



An
Bord
Pleanála

Inspector's Report ABP 303365-19.

Development	Construction of 13 no. houses & all associated site development works.
Location	Annefield (Protected Structure) and St. Anne's Dundrum, Dublin 14.
Planning Authority	Dún Laoghaire-Rathdown Co. Council
Planning Authority Reg. Ref.	D18A/0631
Applicant	Cormal Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	First & Third Party
Appellants	(1) Cormal Ltd. (2) Tom & Frances Slowey (3) Derry O'Donovan & Angela Lemass (4) An Taisce
Observers	(1) Seamus & Elizabeth Whoriskey (2) Tony Mc Poland & Aldagh Mc Donagh

- (3) David Lister
- (4) Paul Murray
- (5) Barry & Anne Denton
- (6) Nick Durham

Date of Site Inspection

29/3/19

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The site of the proposed development is located circa 150m to the east of the Main Street in Dundrum. Dundrum Town Centre is situated 150m to the south-western on Sandyford Road. The surrounding area is characterised by a mix of residential, educational, office and commercial uses. The Dundrum Luas station is situated circa 430m walking distance from the site.
- 1.2. The site has a stated area of 0.72 hectares. The site has frontage of circa 9m along Kilmacud Road Lower. The Luas line runs along the western site boundary. Taney Lawns a development of 12 no. bungalows is located to the north-western boundary. The site contains "Annefield" which is a Protected Structure is a two-storey over basement double fronted dwelling. The property is late Victorian era circa 1860. The vehicular access is via a 120m long and narrow driveway off Taney Road. The site contains a significant number of mature trees located along the site boundaries and also interspersed on the lawn of the property.
- 1.3. 'St. Anne's' no. 6 Sydenham Road which comprises a two-storey detached dwelling and its associated front and rear gardens forms the eastern section of the site. Residential properties along Sydenham Road adjoin the eastern boundary and a section of the northern boundary. Properties to the north of 'St. Anne's' form part of the Sydenham Road ACA. Sydenham Road Dundrum College, Adult Education Centre is located along the south-eastern boundary of the site.
- 1.4. At the south-western corner of the site a footpath provides access to "Annefield" from Kilmacud Road Upper. Sydenham Place comprising 2 no. two-storey semi-detached properties and 2 no. semi-detached single storey properties adjoins the southern site boundary.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of residential scheme comprising 13 no. houses & all associated site development works on lands at Annefield (A Protected Structure). Features of the scheme include;
 - Replacement house at St Anne's (to be demolished) and new entrance off Sydenham Road.

- The development will comprise of a mixture of 1.1 storey, 2 storey, 2.5 storey and 3 storey detached, semi-detached and terraced 2, 4 and 5 bedroom dwellings.
- Site development works will comprise of estate road, footpaths, car parking spaces, site services, public and private open space, landscaping/planting and boundary treatment.
- Annefield will be separated from the proposed development by a stone boundary wall which includes a pedestrian access into the proposed development.

2.2. At further information stage the following revised proposals were submitted;

- The revised site layout plan includes the entire plot of Annefield (Protected Structure) in the redline area and the driveway from Taney Road.
- Houses 9-11 have been revised with the dwellings reduced from three storey to 2.5 storey units. (Reduction in height from 11.05m to 9m). The proposed roof profile is changed from hipped to gable. Flat dormers proposed to the front elevation, bay windows proposed to first floor level only and the overall floor area is reduced.
- The height of the proposed replacement dwelling at 'St. Anne's' was reduced from 10.765m to 10.0315m with the eaves to be in line with Dundrum College building.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Permission was granted subject to 24 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report dated 29/11/18 the Planning Authority sought further information in relation to the following;

- 1) Extend the redline site area to include Annefield
- 2) Submit revised plans reducing the overall height and/or mass of House numbers 9-11, two-storey dwellings may be more appropriate. Also submit revised plans addressing the height, eaves levels and roofscape of the replacement dwelling at 'St. Anne's'.
- 3) Submit an updates and comprehensive Arborist Report, Tree Protection Plan, Tree Constraint Plan and Landscaping Plan
- 4) Submit revised surface water drainage details
- 5) Submit revised entrance and roads details including ramp entry treatment for pedestrian priority at vehicular entrance, entrance with a maximum width of 3.5m at 'St. Anne's on Sydenham Road, revised details showing adequate car parking dimensions and area for vehicular manoeuvres on site.

Report dated 3/13/18: The Planning Authority was satisfied that the applicant addressed all the issues raised in the further information request and permission was granted.

3.2.2. Other Technical Reports

Drainage Planning – No objection subject to conditions

Transportation Planning – No objection subject to conditions

Parks – Refusal recommended based on significant loss of trees. However, should permission be granted it is recommended that conditions regarding the following be attached – tree protection, engagement of Arboricultural Consultant, tree works, tree bond, post construction engagement by a Landscape Architect and a contribution in Lieu of public open space provision on site.

Conservation Officer – Refusal recommended – it is considered that the proposed development would adversely affect the character, setting and amenity of the Protected Structure.

Housing – No objection subject to condition

3.3. Prescribed Bodies

Irish Water – No objections

Department of Culture, Heritage and the Gaeltacht – no objection subject to condition.

3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received 29 no. submissions/observations in relation to the proposed development. The main issues raised are similar to those set out in the third party appeals and observations on the appeals.

4.0 **Planning History**

PA Reg. Ref. D15A/0679 & PL06D.246069 – Permission was refused for the retention of Annefield as a single residential unit, construction of 10 no. houses, new boundary treatment and all associated works (protected structure RPS no. 1040). Permission was refused for the following reason;

Having regard to the design and layout of the proposal, to the proximity of the three-storey flat roofed houses Type A to the protected structure without any effort to form a transitional area between the flat-roofed modern design of these houses and the hipped roof of the protected structure, to the failure of the scheme to have its layout informed by the existing high quality trees on site which contribute to the quality and setting of the protected structure, including trees reference numbers 254, 257 and 209 as referred to in CMK drawing number 101 received by the planning authority on the 27th day of October, 2015, to the failure to protect trees on the approach avenue to the development, inter alia by narrowing the access way at certain points and providing passing bays, given that this avenue would have formed an important part of the setting of the protected structure, and to the proposal to form a passageway surrounded by high walls in the vicinity of proposed house number 04, which would damage the character of the pedestrian access way to the protected structure, the Board considered that the proposal would seriously injure the setting of a protected structure.

PA Reg. Ref. D14A/0855 & PL06D.244653 – Permission was refused for the Construction of 33 no. houses and retention of Annefield House (Protected Structure), construction of boundary railing, wall, screen and gate. Permission was refused for two reasons;

1. Having regard to the design, bulk and proximity to neighbouring boundaries of the proposal, it is considered that the proposed development would have an unacceptable impact on the residential amenity of the adjoining dwellings and the Protected Structure 'Annefield', would give rise to overlooking and would be overbearing and visually unacceptable. The proposed development would be contrary to the zoning of the site which is 'A' 'to protect and or improve residential amenity' and would seriously injure the amenities of property in the vicinity. The proposed development, would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of its siting, scale, height and proximity, would materially affect the character, setting and amenity of the existing house 'Annefield', a Protected Structure, in particular by the absence of a meaningful and proportionate quantum of private open space to serve the house. The proposed development would, therefore, be contrary to Policies RES3 and DM4 of the Dún Laoghaire-Rathdown County Development Plan 2010-2016 and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy

Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.

- 5.1.2. National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.
- 5.1.3. National Planning Objective 13 also provides that “In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. **Section 28 Ministerial Guidelines**

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
 - ‘Urban Development and Building Heights’ Guidelines for Planning Authorities
 - ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’)
 - ‘Design Manual for Urban Roads and Streets’ (DMURS)
 - ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)

5.3. **Architectural Heritage Protection, Guidelines for Planning Authorities, DoEHLG, 2011**

- 5.3.1. Section 13.8 refers to Development affecting the Setting of a Protected Structure or an Architectural Conservation Area.

5.4. **Dún Laoghaire Rathdown County Development Plan, 2016-2022**

5.4.1. Land Use Zoning: The proposed development site is located in an area zoned as 'A' with the stated land use zoning objective 'To protect and-or improve residential amenity'.

5.4.2. Annefield is a Protected Structure (RPS No. 1040)

- Policy AR 1 refers to Protected Structure
- It is Council policy to Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- The site adjoins Sydenham Road Architectural Conservation Area

5.4.3. Chapter 8 – Principle of Development

5.4.4. Section 8.2.3.4 (vii) refers to infill development

- New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

5.5. **Environmental Impact Assessment (EIA)**

5.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.6. **Natural Heritage Designations**

5.6.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 3.8km north-east of the site.

- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 3.8km north-east of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 6.4km south-west of the site
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 6.6km south-west of the site.
- The Dalkey Islands Special Protection Area (Site Code: 004172), approximately 9.8km east of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 10km east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

Third Party Appeals

The Board received third party appeals from the following; (1) Tom & Frances Slowey (2) Derry O'Donovan & Angela Lemass (3) An Taisce. The main issues raised can be summarised as follows;

(1) Tom & Frances Slowey

- The decision to grant permission by the Council represents a reversal of previous decisions in relation to the site. Under previous application D14A/0855 the Planning Authority refused permission on the basis that it would be out of character with the existing streetscape and pattern of development in the area and that it would detract from the quality of the directly adjoining ACA.
- The appellants object to the development of a new access road and entrance onto Sydenham Road.
- The proposed development would adversely impact Sydenham Road ACA.
- The additional traffic generated would impact pedestrians and lead to traffic congestion on Sydenham Road.

- If the Board decide to grant permission for the scheme the appellants request that a condition be attached requiring that they agree the boundary treatment along the shared boundary between the site and their property no. 7 Sydenham Road.

(2) Derry O'Donovan & Angela Lemass

- The appellants concerns centre on the proposed design of the scheme and its impact upon the setting of “Annefield” Protected Structure.
- The house designs for no’s 9-11 appear to be identical to dwellings constructed at Taney Green under Reg. Ref. D14A/0461 and Friarsland Reg. Ref. D13A/0493. It is submitted that the proposed design and layout remains problematic despite revisions from previously proposed schemes.
- House no. 8 due to its size, scale and irregular design would be out of character with the adjoining dwellings at Sydenham Place. It would appear visually obtrusive when viewed from Kilmacud Road Upper. The property with a floor area of 311.6sq m would be larger than the floor area of “Annefield” Protected Structure.
- House no. 8 has a proposed depth of 28.3m with a first floor depth of 17.3m. The elevation addressing Kilmacud Road Upper would be the rear of the dwelling which would be at odds with the adjoining properties at Sydenham Place.
- The design quality of the front elevation of house no. 8 is also raised.
- The submission from An Taisce to the application specifically requests the omission of dwelling no. 8. The appellants are concerned at the bulk and scale of the dwelling and the proximity to their property. The appellants request that the Board seek the reduction in the scale of the dwelling so that it would match the front and rear building lines of the neighbouring properties at Sydenham Place.
- Alternatively, it is requested that the proposed dwelling be omitted by condition.

- It is submitted that the proposed development would overshadow the appellants property. It is stated that the shadow analysis is conclusive in relation to their property no. 1 Sydenham Place.
- The appellants are opposed to the felling of tree no. 1211 a Lime tree and tree no. 1251 a Horse Chestnut tree. It is considered the removal of these trees has not been justified.

(3) An Taisce

- The proposed development would adversely affect the setting and amenity of Annefield.
- The previous Board decisions on the site where permission was refused for residential schemes with vehicular access from Taney Road are note, PL06D.244653 and PL06D.246069. The Board Direction of PL06D.244653 notes that it had previously been proposed to access the site from Sydenham Road and considered that this option might usefully be re-considered in any future redesign. The Board direction on PL06D.246069 noted *“further to note attached to direction accompanying appeal decision No. 244653 the Board consider that the option of providing access off Sydenham Road should be investigated to resolve the design difficulties on the site.”*
- While the applicant has investigated the option of providing access off Sydenham Road it is considered that the current proposal has failed to resolve the difficulties on site.
- The current proposal locates a 2m high stone faced boundary wall across the front of Annefield with a strip of private open space at the base of the steps leading to the main door. It is submitted that the curtilage remaining for the Protected Structure would be inadequate and the vista towards the front elevation which is the most significant would be severely impacted.
- At further information stage the applicant submitted revised plans for the houses to the south of Annefield no's 9-11 with a reduced height to two and half storeys, however this is insufficient to avoid negative impact on the setting and privacy of the Protected Structure.

- The appellants note a previous Board decision at Hollywood House, Mt. Anville Road, Goatstown, PL06D.242505, where permission was refused for a residential scheme on the basis that *“the design approach taken of locating a wall immediately to the front of Hollywood House and at a remove of 20m from it, would tend to interfere with the nature and quality of the setting of Hollywood House..”*
- The principle staircase and main rooms to the front of the house, therefore the ground of refusal applied to Hollywood House is also applicable to Annefield.
- Annefield and its drive to Taney Road are included in the redline site boundary. It is noted that no proposals for the future of Annefield as a single residential unit is mentioned.
- As set out in the Arborist Report it is proposed to remove 59 no. trees. All of the trees on the lawn to the front of Annefield would be removed to facilitate development. Among the trees to be removed includes a common lime which is Category A. This is a large healthy tree of high quality which should be retained. The site includes ‘St Anne’s’ together with its garden this contains a number of trees including a Cherry tree which is Category C and Italian Populars which contribute significantly to the tree scape of the area. It is considered that the layout fails to respect the trees on site.
- It is submitted that the demolition of St. Anne’s and the construction of taller replacement house, insertion of a roadway immediately beside the boundary of No. 7 Sydenham Road and opening of a junction onto Sydenham Road would seriously detract from the quality of the ACA.
- The proposal would involve the removal of the granite stone wall to accommodate the road way and parking space for the replacement house. It is considered this would have a negative visual impact upon the streetscape along Sydenham Road.
- At further information stage the applicant proposed to reduce the overall height and eaves height of the dwelling at ‘St Anne’s’. However, the proposed house would be substantially higher than the house it would replace. It is considered that the change in height of the replacement house does not overcome the negative impact on the streetscape and adjacent ACA.

- It is proposed to construct House no. 8 beside the period houses of Sydenham Place and restrict pedestrian access onto Upper Kilmacud Road. The Board in their decision referring to PL06D.246069 considered the proposal for a similar layout would “damage the character of the pedestrian way to the Protected Structure.”
- The retention of the pedestrian way onto Upper Kilmacud Road would serve the residential amenity of the Protected Structure and also that of future residents by providing access to Dundrum Village and Dundrum Town Centre.
- The proposed house no. 8 would be an incongruous intrusion into the streetscape beside the Victorian houses of Sydenham Place.
- It is requested that the Board refuse permission for the reasons set out in the appeal.

6.2. First party appeal

6.2.1. A first party appeal was made by the applicant against condition no. 13 of the permission granted under Reg. Ref. D18A/0631.

- Condition no. 13 requires a tree bond of €150,000.00 to be lodged prior to the commencement of development relating to ‘tree felling and construction activities as security for tree protection and a deterrent to wilful or accidental damages during construction’. The applicant requests that the Board omit this condition as part of a grant of permission.
- It is submitted that all of the trees to be retained and particularly those of high value fall outside the main boundary of the site. The trees listed for retention are either along the driveway or in the immediate surrounds of “Annefield”.
- It is stated that not one of the trees to be retained fall within the area to be Taken In Charge. It is also in the developer’s interest to ensure the

retention of the trees in the vicinity of “Annefield” and that they are in good condition in order to secure the future sale of the property.

- Condition no. 23 as attached by the Planning Authority specified the lodgement of an Approved Insurance Company bond of €113,400.00 to the Council or the lodgement with the Council of a cash sum of €68,100.00 to cover all performance related issues. This would include the retention of trees.
- A previous grant of permission by the Council at Friarsland, Clonskeagh under Reg. Ref. D13A/0493 is noted. In that scheme there was a particularly valuable tree to be retained in close proximity to the construction works. There was no specific tree bond conditioned for this tree. Therefore, the protection and retention of the tree came under the general performance bond attached to the permission.
- The only area where work will be carried out in proximity to any trees to be retained are covered by section 5.5.6 and 5.5.7 of the Arborist Report and all of these works are to be monitored.
- Pre-planning trial holes were dug under arboricultural supervision to determine if any of the proposed drainage works would have an adverse impact on root structures. It was the opinion of the Arborist that there would not be any adverse impact but that he would be supervising that part of the works to ensure no unforeseen issues.
- Having contacted two Insurance Companies in relation to the tree bond it would appear that trying to obtain a bond over trees that will come under third party ownership will be difficult.

- A specific tree bond would also create a burden on the sale of Annefield.
- The applicant contends that for the reasons outlined above that a separate tree bond will create a disproportionately onerous financial and legal burden on the proposed development. Therefore, it is requested that the Board omit condition no. 13 of any grant of permission.

6.3. Applicant Response to third party appeals

- In terms of the principle of development, the site is zoned Objective A “to protect and/or improve residential amenity.” The proposed development has been formulated having regard to the national, regional and local planning policy objectives with particular regard to the Dún Laoghaire Rathdown County Development Plan, 2016-2022 and the extensive planning history on the site.
- It is accepted that the site is suitable for residential development as was noted in the Inspectors Report PL06D.246069 that ‘redevelopment of this site is acceptable in principle subject to compliance with the newly adopted Dún Laoghaire Rathdown County Development Plan and government guidelines with respect to residential development.
- A residential scheme was previously refused on the site due to its size, scale and overbearing impact on the Protected Structure.
- Permission was refused for a residential scheme under PL06D.246069 due to the proximity of three storey flat roof house type A to the Protected Structure without any effort to form a transitional area between the modern flat roof design and the hipped roof of the Protected Structure. The failure of the scheme to have its layout informed by the existing high quality trees on site which contribute to the quality of the Protected Structure, the failure to protect trees on the approach avenue and the proposal to form a passageway surrounded by high walls which would change the character of the pedestrian access to the Protected Structure.

- The applicant submits that they have overcome these issues. They have provided vehicular and pedestrian access from Sydenham Road as suggested by the Planning Authority and the Board (PL06D.246069).
- The proposed scheme retains the sylvan nature of the historic drive and the retention of the majority of high value trees on site.
- Private open space of 625sq m around Annefield, Protected Structure has been provided.
- A separation distance of 16.4m has been provided between Annefield and the proposed houses to the south. As part of the further information the height of the units 9-11 was reduced by over 2m. Section C-C on Drawing Ref: No: C-77-21 rev shows these proposed units are clearly subordinate to the main house, Annefield.
- It is noted that the Board and Planning Authority highlighted that a density of 35 units per hectare would be appropriate for the site. Section 2.13.3 of the Development Plan sets out that the maximum default density for new residential development shall be 35 units per hectare. The site is not greenfield in nature but rather an infill site within the setting of a Protected Structure and close to an ACA. Therefore, the proposed density of circa 35 units per hectare satisfies the requirements under the development plan.
- Regarding the design concept of the scheme, great care has been put into the design with regard to the setting of Annefield and how it relates to Sydenham Road and Kilmacud Road. Careful consideration was given to the choice of external finishes. The palette of materials which is proposed includes natural granite combined with an off-white render which fits with the material and finishes of Annefield and the adjoining dwellings on Sydenham Road.
- The historic boundary wall with no. 7 Sydenham Road was constructed using natural granite. There are no plans as part of this application to make any alterations or remedial works to this wall. These will have to be agreed at a later time with the homeowners of no. 7 Sydenham Road.

- Drawing no. C-77-21 rev Section B-B shows how the existing boundary walls within Annefield will be linked with the granite elements to the side of the proposed replacement house for St. Anne's and no's 11 & 12.
- In relation to the Protected Structure, no works are proposed to Annefield. As set out in the Architectural Heritage Impact Assessment prepared by Paul Arnold, 'a new stone faced wall is to define a private open space. This wall will have a negligible, neutral and indirect impact on the setting of Annefield. The location of the communal open space to the west of Annefield assist in maintaining a sense of the historic open garden setting of Annefield.
- Pedestrian access to Kilmacud Road Upper was not part of the historic Annefield House and garden as indicated on the OS Map of 1864. It is confirmed in the Architectural Heritage Impact Assessment that House 8 lies outside the historic curtilage of Annefield.
- The matter of the trees on site is raised in the third party appeals. Of the 59 trees to be removed 23 are category U which recommends their removal. The majority of the other trees to be removed are category C which would have a relatively short life span.
- The only tree of significance which is recommended for removal is the lime tree no. 1211. It is acknowledged that it needs to be removed, however due to its location circa 20m from the western boundary with a Root Protection Zone of a diameter of 28m it would preclude the construction of units 6,7 and 8 which would substantially reduce the density of the development.
- An Taisce in their appeal propose that the Cherry tree no. 1206 be retained and house no. 12 be omitted. Proposed House no. 12 was specifically negotiated as an additional unit with the Planning Department to provide for a suitable Social and Affordable unit on site. The suggestion to omit the unit to retain one low quality tree with a short life span is short sighted and not in keeping with the proper planning and sustainable development of the area.
- The demolition of St. Anne's and the provision of an entrance at this location was suggested by both the Planning Authority and the Board as the preferred entrance to the site. The applicant concurs with the provision of the entrance

onto Sydenham Road and that it is the only suitable entrance to the proposed scheme.

- It is submitted that St. Anne's does not add especially to the Sydenham Road streetscape and the adjoining ACA. The proposed replacement dwelling would represent a substantial improvement.
- In relation to proposed house no. 8 care was taken in the design to minimise any impacts from overshadowing of the neighbouring property. The proximity of house no. 8 to no. 1 Sydenham Place is 1.75m along the two-storey and one and half storey section is entirely consistent with separation distances of other infill development. The single storey flat roof element has a 3m separation distance to the boundary with no. 1 Sydenham Place in order to prevent any impact to its rear garden in respect of overshadowing.
- House no. 8 is of contemporary design to avoid pastiche in relation to the adjoining houses on Kilmacud Road Upper. It is proposed to raise the boundary wall at no. 8 which address Kilmacud Road Upper to create a continuous extension of the Luas bridge wall, this is entirely in keeping with the area. The layout of house no. 8 is somewhat constrained by the site. There is no possibility of a vehicular entrance from Kilmacud Road Upper. The front door is orientated north to be accessed from with the proposed development.
- It is requested that the Board positively consider this proposal.

6.4. Planning Authority Response

- In relation to the issues raised in the third party appeals the principle residential development at this location has been accepted. The Planning Authority considers that the proposed development represents an appropriate balance between the quantum of residential accommodation and the protection of the Protected Structure and the majority of trees on site.
- Concerns were raised in relation to House 8, the Planning Authority maintains that the siting and design are appropriate and that no overlooking or overshadowing issues have been identified.

- In relation to the first party appeal the Planning Authority notes that the application has submitted a justification for the removal of condition no. 13 which imposes a €150,000.00 Tree Bond to be lodged prior to the commencement of development. The applicant has outlined that the trees to be retained are not within the development part of the site and are either within the immediate vicinity of the Protected Structure or on the driveway from Taney Road. The Planning Authority raises no issue with the removal of this condition.

6.5. Observations

Observations to the appeals was submitted by the following (1) Seamus & Elizabeth Whoriskey (2) Tony Mc Poland & Aldagh Mc Donagh (3) David Lister (4) Paul Murray (5) Barry & Anne Denton (6) Nick Durham. The mains issues raised concern the following;

- The proposed development would have a significant effect on Annefield, Protected Structure and Sydenham Road ACA.
- The omission of house no.8 is requested as it blocks pedestrian access to the estate. It would also remove pedestrian access from Annefield to Kilmacud Road.
- A wall should be provided between the new proposed access road and no. 7 Sydenham Road.
- The proposed new vehicular entrance to the scheme of Sydenham Road would impact upon the safety of pedestrians and would increase congestion. The proximity of the local primary schools is noted and the use of Sydenham Road for 'set down' and collection from the schools.
- The proposed vehicular access would impact the adjoining properties on Sydenham Road. Vehicular access from Taney Road is considered more appropriate.
- The proposed development would result in devaluation of property in the area.

- House no. 8 is out of character with the existing dwellings within the vicinity. It is requested that the scale of the dwelling should be reduced and a more sensitive house design provided.
- The level of tree removal proposed is considered excessive and it would result in the loss of a mature lime tree.
- The proposed new dwelling at 'St. Anne's is out of character with the existing properties on Sydenham Road.
- The proposed houses no's 9, 10 & 11 due to the height, mass and proximity and proximity to Annefield would negatively impact upon the character and setting of the Protected Structure. It is suggested that the ridge heights of houses no's 9, 10 & 11 should not exceed the ridge height of Annefield.

6.6. Further Responses

- 6.6.1. Further submissions have been received from An Taisce, Barry & Anne Denton, David Lister, Derry O'Donovan & Angela Lemass, Nick Durham and Tom & Frances Slowey. The contents of the submissions are noted, they do not raise any new material planning issues.

7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Design and impact upon residential amenity
- Impact of the Proposed scheme on Annefield Protected Structure and Sydenham Road ACA
- Access and traffic
- Appropriate Assessment

7.1. Design and impact upon residential amenity

- 7.1.1. The third party appellants and observers raise concerns in relation to design aspects of the scheme in particular proposed House no. 8, that it would be out character with the existing area. The loss of the pedestrian access from Annefield to Kilmacud Road is also raised.
- 7.1.2. House no. 8 is a part single-storey and part-two storey dwelling. It is proposed to the south-western corner of the site and adjacent to no. 1 Sydenham Place. The front of the dwelling faces north, addressing the scheme, while the rear south facing elevation addresses Kilmacud Road Upper. The proposed design of house no. 8 is contemporary. The first party submitted that this design approach was taken to avoid pastiche in relation to the adjoining houses on Kilmacud Road Upper. While I note that it is the rear elevation which would address Kilmacud Road Upper, I consider that the proposed design which includes a pitched roof, integrates with the character of the adjacent dwelling no. 1 Sydenham Place. The elevation treatment includes a render finish with stone cladding to the eastern side and the fenestration has vertical emphasis which integrates with the design character and proportions of the neighbouring dwellings.
- 7.1.3. There is an existing low stone boundary wall which addresses Kilmacud Road Upper with a gated pedestrian access. It is proposed to construct a 2m high boundary wall at no. 8. The first party submitted that the proposed stone wall would integrate well with the existing stone at the Luas Bridge. As illustrated on Drawing no: C-77-24 – Kilmacud Road Upper streetscape, the proposed new section of wall would tie in and form an extension of the existing higher section of wall. In relation to the loss of the existing pedestrian access, while I note that pedestrian access for the entire scheme would not be provided at this location, it is proposed to retain a pedestrian entrance at Kilmacud Road Upper to serve the proposed new dwelling. Accordingly, I consider that proposed design of house no. 8 and the boundary treatment along Kilmacud Road Upper would satisfactorily integrate into the existing streetscape.
- 7.1.4. The third party appellants at no.1 Sydenham Place expressed concern at the bulk and scale of house no. 8 and consider it would cause overshadowing of their property. I note that a separation distance of 1.75m is provided between the side of the two properties, which is acceptable. In relation to the matter of overshadowing, I

note that the two-storey section of the proposed dwelling maintains the similar building line and form of no.1 Sydenham Place and that the proposed single storey section of the dwelling would be setback by 3m from the site boundary.

Accordingly, having regard to the siting and design of house no. 8, I am satisfied that it would not unduly impact upon the residential amenity of the neighbouring property no. 1 Sydenham Place in terms of overshadowing or overbearing.

7.2. Impact of the Proposed scheme on Annefield Protected Structure and Sydenham Road ACA

- 7.2.1. Annefield is a Protected Structure (RPS No. 1040). The property was constructed in the late Victorian period. The exterior of the building appears to be well maintained with the original design features substantially retained. There are some more contemporary built elements to the rear of the dwelling including garages/shed and outbuildings. The building is set back from the surrounding public roads and therefore is not directly visible from the public domain.
- 7.2.2. In relation to previously proposed residential schemes on the site, I note that permission was refused on the basis that the proposed design and scale would affect the character and setting of the Protected Structure. The three-storey flat roof house design proposed under PL06D.246069 and its location in close proximity to Annefield were not considered a suitable design approach which would integrate with the hipped roof of the Protected Structure.
- 7.2.3. The proposed layout indicates that Annefield along with an area of circa 625sq m it's curtilage to be retained. A new stone-faced wall is proposed to the south and west of Annefield which will define the proposed reduced curtilage. This area includes a number of mature trees which surround Annefield and which will be retained. I consider that this proposed layout will ensure the character and setting of the Protected Structure is satisfactorily maintained. A separation distance of 13m is proposed between the front elevation of Annefield and the new wall. The contextual elevations indicated that a satisfactory separation of circa 36m is provided between the new housing to the west and the Protected Structure.
- 7.2.4. The proposed dwellings no's 9-11 are situated to the south of Annefield with the gable end of the terrace at no. 11 located 16.4m from the side of Annefield. I consider that this provides a reasonable separation between the structures.

- 7.2.5. A pitched roof profile is proposed to the terrace containing no's 9-11. The dwellings are two-storey with bedrooms within the attic/roof space. The proposed ridge height of these dwellings is 9m. As indicated on the Site Cross Section C-C on Drawing no: C-77-21rev A, the ridge level of Annefield is 74.91 while the ridge level of proposed houses 9-11 is 73. Accordingly, having regard to the fact that the proposed new dwellings appear visually subordinate to the Protected Structure, and that a pitched roof profile is proposed to the proposed dwellings I am satisfied that the proposed new development has been designed having specific regard to protecting the character and context of Annefield.
- 7.2.6. Sydenham Road ACA adjoins 'St. Anne's' no. 6 Sydenham Road which is part of the site. It is proposed to demolish the existing dwelling which is a detached two-storey dwelling featuring a hipped roof and two chimneys. The property is a standalone dwelling within the streetscape and its design does not directly relate to surrounding properties to the north or south includes those within Sydenham Road ACA. The proposed replacement dwelling is of three-storey design featuring a pyramid hipped roof profile. The proposed ridge level of the dwelling at 79.21 is 1.64m higher than that of the existing dwelling. The proposed dwelling would be sited closer to Dundrum College to provide for the new site access. The proposed ridge height of new dwelling at 79.21 would be circa 1m lower than that of Dundrum College. Therefore, the dwelling would be setback 12m from the neighbouring dwelling to the north no. 7 Sydenham Road which forms part of Sydenham Road ACA. Having reviewed the contextual elevations, I am satisfied that having regard to the height, scale and design of the proposed dwelling at 'St. Anne's' and the proposed separation distance between the dwellings and the adjacent properties within the ACA that it not unduly impact upon the character of the surrounding streetscape which is an ACA.
- 7.2.7. Accordingly, having regard to the overall design of the scheme I am satisfied that it can be appropriately integrated into the site and that it would fully respect the character and context of Annefield, Protected Structure and Sydenham Road ACA.

7.3. Access and traffic

- 7.3.1. The third party appellants and observers have raised concern regarding the additional vehicular traffic the scheme would generate and the proposed vehicular access arrangements.
- 7.3.2. The proposed layout provides for the vehicular access to the scheme off Sydenham Road. The Board Direction issued with the refusal of a previous residential scheme on the site under PL06D.244653 advised that access to the site from Sydenham Road had previously been proposed and that they considered this option might usefully be reconsidered in any future redesign. The Board also issued this same advice with their Direction on the decision to refuse permission for a residential scheme of 10 no. houses under PL06D.246069. Accordingly, it is clear that the Board previously had no objection to the location of new vehicular entrance to serve site off Sydenham Road.
- 7.3.3. The proposed entrance is located 85m to the north of the junction between Sydenham Road and Kilmacud Road Upper. The entrance would be located onto a straight section of the road where the road width is circa 7m. Sydenham Road has a speed limit of 50km/h. As per Table 4.2 of 'Design Manual for Urban Roads and Streets' (DMURS) (2013) 45m of forward visibility is required at junction. Having inspected the site, I am satisfied that the required sightline distance is available.
- 7.3.4. The observations to the appeal raised concerns regarding the level of traffic the development would generate. In principle, the proposal for a vehicular access from Sydenham Road is considered acceptable. Sydenham Road links Taney Road and Kilmacud Road Upper there are footpaths along the eastern and western sides of the road. I note the concerns from third party appellants and observers regarding this proposal however I consider that the existing local road network is capable of carrying the additional traffic. Furthermore, I note that the site is located within walking distance of local amenities including the Dundrum Town Centre and schools. Regarding public transport I note that Sydenham Road is served by the no. 75 and no. 75a bus routes. Dundrum main street is also served by the no. 14, 44, 44b and 175 bus routes and Dundrum Luas station is situated circa 430m walking distance from the site.

7.3.5. Car parking standards are set out under Table 8.2.3 of the County Development Plan with the requirement for dwellings being is 1 space per one and two bed units and 2 spaces per three bed plus units. As indicated on Drawing No: C-77-3rev A – the Site Layout Plan there is provision for 2 no. car parking spaces to the front of all dwellings apart from no. 12 which is a two bedroom unit. Accordingly, I am satisfied with the proposed car parking provision.

7.4. **Tree Bond**

7.4.1. The first party lodged an appeal against condition no. 13 as attached to the grant of permission under Reg. Ref Condition no. 13 states;

13. *Prior to the commencement of development and related tree felling and construction activities, the applicant shall lodge a Tree Bond with the Planning Authority, as security for tree protection and a deterrent to wilful or accidental damages during construction. The Bond shall be based on a notional estimate of the combined value - amenity and ecosystems services - of retained trees; and taking account of the percentage tree loss(-es) due to direct impacts on healthy trees. The minimum value of the Tree Bond shall be €150,000.00. Lodgement of the Bond shall be part of an Arboricultural Agreement signed by the developer, empowering the planning authority to apply the Tree Bond, or part thereof, for satisfactory protection of all retained trees on and immediately-adjointing the subject site, or the appropriate and adequate replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of 1-year from the substantial Practical Completion of the development. Sequestration of all or part of the bond shall be based on an estimate of the total costs of appropriate, compensatory tree planting at semi-mature sizes. Replacement planting shall be of the same or similar species/varieties as those lost, or as may be specified by the Planning Authority.*

Reason: *To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.*

7.4.2. The first party contends that a tree bond should not be required because all of the trees to be retained and particularly those of high value fall outside the main

boundary of the site. The location of the trees proposed for retention as indicated on Drawing No: C-77-3rev A are along the driveway from Taney Road to “Annefield” and in the immediate surrounds of “Annefield”.

- 7.4.3. The first party confirm that none of the trees to be retained are located within the area to be Taken In Charge within the scheme. Section 5.5 of the Arborist Report refers to impact assessment and section 5.5.6. refers to trees to be retained close to the area of development. Tree no. 1256 a larger mature Wellingtonia is located to the rear of Annefield. The development of new boundary wall and part of the access road would encroach on the root protection zone. As set out in the report, trial holes were dug which established that only a small size surface roots within the area would be damaged and that to help minimise impact that the boundary wall to be constructed within the root zone would be built using a pad/pile beam foundation. The Arborist considers that there would not be any adverse impact but that it would be necessary to supervise that part of the works to ensure no unforeseen issues.
- 7.4.4. It is noted that condition no. 23 as attached by the Planning Authority specified the lodgement of an Approved Insurance Company bond of €113,400.00 to the Council or the lodgement with the Council of a cash sum of €68,100.00 to cover all performance related issues. This would include the retention of trees.
- 7.4.5. The appellant has cited an example of permission granted by the Council for a residential scheme at Friarsland, Clonskeagh under Reg. Ref. D13A/0493. In that case they note that there was a particularly valuable tree to be retained in close proximity to the construction works and that no specific tree bond was sought in relation to the tree. The protection and retention of the tree was covered by the general bond attached to the permission.
- 7.4.6. The appellant also submits that a specific tree bond would also create a burden on the sale of Annefield and that it would be difficult to obtain a bond over trees that will come under third party ownership.
- 7.4.7. The Planning Authority in their response to the matter stated that as the applicant has outlined that the trees to be retained are not within the development part of the site and are either located within the immediate vicinity of the Protected Structure or along the driveway from Taney Road, that they raise no issue with the removal of the condition.

7.4.8. Having reviewed the Arborist Report and relevant drawings including Drawing No: C-77-3rev A, the Site Layout Plan, I would occur with the opinion of the Planning Authority that a specific tree bond is not required. Accordingly, should the Board decide to grant permission I would not recommended that attachment of a condition requiring the payment of a specific tree bond.

7.5. **Appropriate Assessment**

7.5.1. The appeal site is situated circa 3.8km to the south of the closest European sites South Dublin Bay and Tolka River Estuary SPA and South Dublin Bay SAC. Having regard to the nature and scale of the proposal, the nature of the receiving environment, namely a suburban and fully serviced location and the separation distance to the nearest European site, 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**

8.1. I recommend a grant of permission subject to the following conditions.

9.0 **Reasons and Considerations**

9.1.1. Having regard zoning objective for the site as set out in the Dún Laoghaire Rathdown County Council, 2016 – 2022, the National Planning Framework, 2018 – 2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, and the overall scale, design and height of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would not unduly impact upon the character and setting of Annfield, a Protected Structure, would not have a detrimental impact on the Sydenham Road Architectural Conservation Area, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. 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 plans and particulars submitted on the 7th day of November, 2018, 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. 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.

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

Reason: In the interest of visual amenity.

4. Proposals an estate/street name, house/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 estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

5. The internal road serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

6. The developer shall ensure provision of electric vehicle charging points for minimum number of car parking spaces in accordance with Section 8.2.4.12 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022.

Reason: In the interest of the proper planning and sustainable development of the area.

7. 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.

Reason: In the interests of visual and residential amenity.

8. 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.

9. Prior to the commencement of development the applicant shall submit full details of the proposed public lighting, including the lighting levels within open areas of the development for written agreement prior to the commencement of development.

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

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

11. Site development and building works shall be carried out only between 0800 to 1900 hours 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.

12.

- (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

13. The landscaping scheme, as submitted to the planning authority on the 7th day of November, 2018, 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.

The developer shall retain the services of a suitably qualified landscape architect throughout the duration of the site development works. The developer's landscape architect shall certify to the planning authority by letter his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

Reason: In the interest of residential and visual amenity.

14. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained

within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the submitted Tree Survey Report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1st day of March to the 31st day of August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

15. 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 for the area.

16. 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 watermains, drains 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.

17. 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.

Siobhan Carroll
Planning Inspector

3rd of May 2019