D.249320

Development

Permission for refurbishment of Kilmacud House (Protected Structure) and its subdivision into apartments/duplex. Construction of two apartment blocks (60 units in total) with a communal basement carpark accessed via a new entrance off Kilmacud Road Upper, alterations to roadside boundary and all ancillary site works.

Location

Kilmacud House, Kilmacud Road Upper, Stillorgan, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.

D17A/0606

Applicants

Kilmacud Partnership.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party

Appellants

Kilmacud Partnership.

Observers

1. John & Deirdre Power.
2. Michael & Elizabeth Crowley.
3. Devendra Kumar.
4. Mary Tuohy & Barry Dillon.
5. Deirdre & Andrew Potts.
6. Patrick Tonge.
7. The Concerned Residents of
Convent Court Group.
8. An Taisce.

Date of Site Inspection

13th December 2017.

Inspector

Dáire McDevitt

1.0 Site Location and Description

- 1.1.** The site, with a stated area of c.0.6 hectares, is located on the eastern side of Kilmacud Road Upper in a mature suburban area. Blackrock village and Stillorgan village are c.5km and 1.3km east of the site respectively. It is c. 740m north of the Stillorgan Luas Green Line stop and is bounded by Kilmacud Road Upper, where there is a Quality Bus Corridor (QBC).
- 1.2.** Kilmacud House, a Protected Structure, occupies the site. It is boarded up and in a state of disrepair. There is a substantial c. 1950s flat roof extension to its eastern side, which is proposed to be demolished, along with a number of semi-derelict structures within its curtilage. There are telecommunications antennae on the chimney stack of the main house.
- 1.3.** The existing entrance to Kilmacud House is off Kilmacud Road Upper where a high stone wall forms the roadside boundary. To the north of the site is a small residential cul-de-sac, Convent Court, consisting of 6 no. two storey dwellings with its open space area and an ornate metal fence forming the northern boundary of the appeal site. The rear gardens of the houses of Woodthorpe extend the full length of the eastern boundary and are separated from the site by walls and mature trees within the site. To the south is the Carmelite Monastery. Opposite the site, on the western side of Kilmacud Road Upper, is Whately Place, a residential scheme consisting of a mixture of two and three storey units which was developed in the early 2000s in the grounds of St. Anne's Convent.
- 1.4.** There is a gradual slope downwards within the site from southwest (Kilmacud House) to northeast (Woodthorpe) with a difference of about 3m in ground levels across the span of the site. Levels continue to fall northwards within Convent Court. There is also a slight drop in levels between the site and houses to the east, Woodthorpe. There are mature trees of varying sizes and condition located within and bounding the site.
- 1.5** Map, aerial images and Photographs included in the pouch on file.

2.0 Proposed Development

2.1. Proposal lodged with the Planning Authority

2.1.1 The proposed development comprises refurbishment and subdivision of Kilmacud House and the construction of two apartment blocks. The removal of the existing roadside boundary (stone wall) and entrance piers to Kilmacud House and the provision of a new entrance at the northwestern corner of the site.

- **Kilmacud House**, located in the southern section of the site with its gable addressing the road, is to be subdivided into 4 no. apartments and 1 no. duplex.
- **Block A**, runs north south in the eastern area of the site with basement carpark. Is a four storey building (Height 13.45m), including recessed upper floor, comprising 36 apartments (6 no. 1 bed, 23 no. 2 bed and 7 no. 3 bed).
- **Block B**, located in the northwest area of the site. Is a four storey building (Height 16.8 m), including recessed upper floor, comprising 19 apartments (3 no. 1 bed, 12 no. 2 bed and 4 no. 3 bed).

The new apartment blocks would have similar elevational treatment consisting of a buff brick finish with render and substantial elements of glazing.

Due to the difference in ground levels the parapet of both blocks are at the same level.

A communal basement carpark is proposed under Block A & B with limited surface parking spaces adjoining Kilmacud House.

2.1.2 The breakdown of units is as follows:

9 no. 1 bed units (gfa c.45sq.m).

36 no. 2 bed units (gfa c.73sq.m).

15 no. 3 bed units (gfa c.90sq.m).

2.1.3 The application also included the following reports;

- Planning Application Report.
- Architectural Design Statement.
- Housing Quality Assessment.
- Outline Construction Waste Management Plan.
- Engineering Services Report.
- Traffic Impact Assessment.
- Landscaping Proposals.
- Arboricultural Assessment.
- Stage 1 Appropriate Assessment Screening Report.
- Ecological Impact Assessment.
- Architectural Conservation Report.
- Daylight/Sunlight Assessment.
- 3D Montages.
- Part V Exemption Certificate for the conversion of Kilmacud House (5 units)
- Management Company details.

3.0 Planning Authority Decision

3.1. Refuse permission for the following reasons:

1. *The two proposed apartment buildings in conjunction with a difference in ground levels will result in significant overlooking, shadowing and overbearing impact on lands zoned 'to protect and/or improve residential amenity' in the Dun Laoghaire Rathdown County Development Plan, 2016-2022. The proposed development would seriously injure the amenities and depreciate the value of property in the vicinity, materially contravening this zoning objective. The development, therefore comprises overdevelopment*

of the site, contrary to the provisions of Dun Laoghaire Rathdown County Development Plan, 2016-2022 and to the proper planning and sustainable development of the area.

2. *Section 8.2.3.3 (Apartment Development) (IV) (Separation between Blocks) of the County Development Plan 2016-2022, states that, 'The minimum separation distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks a greater distance may be prescribed...'. The separation distance provided between Blocks A & B is stated as 13.372m; significantly less than the minimum required for a three storey block and both blocks are four storeys. This will result in a substandard residential environment for occupants in terms of overlooking and comprises overdevelopment of the site, contrary to the provisions of Section 8.2.3.3. (Apartment Development)(iv) (Separation between blocks) of the Dun Laoghaire Rathdown County Development Plan, 2016-2022, and contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

This formed the basis of the Planning Authority's decision and can be summarised as follows:

- A density of 100 units per hectare is acceptable as the site is within 1km, pedestrian catchment, of a LUAS line and Stillorgan District Centre, therefore complies with policy RES3.
- No objection to the proposed refurbishment and conversion of Kilmacud House or the removal of the roadside boundary wall.
- The proposed scheme complies with the 2015 design standards for new apartments

- The main points of concern are reflected in the reasons for refusal and are dealt with briefly below:
 - Having regard to the differences in ground levels and the proximity of the structures to the boundaries. The overall height and scale results in an overbearing development which would seriously impact on the visual and residential amenities of the Convent Court properties and would depreciate the value of same.
 - Given the separation distance between block A& B (13.37m) and the height of the structures. The proposal would not result in a sufficiently high quality residential environment for residents.
 - The proposal does not comply with the Dun Laoghaire Rathdown Building Height Strategy. Section 4.8.2 downward modifier item no. 1 applies as the development would adversely affect residential living conditions due to overlooking, overshadowing and scale. The Area Planner concluded that these would negate the exception for a 3 to 4 storey building at this location.
- Concerns were also raised in relation to the Sunlight/Daylight Assessment submitted. The Senior Planner noted that while it is accepted that this would comply with the 50% BRE 2009 standard, this is a standard more commonly used for assessment of overshadowing in the planning of new amenity and it is considered that the reduction from 92% to 64% would be noticeable and significant.
- Arborist report submitted with the application. No objection to the removal of trees as not of a quality to be retained.
- Appropriate assessment screening concluded that a stage 2 assessment was not required.

3.2.2. Other Technical Reports

Conservation Division.

- The proposed apartment blocks would only have a moderate impact on the setting and amenity of the Protected Structure.

- There are no built heritage concerns with the works to the Protected Structure and the removal of later elements/extensions.
- No objection subject to a condition attached regarding the use of a conservation accredited architect.

Parks and Landscape Services.

- There is an objective in the County Development Plan on the site to preserve and protect trees. However, the trees on site are generally medium to low quality. The arborist report and tree replacement strategy submitted is considered acceptable.
- Overall the landscape design proposal is well considered but incomplete.
- Further Information recommended for a Revised Landscape design rationale together with a comprehensive and detailed landscaping proposals and a scaled Master Plan.

Transportation Planning.

- The setback of the automatic electronic gates is 5m. 6m is required as per section 8.2.4.9 of the County Development Plan.
- Further Information was recommended, on access, parking, lighting, signage and the requirement for a Traffic Impact Assessment.

Drainage Division. Further Information recommended on green roofs, surface and foul details.

Housing Section. No objection subject to compliance with Part V.

3.3. Prescribed Bodies

Department of Culture, Heritage and the Gaeltacht. No objection subject to a condition relating to archaeological monitoring being attached.

An Taisce. The main issues are largely in line with the comments made by in the observation on the appeal and are summarised under that section of this report.

3.4. Third Party Submissions

There were 20 submissions on the Planning Application.

The main issues are largely in line with the comments made by the Observers on the appeal and are summarised under that section of this report.

4.0 Planning History

There are a number of planning applications associated with this site. The most relevant is:

P.A Reference No. D06A/0721. An Bord Pleanala Reference No. PL.06D. 221544, this refers to a 2007 grant of permission for the refurbishment and conversion of Kilmacud House to apartments and the construction of two new apartment blocks on site. Total no. of units 38.

Other applications relating to the site:

P.A Reference D05A/1296 Refers to a 2005 refusal of permission for 44 units. The reasons related to architectural heritage and non-compliance with the residential design standards.

P.A Reference D09A/0264. An Bord Pleanala Reference No. PL.06D.235665) refers to a 2010 grant of permission for 3 no. panel antennas and 1 no. link dish to the chimney stack of Kilmacud House.

P.A Reference D94A/0562 refers to a 1994 permission for external stairs at Kilmacud House. This file is of relevance as it is the permission cited by the applicant as permitting the removal of the trees along the northern boundary of the site.

5.0 Policy Context

5.1 Dun Laoghaire-Rathdown County Development Plan 2016-2022

- The site is zoned under Land Use Objective 'A' with a stated objective *'to protect and/or improve residential amenity'*.
- TPO for trees along the northern boundary.
- There is an objective on site *'To protect and preserve trees and woodlands'*.

RES3: refers to the density requirements for the county. Higher densities at a minimum of 50 units per hectare will be encouraged where a site is located within a 1km pedestrian catchment of a priority QBC and/or 500 metres of a Bus Priority Route, and/or 1 km of a town or District Centre.

RES7 refers to overall housing mix.

RES 8 refers to the provision of social housing.

Relevant Development Management Standards

Section 8.2.3.3 refers to apartment developments and standards required in relation to (i) design, (ii) dual aspect, (iii) mix of units, (iv) separation between blocks), (v) internal storage, (vi) penthouse development, (vii) minimum floor areas, (viii) public, private and communal open space standards and (ix) play facilities.

In particular (iv) as referred to in the Planning Authority's second reason for refusal

Section 8.2.3.3 (iv) Proposals for apartment schemes over three storeys high should provide for acceptable separation distances between blocks to avoid negative effects such as overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open space. A minimum distance of c. 22 metres will normally apply in the case of apartment block of three storeys. Higher blocks may require a greater separation distance. In certain circumstances, depending on orientation and location in built up areas, reduced separation distances may be acceptable.

Section 8.2.8.4 (ii) refers to separation distances of 22 metres between upper floor opposing windows. Reference is also made to garden depth of 11 metres.

Section 8.2.8.4 (iv) refers to private open space requirements for apartments

Section 8.2.8.5 refers to play facilities for apartments.

Section 8.2.4.5 refers to carparking standards for apartments.

Section 8.2.4.9 refers to the use of electronic gates.

Section 8.2.4.10 refers to underground car parks.

Appendix 9. Building Height Strategy

Kilmacud is identified as an area that could accommodate 3 to 4 storey apartment buildings, subject to the considerations of downward and upward modifiers.

Section 4.8.1 Upward Modifiers

In particular (e) and (f):

- (e) The site should be within 500m of a LUAS corridor (does not refer to a stop). The Guidelines cite a walking distance of 1km from LUAS stops.
- (f) The site should have an area of 0.5 hectares or higher and height should be sited away from residential boundaries.

Section 4.8.2 Downward Modifiers

In particular item no. 1

- (1) The proposal would adversely affect residential living conditions through overlooking, overshadowing or excessive bulk and scale.

Built Heritage

Kilmacud House (Ref. No. 1383) is included in the Record of Protected Structure and subject to the appropriate policies as set out in Section 6.1.3 and Section 8.2.11.2 of the Plan.

Section 8.2.11.2 (i) refers to works to a Protected Structure.

Section 8.2.11.2 (iii) refers development within proximity to a Protected Structure.

5.2 Guidelines

Sustainable Urban Housing: Design Standards for New Apartments Guidelines. (DECLG 2015). These provide recommend minimum standards for floor areas for different types of apartments; storage spaces; sizes of apartment balconies/patios and room dimensions for certain rooms.

Sustainable Urban Residential Development Guidelines (DoEHLG 2009) and its companion, the **Urban Design Manual - A Best Practice Guide (DoEHLG 2009).** These include detailed advice on the role of Urban Design and planning for new sustainable neighbourhoods. In cities and larger towns, appropriate locations for increased densities, are identified, including outer suburban greenfield sites and public transport corridors.

Quality Housing for Sustainable Communities (DoEHLG 2007). These are intended to assist with the implementation of initiatives for better homes, better neighbourhoods and better urban spaces. Detailed space requirements are set out and room sizes for different types of dwellings.

5.2.1 Architectural Heritage Protection Guidelines 2011 (DAHG)

These provide guidance on architectural heritage protection.

5.3 Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal, in an attempt to address the Planning Authority's two reasons for refusal, includes revised proposals for a reduced scheme of 55 apartments as follows:

Kilmacud House, no changes proposed from the original submission.

Block A, modifications to elevations, including the provision of privacy screens to third floor balconies, revised window arrangements with opaque glazing where required.

Block B revisions include:

- Reduction to a three storey building (13.8m) with 14 units.
- Relocation of the building c. 800mm (0.8m) southwards.
- Internal reconfiguration of apartment layouts.
- Changes to the elevations, including the provision of opaque glazing, angled windows and privacy screens to balconies

The breakdown of units is as follows:

- 9 no. 1 Bed units.
- 34 no. 2 bed units.
- 12 no. 3 bed units.

The grounds of appeal are summarised as follows:

6.1.1 General

- The Proposal complies with regional and national guidance.
- The development complies with Land Use zoning objective, the Core Strategy, densities (RES3), the Building Height Strategy and the relevant development management standards as set out in the County Development Plan.
- Permission was granted in 2007 (PL.06D.221544) for a similar scheme in terms of height and general layout.
- It would facilitate the viable, sustainable and respectful conservation, repair and conversion of Kilmacud House, a Protected Structure, for continued residential use. The Council's Conservation Officer has no objection to the proposal.

- A high quality design and layout is proposed that ensures the protection of the local visual and residential amenities.
- The TPO refers to trees along the northern boundary. These were removed under Planning Application D94A/0562.
- The site is located outside OPW Flood Zone C. Green roofs and attenuation proposals submitted.

6.1.2 Reason No. 1:

The first reason refers to the design and siting of the proposed scheme and the impact on the amenities of adjoining lands due to the difference in ground levels.

Overlooking

To address the concerns raised by the Planning Authority, revised proposals have been included for both apartment blocks as follows:

- Move Block B c. 800mm southwards on the site in order to achieve a greater separation distance from the northern site boundary, which bounds an area of open space and faces the gable of the houses of Convent Court. A reduction in height by 3m to a three storey building with a recessed upper floor and the opaque glazing where required.
- A privacy screen to the third floor external balcony edge on the northern and southern elevations of Block A (1.8m in height) facing Convent Court and Kilmacud House respectively.
- A privacy screen to the second floor external balcony edge on the eastern elevations of Block B (1.8m in height) to prevent undue overlooking of the western elevation of Block A.
- The proposal complies with the required 22m from the eastern elevation of Block A and the western (rear) elevations of the houses at Woodthorpe. Internal reconfiguration of apartment layouts to achieve an 11m set back from living areas and the site boundaries. Where this cannot be achieved, the use of opaque glazing is proposed.

Extensive landscaping and planting along site boundaries is also proposed which would further screen the site.

The applicants are satisfied that no undue overlooking would arise as a result of the proposed development. The proposed development strikes a balance between achieving sustainable densities and providing a viable development scheme.

Overshadowing

- The applicants refute the assessment by the Planning Authority that the Sunlight/Daylight assessment or relevant standards were not appropriately applied. The report submitted with the appeal confirms that the original scheme was technically compliant.
- An assessment of the proposed modifications is submitted for the Boards consideration. The updated report concludes, having regard to the relevant standards, that the proposed and modified scheme would not give rise to unacceptable overshadowing of neighbouring properties.

Overbearing/dominance

- The Council's Building Height Strategy identifies Kilmacud as an area that could accommodate 2 to 3 storey houses and 3 to 4 storey apartment buildings, subject to the considerations of downward and upward modifiers.
- The site is close to a LUAS stop and has an area over 0.5 hectares, therefore complies with the required upward modifiers.
- The downward modifiers applied by the Planning Authority are disputed. The proposal submitted would not result in undue overlooking and overshadowing and, therefore, would not detract from the residential amenities of adjoining properties.
- Revised proposals for Block B, including revised setback from the northern boundary address the concerns raised by the Planning Authority and the perceived dominance of the proposal by the residents of Convent Court.

6.1.3 Reason No.2

- The application of an arbitrary 22m separation distance between Blocks A&B within the proposed scheme is queried. This standard is more appropriately applied between opposing windows, not neighbouring buildings within the scheme.
- The buildings have been carefully designed to avoid overlooking and loss of privacy for prospective residents, through careful floor plan layout, window placement and design.

Mitigation measures to avoid perceived undue overlooking between blocks A&B:

- Introduction of a privacy screen of a minimum 1.8m in height to the 2nd floor external balcony edge on the eastern elevation of Block B to prevent overlooking of Block A.
- Angled windows on the eastern elevation of Block B (units 01 & 05 at ground floor, units 16 & 20 at first floor) to maintain a gable between the blocks, avoiding directly opposing living area windows and undue overlooking.
- There are no directly opposing windows that would require a separation distance of 22m between Blocks A&B. The proposed development is not at variance with the separation distance requirements of the Development Plan.

The appeal also responds to issues raised in internal Council reports during the assessment of the application relating to drainage, access & parking, street lighting, landscaping, refuse storage and collection, storage for apartments in Kilmacud House.

The following reports are included:

- Sunlight/Daylight Assessment.
- Engineering Report
- Landscape Design Rationale Report.
- Conservation Impact Assessment.

- Lighting Report.
- Revised Plans and particulars.
- 3D Montages.

6.2. Planning Authority Response

This can be summarised as follows:

- The proposal does not comply with the County Development Plan requirement for a setback of 11m between habitable room windows and the boundary they face.
- Concerns remain in relation to the overshadowing impact as a result of the proposed development.
- Section 8.2.3.3 was correctly applied in the second reason for refusal. Clear overlooking would occur between windows and balconies on the western elevation of Block A and the eastern elevation of Block B at a distance of less than 22m.
- Reference to the TPO was in error. TPO SES/13/28 (Kilmacud House, Kilmacud) refers to the site. However, these trees appear to have been removed under a subsequent planning permission.

6.3. Observations

6.3.1 Eight Observations have been received. These include an Observation from An Taisce which is summarised in section 6.4 of this report.

- An Taisce Dun Laoghaire Association.
- Michael & Elizabeth Crowley, No. 1 Convent Court, Stillorgan.
- Mary Tuohy & Barry Dillon, No. 2 Convent Court, Stillorgan.
- John & Deirdre Power, No. 3 Convent Court, Stillorgan.
- Deirdre & Andrew Potts, No. 4 Convent Court, Stillorgan.
- Devendra Kumar, No. 5 Convent Court, Stillorgan.

- The Concerned Residents of Convent Court Group, signed by the above mentioned residents of Convent Court and Tony Geraghty & Miriam Russell, No. 6 Convent Court, Stillorgan.)
- Patrick Tonge, 90 Templeogue Wood, Templeogue.

There is an overlap and reiteration of issues throughout the Observations. To avoid repetition the issues are grouped into the related headings and summarised below:

6.3.2 Design & Layout and impact on Residential Amenity

- The proposed scheme would result in significant overlooking and overshadowing of properties and the open space in Convent Court due to the design and height of the buildings, set back from the boundaries and the presence of windows/balconies overlooking Convent Court.
- Notwithstanding that the gables of the houses at Convent Court face the site, there is overlooking of front and rear gardens and loss of privacy which would not be overcome by the provision of obscure glazing and privacy screens.
- The proposed development does not comply with the minimum separation distance required between apartment blocks as set out in the County Development Plan
- Concerns noted regarding the accuracy and completeness of the daylight/shadow study submitted. It only refers to the 21st March.
- The proposed development does not comply with the Building Height Strategy as set out in the County Development Plan.
- The apartment blocks would be located too close to the site boundaries resulting in an overbearing development when viewed from the adjoining properties to the north due to the design, height and scale of the buildings and the difference in ground levels
- The modifications included with the appeal do not address the reasons for refusal.

- If the site is developed it should be restricted to two storey in height (semi or detached houses) and be of a reasonable density in line with current houses in the surrounding area.

Overall, the changes to the scheme proposed do not address the fundamental issues of overlooking, overshadowing and visual overbearance. The proposal would, therefore, detract from the residential amenities of adjoining properties.

6.3.3 Residential Density.

- The proposed density is too high and results in overdevelopment of the site and would have a negative impact on local amenities (traffic, schools, and pedestrians/cyclists).
- The previous permitted scheme had a density of 63 units per hectare, this density should not be exceeded for this site.

6.3.4 Architectural Heritage.

- The proposal would detract from the setting of a Protected Structure.
- The two apartment blocks are large and modern in an architectural sense and do not blend with the architectural style and scale of Kilmacud House.

6.3.5 Traffic

- The location of the refuse collection area is too close to the site boundaries and would constitute a traffic hazard.
- The increase in traffic associated with the development and the location of the vehicular entrance to the basement carpark would contribute to traffic congestion and cause an obstruction of the path, cycle lane and the road due to vehicles queuing at the electronic gates, resulting in a traffic hazard.

6.3.6 Nuisance: Noise/Odours

- Noise disturbance from the electronic gates and vehicles waiting to enter the basement carpark.

- The location of the refuse collection point would be a nuisance due to noise and odours.
- Mitigation measures and the relevant management plans are required for noise, dust and vibrations if permission is granted.
- A community relations officer should be appointed by the developer.

6.3.7 Other

Trees

- All the mature trees should be retained on site as they contribute towards the vista to/from Kilmacud House.
- A TPO applies to the trees on site and there has been unauthorised removal of trees to date.

Public Notices/revised proposals

- Revised proposal submitted to An Bord Pleanála were not advertised and this has implications for third party rights.
- No photomontage submitted of Block B facing Convent Court.
- Queries plans and drawings submitted to the Planning Authority. No screening to balcony overlooking Convent Court.

Structural damage

- Potential damage to adjoining properties, including Kilmacud House, from ground works and excavations required for underground carpark.

Runoff

- The reduction of green land as a result of the development and the natural sloping gradient of the land would result in excessive rainwater runoff.
- The attenuation tank is too close to Convent Court and would have a negative impact on adjoining residential properties due to noise and vibrations.

- The location of the attenuation tank would encroach on a shared boundary.

Open Space

- The open space is poorly located given the overdevelopment of the site.

The proposal would result in a depreciation in the value of adjoining properties and set an undesirable precedent.

Reference to the 2007 planning application is irrelevant as it was assessed under a different context and County Development Plan.

The observers have referred to developments in the area which have been developed in a sympathetic manner: Stillorgan Gate, Richmond Close and Taney Green.

6.4 Prescribed Bodies

6.4.1 An Taisce:

The impact of the proposal on the character and setting of Kilmacud House, a Protected Structure, forms the basis of this observation.

- The current layout differs from that previously granted by An Board Pleanala under PL.06D.221544. Block B has been turned 90 degrees so that it extends across the site in front of Kilmacud House. The setting of the Protected Structure has, therefore, been significantly changed from that which was previously considered acceptable by An Bord Pleanala. The Inspector at the time noted that 'the centrally located open space between blocks A&B will provide an appropriate setting for the main building, a Protected Structure. The visual link between the central open space and the adjacent open space at Convent Court to the north would provide an attractive vista or view to and from the main building'.
- Under the present proposal, this open space and vista would be missing. Block B would represent an unacceptable intrusion into the setting of the Protected Structure, modifications proposed under appeal do not address this issue.

- The 3rd floor of Block B has been removed, reducing its height by 3m, but the Block is moved closer to the Protected Structure and would remain a barrier across the vista to and from the Protected Structure.
- The separation between opposing windows in Block B and Kilmacud house is measured at c. 22m, but the entrance portico (one of its most important features) and from which the main vista would be viewed, would be less than 22m from the new block.

The modified proposal does not overcome the Planning Authorities reason for refusal

6.4.2 Department of Culture, Heritage and the Gaeltacht. No objection subject to a condition relating to archaeological monitoring being attached in the event of a grant of permission.

6.5 Further Responses following the circulation of the Observation by The Concerned Residents of Convent Court Group.

6.5.1 Planning Authority response

No new issues raised to justify a change of attitude to the proposed development.

6.5.2 Applicants Response

The third party observation did not raise any new issues. The main concerns have been addressed by the applicant in the grounds of appeal. Additional points of note are summarised as follows:

6.5.2.1 *Design, Layout and impact on residential amenities*

- There are no directly opposing upper floor windows between Block A & B with Convent Court to the north. An area of public open space bounds the appeal site which would further preclude further development at Convent Court up to the boundary in the vicinity of the proposed apartment blocks.
- Attention is drawn to the fact that only a third of Block A directly opposes Block B. As a 22m separation distance between the two blocks cannot be achieved, the elevations have been redesigned to

avoid direct overlooking and undue loss of privacy for prospective residents. Angled windows to living areas have been proposed on the eastern elevation of Block B.

- The omission of the second floor to Block B and its replacement with the setback penthouse floor means that there would be no opposing third floor windows. If required, a privacy screen could be introduced to the second floor balconies to units 31 and 34 (Block B) without affecting their dual aspect, should the Board consider this necessary.

Overshadowing;

- The Observers have not presented any conflicting empirical evidence that demonstrated a different conclusion to that reached in the Sunlight and Daylight Assessment submitted with the Planning Application and subsequent addendum relating to the modified proposal.
- The Sunlight Assessment found that the proposed and modified scheme would not give rise to unacceptable overshadowing of neighbouring properties having regard to the relevant standards.

Overbearing/Dominance:

- The applicant acknowledges that the Building Height Strategy in general recommends building height of two storeys for the area. However, it also sets out that apartments or townhouse type development between 3-4 storeys in height may be considered in certain locations such as adjacent to public transport nodes. An Bord Pleanála (PL.06D.221544) considered a 3-4 storey acceptable on this site.
- The applicants are satisfied that having regard to the ability to consider upward modifiers, the height of the proposed building does not materially contravene the Building Height Strategy. The proposal is of similar height to that previously permitted on site and the modifications proposed on appeal further address the perceived dominance of the buildings by the residents of Convent Court.

6.5.2.2 Other:

- The Planning Authority did not raise concerns relating to the location of the proposed vehicular entrance to basement carpark and bin collection area. PL.06D.221544 included a vehicular access to a basement carpark at this location.
- The Construction Management Plan deals with noise/dust/vibrations, traffic, etc during the construction phase.
- No evidence has been submitted to support the claims that third party lands would be encroached upon during the construction phase and there is no intention to encroach on third party lands.
- There is no pedestrian/cycle link proposed with Convent Court.

6.5.3 Response from Patrick Tonge.

This submission reiterates and concurs with the issues raise in the report submitted by The Concerned Residents of Convent Court Group and requests that Planning Authority's decision to refuse permission be upheld.

7.0 Assessment

In an attempt to address the Planning Authority's reasons for refusal the applicants have submitted revisions to the original scheme in the documentation that accompanied the appeal. I note that the scope of the modifications proposed reduces the overall scale and height of the development and I am satisfied would not require re-advertisement. This Report, therefore, is dealing with the plans and particulars lodged with the appeal. The modifications submitted include the relocation of Block B c. 800mm (0.8m) southwards on the site and its reduction in height to a three storey building with the upper floor recessed. Elevational changes and internal reconfiguration of apartments to Block A & B including the provision of privacy screens to balconies, obscured glazing and angled windows where required. I note that the residents of Convent Court, the adjoining residential scheme, have submitted observations on the revised proposals before the Board.

The main issues in this appeal are those raised in the grounds of appeal which seek to address the Planning Authority's reasons for refusal. Arising from the modifications submitted to the Board, the issue of residential amenity also needs to be considered. As the proposal includes works to a Protected Structure and the site is within its curtilage the issues of Architectural Heritage are addressed. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Residential Density.
- Design.
- Residential Amenity.
- Architectural Heritage.
- Other Issues.

- Appropriate assessment.

7.1 Residential Density

7.1.1 **RES3** of the County Development Plan sets out the Council's policy relating to residential density. It notes that a minimum net densities of 50 dwellings per hectare should be applied within public transport corridors, which are defined as including sites within 1 km of light rail stops. They also infer that higher densities should be encouraged on sites that exceed 0.5 hectares in area.

7.1.2 There is a Quality Bus Corridor (QBC) along Kilmacud Road Upper which bounds the site with a bus stop adjacent to the site. The Luas Green line and Stillorgan Luas carpark is within c.1km (walking route) from the site.

7.1.3 The Observers raised concerns that the proposed density is excessive for the area and would result in the overdevelopment of the site. The Area Planner was satisfied that a density of 100 units per hectare (60 apartments) was acceptable. The reduced scheme before the Board for 55 units has a density of 92 units per hectare.

7.1.4 I consider given the location of the site on lands zoned under land use objective 'A' and its proximity to the LUAS stop and bounding a QBC, that the proposed density is acceptable subject to compliance with the development management standards for residential developments and the protection of the residential amenities of adjoining properties.

7.1.5 The development as proposed complies with RES3 of the Development Plan and Section 5.8 of the Sustainable Residential Development in Urban Areas Guidelines.

7.2 Design

7.2.1 The two reasons for refusal by the Planning Authority stem from the design, height and siting of the proposed apartment buildings on site and the impact

on the residential amenities of adjoining residents and prospective residents of the scheme which shall be dealt with in more detail in section 7.3 of this report. This section shall assess if the overall design, height and scale of the proposal is suitable for the appeal site.

- 7.2.2 The Dun Laoghaire Rathdown Building Height Strategy identifies Kilmacud as a mature residential suburb where a general recommended height of two storeys applies, with a maximum of three/four storeys for apartment developments adjacent to public transport nodes subject to the application of the upwards and downwards modifiers set out in section 4.8.1 and 4.8.2 of the Strategy.
- 7.2.3 The development refused by the Planning Authority consisted of the subdivision of Kilmacud House and the construction of two four storey buildings over a communal basement carpark. The focus of the Planning Authority's concerns related to the two apartment buildings. Revisions submitted on appeal reduced Block B to a three storey building with its upper floor recessed.
- 7.2.4 The observations submitted raise concerns regarding the potential for the proposed development to be overbearing when viewed from within Convent Court. I note that the distance from the northern elevation of Block A & B and the closest dwellings, No. 2 & 3 Convent Court and which have gables addressing the appeal site would be c. 23m from the Block A and c. 14.2m from Block B respectively. I am of the view that taking into account the proposed height and setback of the upper floors, the existing open space separating the proposed development from the houses at Convent Court and the public realm within the proposed scheme would reasonably serve to ensure the proposals would not have an overbearing impact from the adjoining estate to the north. Therefore, I consider that the two apartment buildings would not have a significantly overbearing impact from neighbouring properties or from the adjoining public open space.

7.2.5 Ground levels drop by c.3m moving northwards from Kilmacud House towards the boundary of the site with Convent Court and continue to drop northwards towards the houses in Convent Court. There is a gradual fall in levels within the site from west to east, continuing eastwards towards Woodthorpe. The proposed buildings would have a maximum height of 13.45m (parapet) for Block A and 13.8m (parapet) for Block B and the surrounding area is dominated by a mix of two-storey houses of varying designs. The Council's Building Height Strategy allows for building up to 3 to 4 storeys in height at this location. Buildings higher than two-storeys in the immediate vicinity include the 3-storey buildings of Whately Place on the western side of Kilmacud Road Upper, opposite the appeal site, while to the north and east of the appeal site are two storey houses. The modification to Block B and the overall design of the blocks with the upper floors recessed take cognisance of the two storey dwellings to the north and east and the difference in ground levels. I am satisfied that this variation in height would assist in reducing the mass and bulk of the building.

7.2.6 I note that computer-generated images of the proposed development have been submitted. However, they do not show the relationship of the proposed scheme with the existing built environment. The Planning Authority concluded that taking into account the difference in ground levels with adjoining sites, the height of the proposed development would be overbearing due to its setback from the site boundaries. While I accept that the proposed development would introduce taller buildings along the eastern side of Kilmacud Road Upper, I do not consider that the proposal would have an overbearing impact along Kilmacud Road Upper, given the width of the road at this point which accommodates cycle lanes and footpaths on both sides. Notwithstanding the difference in ground levels, I consider that the height and design of the modified development is appropriate in the context of current Development Plan policy and standards, including the relationship of the proposed building to the public realm and adjoining lands.

7.2.7 The Area Planner concluded that the proposal did not comply with the Council's Building Height Strategy as downward modifier No. 1 (that the proposal would adversely affect residential living conditions through

overlooking, overshadowing or excessive bulk and scale) applies to the proposed development and this nullified compliance with the upward modifiers set out in Section 4.8.1. The implications for residential amenity are addressed in detail in section 7.3 of this report.

7.2.8 It is considered that the proposed development subject to the modifications proposed in the appeal, in terms of design, scale, height, provision and location of open space, boundary treatment and overall form and mass would not form a discordant feature on the streetscape. The scale, mass and height of the structures would not be considered overbearing, the set back of the upper floors and the set back of Block A & B from the site boundaries is sufficient to address the concerns raised in relation to the overbearing impact on the adjoining properties, in particular, Convent Court.

7.3 Residential Amenity

As noted in section 7.2.1, there is a degree of overlap between the various components of the Planning Authority's two reasons for refusal, which relate to the impact the design and layout of the scheme would have on the residential amenities of adjoining properties or those of prospective residents within the scheme.

7.3.1 Overlooking

7.3.1.1 Section 8.2.8.4 (ii) set out the requirement of 22m for separation distances between upper floor opposing windows which would normally result in rear garden depths of 11m for back to back housing. There are no rear gardens proposed and the County Development Plan does not include a requirement for a setback of 11m for 'habitable' room windows from boundaries they face. The Area Planner concluded that overlooking would be an issue between the proposed apartment blocks and the houses at Convent Court, in particular due to the differences in ground levels, the height of the buildings, the presence of balconies and windows to their northern elevations and their set back from the site boundaries.

- 7.3.1.2 The northern elevations of Block A and B face the gables of houses No. 2 & 3 Convent Court respectively. The public open space for Convent Court houses bounds the appeal site with the exception of a small section at the northwestern corner which is bounded by the side and rear private amenity space of No. 3. I do not consider that overlooking is an issue as the upper floors of Block B are set back between 19.7 and 9.5m from the site boundary with Convent Court, and c. 10m from the boundary with No. 3 and c. 21m from its gable.
- 7.3.1.3 Block A is set back c. 23m from the gable of No. 2 and is separated from this property by an area of public open space. The set back from the northern boundary of the site is c. 4.2m in places.
- 7.3.1.4 Where the Block A & B are set back less than 11m, the proposal includes mitigating measures in the form of privacy screens to balconies and opaque glazing where required. In the interest of safeguarding the residential amenities of potential occupiers of the apartments, the use of opaque windows should be limited to non-habitable rooms or second small incidental fixed glazed windows to habitable rooms if required to address potential overlooking. I note that opaque glazing, is proposed to incidental windows to the main living areas of units along the southern elevation of Block A, there are no opposing upper floor windows as this elevation faces the adjoining Carmelite Monastery site with a setback between 3.6 to 4.3m from the site boundary. Notwithstanding that extensive planting is proposed along the southern boundary I consider the use of opaque glazing in this instance acceptable due to the set back from the boundary. Opaque glazing to the main windows serving living areas in block B facing north would detract from the residential amenities of potential occupiers and should be omitted as there is adequate setback from the site boundaries (between 9.5 and 19.7m) to protect the residential amenities of the residents of Convent Court. In addition the public open space area of Convent Court acts as a buffer along with the proposed planting and open spaces within the northern and eastern section of the site.

7.3.1.5 I consider that the design of the elevations of both blocks, wherein balconies are recessed in the building, the use of opaque glazing where appropriate, internal reconfiguration of apartment layouts and the relationship of the building to the site boundaries and the separation distance from the nearest adjacent residential properties would serve to mitigate the potential for overlooking. Privacy would be further enhanced with proposals for woodland backdrop/screening to the northern and eastern boundaries to reduce the impact on adjoining properties. This matter can be addressed further by condition if the Board is of a mind to grant permission.

7.3.1.6 The Planning Authority's second reason for refusal is based on the premise that the separation distance between Block A & B, at 13.75m does not comply with section 8.2.3.3 (iv) of the County Development Plan. I note that it also sets out that reductions to the 22m between apartment blocks may be acceptable subject to appropriate design and site context. There are balconies along the western elevation of Block A which face Block B. The eastern elevation to Block B has been revised with angled windows serving habitable rooms. I am satisfied that, in this instance, a reduced separation distance is acceptable as there are no opposing upper floor window/balconies and overlooking is not an issue. Having regard to the height and scale of Block A & B I do not consider that the proposal would have an overbearing impact within the scheme. I am of the view that a separation distance of c. 13.75m is adequate for the revised scheme and complies with section 8.2.3.3 (iv) of the County Development Plan.

7.3.1.7 I am satisfied that the proposed modifications to the scheme address the Planning Authority's concerns relating to potential overlooking. Block B has been reduced in height and set back southwards on the site. Revised elevations proposed to both blocks, the use of opaque glazing, subject to modifications, and privacy screens to balconies for both buildings are also proposed. I consider that the separation distances between buildings, the stepped design at upper levels of the proposed buildings and the buffer

formed by existing and proposed areas of public open space, along with the proposed landscaping would serve to suitably address potential for overlooking residences to the north and east. I note that the elevations of Block A & B which face each other have been designed to avoid overlooking internally within the apartment complex. Kilmacud House and its proposed conversion will not be the subject of undue overlooking from either Block.

7.3.2 Overshadowing

- 7.3.2.1 The Planning Authority also referred to overshadowing arising from the height, bulk and siting of the buildings and the difference in ground levels between the site and the adjoining properties. All of these are intrinsically linked issues, some of which have been addressed previously in this report.
- 7.3.2.2 The Observers assert that the development would result in excessive overshadowing of neighbouring properties and the adjoining public open space in Convent Court. The Sunlight and Daylight Assessment submitted with the application and, subsequent amendments with the appeal concluded, that the proposed development will not have any significant impact on the daylight conditions which will be available to the neighbouring residences. Further to this the results also indicate that no significant reduction in sunlight amenity can be expected for any of the neighbouring gardens.
- 7.3.2.3 Block A & B would be sited to the south of the adjacent open space serving Convent Court at a setback between c 4.5 to 20m. I acknowledge that the proposals would lead to some overshadowing, but that this would be centred on the open space of Convent Court and the rear of properties at Woodthorpe, many of which currently experience a similar degree of shadow due the presence of mature trees on the site. The Sunlight/Daylight Assessment submitted shows that additional properties at Woodthorpe may experience a degree of shading, but this would be largely confined to evening time. I am of the view that while there is a degree of overshadowing it is not of an extent that would detract from the residential amenities of adjoining properties and warrant a reason for refusal. The orientation and layout of the proposed development would not lead to excessive

overshadowing within the scheme. Consequently, I do not consider that the proposed development would lead to excessive overshadowing of proposed apartments, neighbouring properties or the adjacent open space.

- 7.3.2.4 Having regard to the revised proposal submitted with the appeal, I am satisfied that the scheme, would provide for good quality development, providing a relatively high level of amenity for any future occupiers. The design, scale and setback of the proposal is such that it would not detract from the residential amenities of adjoining properties. The site in its current state, overgrown with Kilmacud House boarded up and in a state of disrepair, adds nothing to the character and amenities of the areas. The proposal within the curtilage of a Protected Structure and including works to the Protected Structure would bring back into use a vacant building that is in a state of disrepair at present and would be an appropriate use of a serviced brownfield suburban site, zoned for the residential development.

7.4 Architectural Heritage

- 7.4.1 Kilmacud House, a substantial two storey over basement structure dating from the 1820s currently occupies the site. It is included in the Dun Laoghaire Rathdown County Development Plan as a Protected Structure Ref. No. 1383. The applicants have stated that structure last used as temporary accommodation for asylum seekers until c. 2013 and has been unoccupied since then.
- 7.4.2 An Taisce and Observers raised the issue of Architectural Heritage and the impact the proposal would have on Kilmacud House and its setting. I note that the scheme permitted under PL. 06D.221544 in 2007 included the refurbishment and subdivision of Kilmacud House into multiple units.
- 7.4.3 The current proposal includes the refurbishment of Kilmacud House and its subdivision into apartments along with the removal of the existing roadside boundary wall and entrance piers of Kilmacud House. The interior of the structure has undergone significant works. The proposed development and Conservation Report submitted were considered acceptable by the Councils

Conservation Division and the Department of Culture, Arts and the Heritage. I consider the refurbishment and conversion of the currently disused structure to modern residential units is acceptable and I have no objection to the removal of the roadside boundary to facilitate the development.

7.4.4 It is my considered opinion that the proposed residential development would be of an appropriate design intervention for development to and within the curtilage of Kilmacud House. It would replace a vacant overgrown suburban site, and would enhance rather than detract from the amenities of the area. I consider that the overall scale, mass, form, height and design of the proposed apartment blocks are satisfactory in terms of protecting the character, setting and amenities of the adjoining Protected Structure. I am satisfied that the proposal complies with policy Section 8.2.11.2 (ii) and (iii) of the Development Plan.

7.5 Other Issues

7.5.1 The Observers have raised concerns that the proposal requires the removal of mature trees. There is a TPO indicated for trees on site, however there are no trees where this TPO relates to. The Planning Authority in their response to the appeal have noted that this is an error. A tree survey and arboricultural report submitted with the application includes a Tree Replacement Strategy for the site which is acceptable to the Parks and Landscape Services of the Council.

7.5.2 Reference to the removal of trees from the site is noted and the applicants have confirmed that one tree was removed on health and safety grounds and was not the subject of a TPO. The TPO on the site is dated from 1989 and there is reference to P.A Reference No. D94A/0562 in the mid-1990s. I have examined the reports and tree replacement strategy submitted and I am satisfied that the trees to be removed are not the subject of a TPO. Specifics

relating to landscaping can be addressed through the appropriate condition if the Board decide to grant permission.

- 7.5.3 In relation to the concerns relating to the possible flooding of adjoining lands from runoff due to the difference in ground levels, I am satisfied that this issue can be addressed by condition.
- 7.5.4 Carparking and bicycle parking would mainly be accommodated in a communal basement carpark, under Blocks A&B, with a limited number of surface spaces adjacent to Kilmacud House. The proposal complies with the requirements as set out the County Development Plan. The Transportation Section noted a number of issues that were outstanding which have been addressed by the applicant in the appeal documentation. I am satisfied that the proposed development would generally accord with the provisions of the County Development Plan. The Planning Authority did not include traffic as a reason for refusal and if the Board is of a mind to grant permission, I am satisfied that outstanding requirements could be dealt with by condition.
- 7.5.5 Section 8.2.4.9 requires a setback of 6m for electronic gates. This setback is provided in the amendments submitted with the appeal and is acceptable.
- 7.5.6 The proposed layout does not show a pedestrian access point to the northern boundary of the site linking to Convent Court. The provision of a link would require the relevant third party consents and is not within the scope of the application.
- 7.5.7 The observers have raised concerns that the amenities of local residents would be impacted by noise during both the construction and operational phases of the proposed development. I note that the impacts associated with the construction works and construction traffic would be temporary and of a short duration. I do not consider that the impacts on surrounding residential properties during the operational phase would be significant.

7.6 Appropriate Assessment

- 7.6.1 The applicant submitted a stage 1 screening report for appropriate assessment and an ecological impact assessment. The Planning Authority also concluded that a stage 2 appropriate assessment was not required.
- 7.6.2 The site is a serviced suburban site, which neither lies in or near a Natura 2000 site. The nearest such sites are at a considerable distance and there are no direct connections between them and the development site. Having regard to nature and scale of the proposed development, the nature of the receiving environment and the distance to the nearest European sites, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend therefore that planning permission be granted subject to the conditions as set out below.

9.0 Reasons and Considerations

Having regard to the scale, height and design of the proposed apartment scheme and the provisions of the Dun Laoghaire 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 Kilmacud House, a Protected Structure, and would adequately protect the residential amenity of adjacent properties and of properties within the scheme. 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 and with the further plans and particulars received by An Bord Pleanála on the 26th day of 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. Opaque glazing shall be used only for non-habitable room, with the exception of the incidental windows serving living areas on the southern

elevation of Block A and which shall be fixed opaque glazed units.

Reason: In the interest of visual and residential amenity.

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

Reason: In the interest of protecting the character of the Area.

4. 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.

5. The site shall be landscaped in accordance with the recommendations from the Survey and Arborist Report received by the Planning Authority on the 6th day of July, 2017 and with the landscaping and planting plan and details submitted to the An Bord Pleanála on the 26th day of September, 2017. All landscaping shall be carried out within the first

planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

7. 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.

8. Access arrangements shall comply with the detailed standards for Planning Authorities for such works

Reason: In the interest of amenity and traffic safety.

9. Public lighting shall be provided in accordance with the scheme, details of which shall be submitted to, and agreed in writing with, the Planning

Authority prior to the 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.

10. Proposals for building names and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all building signs, shall be provided in accordance with the agreed scheme. No advertisements/marketing signs relating to the name of the development shall be erected until the developer has obtained the Planning Authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

11. (a) 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

12. Prior to commencement of development, the developer shall provide

for the following in relation to Kilmacud House:-

- (a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
- (b) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.
- (c) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

13. Prior to commencement of development, detailed structural drawings and a construction methodology statement for Kilmacud House (including the results of detailed structural surveys of the protected structure and all building facades to be retained) indicating the means proposed to ensure the protection of the structural stability and fabric of all these retained structures shall be submitted to and agreed in writing with the planning authority. These details shall include demonstrating

the methods proposed to part dismantle and re-instate the existing [façade] and to retain other existing facades as proposed, demolition and excavation arrangements, the proposed foundation system and underpinning, structural bracing and support and method of construction.

Reason: In the interest of preserving the architectural integrity and heritage value of the retained structures.

14. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

15. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

16. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

17. 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 public 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.

18. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

19. 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.

20. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Dáire McDevitt
Planning Inspector

30th January 2018