



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312061-21

#### Development

Amendments to the previously permitted development as granted under reg. ref. D20A/0189 (ABP reg. Ref. 30764-20) including the addition of 1 new house and relocation of existing houses, and all associated site works.

#### Location

'Annefield' (Protected Structure) & St Anne's, Dundrum, Dublin 14.

#### Planning Authority

Dun Laoghaire-Rathdown County Council

#### Planning Authority Reg. Ref.

D21A/0817

#### Applicant(s)

Cormal Limited

#### Type of Application

Permission

#### Planning Authority Decision

Refuse

#### Type of Appeal

First Party vs. Refusal

#### Appellant(s)

Cormal Limited

**Observer(s)**

1. Angela Lemass & Diarmuid O'Donovan
2. Marie Coyle & Ian MacNeill
3. Davis Litster
4. An Taisce – South County Dublin Association

**Date of Site Inspection**

15<sup>th</sup> June 2022

**Inspector**

Stephen Ward

## 1.0 Site Location and Description

- 1.1. The site of the proposed development is located c. 150m to the east of the Main Street in Dundrum, Dublin 14. Dundrum Town Centre is situated c. 150m to the south-west on Sandyford Road. The surrounding area is characterised by a mix of residential, educational, office and commercial uses. The Dundrum Luas station is located c. 300m to the northwest of the site.
- 1.2. The site has an overall stated area of 0.693 hectares and contains 'Annefield' which is a Protected Structure. Annefield is a two storey over basement double fronted dwelling which dates to the late Victorian era c. 1860. The vehicular access is via a 120m long, narrow driveway off Taney Road to the north. The site contains a significant number of mature trees located along the site boundaries and also interspersed on the lawn of the property. It is currently under construction i.e. the residential development permitted under ABP reg. Ref. 30764-20.
- 1.3. The Luas line runs along the western site boundary. Taney Lawns, a development of 12 No. bungalows is located to the north-western boundary. At the south-western corner of the site, a footpath provides access to 'Annefield' from Kilmacud Road Upper. To the south, No.'s 1-2 Sydenham Place are Protected Structures comprising 2 No. two storey semi-detached properties, while No.'s 3-4 are semi-detached single storey properties.
- 1.4. The previously existing house ('St. Anne's' at No. 6 Sydenham Road) on the eastern portion of the site has been removed as part of the current construction works. Some properties to the north of this form part of the Sydenham Road ACA. Residential properties along Sydenham Road adjoin the eastern boundary and a section of the northern boundary. The Dundrum Adult Education Service centre is located along the south-eastern boundary of the site.

## 2.0 Proposed Development

- 2.1. Permission is sought for amendments to a previously permitted development (ABP Ref 307640-20), which involved an application for the construction of 13 no. new dwellings and associated site works. The Board decided to grant permission subject to the omission of one dwelling onto Kilmacud Road Upper and associated

design/layout changes (as per condition no. 2). In summary, the proposed amendments involve the following:

- The addition of 1 new dwelling (Type D2, House No. 11) in lieu of the house omitted by condition no. 2(a) of ABP Ref. 307640-20. The proposed dwelling is a 3-storey semi-detached 3-bed (plus study) with a floor area of 144m<sup>2</sup>.
- Relocation and modification of permitted house type D1 (house no. 12), a 2-storey detached 2-bed dwelling with floor area of 80m<sup>2</sup>.
- Relocation of permitted house type D (house no. 10), a 3-storey semi-detached 3-bed house with floor area of 144m<sup>2</sup> to position the house 1 metre further away from the LUAS track.
- Amendments to associated carparking, landscaping, services, and site works.

### 3.0 Planning Authority Decision

#### 3.1. Decision

By order dated 4<sup>th</sup> November 2021, Dun Laoghaire-Rathdown County Council (DLRCC) issued notification of the decision to refuse permission for the following reason:

*The private open space proposed for House No. 12, by reason of its design, positioning and layout and to the fact that it would receive limited sunlight is not of a standard capable of providing a sufficient level of residential amenity for future residents. The proposed development is, therefore, contrary to Section 8.2.8.4 of the Dún 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

The DLRCC planner's assessment can be summarised as follows:

- The principle of the development is acceptable in accordance with the zoning for the site and the planning history.

- The internal floor area of the proposed dwelling complies with the requirements of 'Quality Housing for Sustainable Communities'. There are no material changes to the internal floor areas of the permitted dwellings.
- The revised position of House No. 10 would increase/improve the rear garden depth/area.
- The rear garden depth for house no. 11 does not comply with Development Plan standards but is acceptable given that it will receive adequate sunlight and balconies will be provided at 1<sup>st</sup> and 2<sup>nd</sup> floor level.
- There are serious concerns about the quality and quantity of open space for house no. 12, which is not usable due to its restricted size and width. It appears that at least half of the garden would not receive at least 2 hours of sunlight on 21<sup>st</sup> March, which does not comply with BRE standards. There would be a sub-standard level of amenity space and permission should be refused on that basis.
- There is potential for undue overlooking of House No. 3 from House no. 10, but this could be addressed by a condition requiring opaque glazing.
- No's 1 & 2 Sydenham Place are Proposed Protected Structures in the Draft DLRCC Development Plan 2022-2028. The proposed dwellings would not have an overbearing or negative visual impact. However, the proposed parking/shared surface area to the south of House No. 12 would reduce the extent of the landscaped area adjoining 1 Sydenham Place. The retention of an open space would be more commensurate with the character of the adjoining Protected Structures and the planning authority would have a strong preference to retain a landscaped open space as per condition no. 2(b) of the parent permission.
- It was recommended to refuse permission, and this forms the basis of the DLRCC decision.

### 3.2.2. Other Technical Reports

Drainage: No objections subject to conditions.

Environmental Enforcement: No objections subject to conditions.

Environmental Health: No comment.

Housing Department: No objections subject to conditions.

Transportation: No objections subject to conditions.

### 3.3. Prescribed Bodies

An Taisce: The submission highlights the inclusion of 1 & 2 Sydenham Place on the Draft RPS for the Development Plan 2022-2028 and raises concerns about the loss of open space and overlooking and overbearing impacts on 1 Sydenham Place.

### 3.4. Third Party Observations

Several submissions were received in objection from neighbouring residents. The issues raised in the submissions can be summarised as follows:

- Boundary treatment with Taney Lawns.
- No additional development should be permitted. If permitted, it should be counterbalanced by a reduction in height of house no.'s 4 & 5.
- Working hours should be in accordance with Development Plan standards.
- Loss of open space and biodiversity.
- Conflict with the conditions of the parent permission.
- Impacts on the established pedestrian way.
- Adverse impact on the character of existing development.
- Loss of light, overlooking and privacy impacts for Sydenham Place properties.
- Substandard private amenity space for the proposed dwellings.
- Inadequate hedge/tree retention proposals.

## 4.0 Planning History

**ABP Ref. 307640-20 (P.A. Reg Ref D20A/0189)**: Permission granted (22/4/21) for the construction of 13 number new dwellings and all associated site development works on lands at Annfield, a replacement dwelling for Saint Anne's (to be

demolished) together with new access road and entrance off Sydenham Road, and a new house fronting onto Kilmacud Road Upper. Condition no. 2 states as follows:

*The proposed development shall be amended as follows:*

*(a) House number 2 Type B shall be omitted and the existing pedestrian connection shall be retained from the proposed development onto Kilmacud Road. The area shall be landscaped.*

*(b) House number 6 Type D1 shall be redesigned to provide passive surveillance to the open space and the pedestrian access onto Kilmacud Road.*

*(c) The vehicular access and the parking bay to the front of House number 1 Type A shall be omitted and pedestrian only access provided from Sydenham Road.*

*Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.*

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

**ABP Ref. 303365-19 (PA Reg. Ref. D18A/0631):** Permission granted by the Planning Authority and refused on appeal by the Board (21/5/19) for the construction of 13 houses and all associated site development works. The reason for refusal was as follows:

*Having regard to the existing character and the prevailing pattern of development, the site location in proximity to an Architectural Conservation Area and the presence on site of a Protected Structure, it is considered that the proposed development, by reason of its overall layout and design, its response to the setting of the Protected Structure, and its impact on the streetscape at Sydenham Road, and on the streetscape at Kilmacud Road Upper, would seriously detract from the architectural character and setting of Annefield and of the streetscape generally. The proposed development would, therefore, seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

**ABP Ref PL06D.246069 (PA Reg. Ref. D15A/0679):** Permission refused (26/5/16) 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.*

**ABP Ref PL06D.244653 (PA Reg. Ref. D14A/0855):** Permission refused (27/7/15) for the construction of 33 no. houses and retention of Annefield House (Protected Structure), construction of boundary railing, wall, screen and gate. The reasons for refusal were as follows:

- 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. National Policy/Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards;
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking;
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location;
- NPO 35 aims to increase residential density in settlements through a range of measures including infill development and site-based regeneration.

5.1.2 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**, hereafter referred to as 'the Sustainable Residential Development Guidelines' sets out the key planning principles which should guide the

assessment of planning applications for development in urban areas. Section 1.9 recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. A design manual accompanies the guidelines which lays out 12 principles for urban residential design relating to context, connections, inclusivity, variety, efficacy, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking and detailed design.

5.1.3 The guidance document '**Quality Housing for Sustainable Communities**' (**DoEHLG, 2007**), identifies principles and criteria that are important in the design of housing and highlights specific design features, requirements and standards.

5.1.4 The **Architectural Heritage Protection Guidelines for Planning Authorities**, hereafter referred to as the 'Architectural Heritage Guidelines', sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

## 5.2. **Development Plan**

5.2.1. Although the DLRCC decision was made on the basis of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, that plan has since been replaced by new Dun Laoghaire-Rathdown County Development Plan 2022-2028, which came into effect on 21st April 2022 and is now the operational plan for the purposes of the Board decision.

5.2.2. The site is zoned as 'Objective A', which is '*To provide residential development and improve residential amenity while protecting the existing residential amenities*'. Table 13.1.2 confirms that residential uses are 'permitted in principle' in this zone.

5.2.3. Chapter 4 'Neighbourhood – People, Homes and Place' aims to increase delivery of housing subject to alignment with the NPF and RSES; the Core Strategy, Housing Strategy, and Housing Need Demand Assessments; and embedding the concept of neighbourhood and community into spatial planning. Section 4.3 deals with 'Homes' and relevant policies/objectives can be summarised as follows:

**PHP18:** Promotes increased density on suitable sites subject to suitable design which respects the character of the surrounding area.

**PHP20:** Seeks to protect the residential amenity of existing properties.

**PHP27:** Encourages an appropriate mix of housing

5.2.4. Section 4.4 'Place' promotes quality design and healthy placemaking in accordance with national policy and guidance. It sets out policies/objectives aimed at achieving a high quality of design and layout in residential developments.

5.2.5. 'Annefield' house on the subject site is included as a Protected Structure, as are No's 1-2 Sydenham Place, 'Oberton' house, and 'Herberton' House' to the south of the site along Kilmacud Road Upper. The site also borders the Sydenham Road Architectural Conservation Area (ACA) to the northeast. Chapter 11 of the Development Plan deals with Heritage and Conservation. In summary, the following policies/objectives are relevant:

**HER8:** Outlines various objectives to protect structures on the RPS and their setting/curtilage having regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' and subject to suitable design, supervision etc.

**HER 13:** Outlines various objectives to protect the character and special interests of Architectural Conservation Areas and adjoining lands and to promote high quality design that is sympathetic to the context.

5.2.6. Chapter 12 of the Development Plan deals with Development Management. The following sections are relevant:

**12.3** outlines guidance on criteria for residential developments and aims for high quality design to improve the living environment for residents.

**12.4** sets out Transport guidance, including standards relating to traffic management, road safety, and car parking.

**12.8** deals with Open Space and Recreation, including quantitative and qualitative standards for residential developments.

**12.11.2** deals with Protected Structures and sets out guidance on works to such structures and development within the grounds of such structures.

**12.11.3 and 12.11.4** set out guiding principles for development within ACAs to ensure that it is sympathetic to its distinctive character. It highlights the need for a sensitive approach to respect the established character and urban morphology and is supportive of contemporary design that is complementary to surrounding context and scale. Criteria is outlined to guide all applications for development.

### **5.3. Natural Heritage Designations**

There are no European sites designated under the Habitats Directive located within the vicinity of the site.

### **5.4. Preliminary Examination Screening for Environmental Impact Assessment**

5.4.1. With regard to EIA thresholds, Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.4.2. It is proposed to carry out amendments to an existing permission involving one additional house and a total of 13 houses. Therefore, the number of dwellings proposed is well below the threshold of 500 dwelling units. The site has an overall area of c. 0.693 ha and is not located within a ‘business district’. The site area is therefore well below the applicable threshold of 10 ha.

5.4.3. Having regard to the nature and limited scale of the proposed development, the location of the site on lands that are zoned and serviced, the existing pattern of development in the vicinity, and the distance of the site from any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended), I consider that the proposed development would not be likely to have significant effects on the environment and that, on preliminary examination, an

Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR is not necessary in this case.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The decision of DLRCC to refuse permission has been appealed by the applicant.

The grounds of appeal can be summarised as follows:

- The proposal complies with policies and objectives of the Development Plan. It seeks to 'protect and / or improve residential amenity' of adjoining properties and is in accordance with Policy RES3.
- The appeal includes a revised site plan (Revision B) which provides an improvement in the private open space requirements for house no. 12 (60m<sup>2</sup>), which complies with Development Management Standards.
- It maintains a well-lit landscaped area along the pedestrian connection to Kilmacud Road with passive surveillance from house no. 12.
- Assessment by the traffic engineer confirms that cars can enter and exit the spaces adjoining house no. 12 in a safe manner in forward gear.
- A revised 'Shadow Study Report' has been included to demonstrate that the garden for house no. 12 would receive significant quantities of sunlight. There were some errors relating to boundary treatment and vegetation in the original report.
- Regarding the submission by An Taisce, it is conjecture to assume An Bord Pleanála's intentions regarding condition no. 2 of the parent permission, other than as stated. The primary reason for the condition was to maintain the pedestrian route, not to increase the quantum of open space. Open space provision already exceeds requirements.
- The applicant's Conservation Architect has confirmed that the retention of open space will maintain the setting of the existing Victorian houses on Kilmacud Road Upper.

- A pedestrian road crossing has been provided in accordance with the recommendations of the DLRCC Transportation Planning report.
- The additional dwelling provides an appropriate higher density while striking a balance between the protection of public and private residential amenity.

## 6.2. **Planning Authority Response**

The Planning Authority's response refers to the previous Planner's Report and contends that the appeal does not justify a change of attitude to the proposed development.

## 6.3. **Observations**

Four submissions have been received on the appeal. The concerns raised in the submissions are similar and can be summarised collectively as follows:

- The submissions outline support for the refusal, contend that the appeal should be considered as if made to the Board in the first instance, and suggest that further reasons for refusal should be considered.
- The proposal materially contravenes condition 2 of the parent permission, which required that the area occupied by the omitted dwelling would be landscaped, overlooked public open space with a pedestrian access.
- The suggestions in the Inspector's Report on the parent permission are not applicable as the recommendations were not accepted by the Board.
- No.'s 1 & 2 Sydenham Place are Proposed Protected Structures, and the retention of open space would have a positive impact on their character and setting.
- The revised proposal submitted with the appeal does not meet the standard of quality open space.
- Mitigation measures to prevent overlooking must be strictly implemented and maintained.
- The application is in relation to proposed protected structures and section 57 (10)(a)(ii) of the Act applies. The height and proximity of the proposed dwellings would have an overbearing impact on 1 & 2 Sydenham Place and

the land adjoining these structures has a long history as open space which should be maintained.

- The amended plan does not provide safe means of access and egress for the parking space of house no. 12.
- Inadequate and/or inappropriate measures to prevent overlooking of the garden of 1 Sydenham Place, which demonstrate the unsuitability of providing an additional dwelling.
- Private open space proposals are inadequate and materially contravene Development Plan standards.
- The veracity of the information presented in the appeal is questioned.
- The proposal would result in the loss of open space (30% reduction on that previously approved) which is valuable to prospective residents and the existing community.
- The historic significance and attractiveness of the pedestrian path will be significantly eroded.
- The retention of open space would improve biodiversity.
- The proposed development does not respect the massing and setting of 4 existing houses along Kilmacud Road Upper (all proposed protected structures).
- Boundary treatment details conflict with the shadow analysis and the rear garden of house no. 11 also requires analysis.
- The site is within a historic landscape of real significance which should be protected for future generations.
- The existing parent permission represents overdevelopment and excessive height. If any additional development is permitted, it should be counter balanced by the removal of one floor to houses 4 & 5.
- A 07:00 hours start time for construction would contravene Development Plan standards and should be amended to 08:00 hours.

#### 6.4 Prescribed Bodies

None.

## 7.0 Assessment

### 7.1. Introduction

- 7.1.1. The application involves amendments to an existing permission, most notably the addition of 1 dwelling and associated amendments to the location/design of other houses, carparking, landscaping, services, and site works. I accept that the proposal is contrary to Condition no. 2 of the parent permission. That is clearly the basis for making the application and this is a legitimate procedure which should be dealt with on its own merits.
- 7.1.2. The case includes interpretations by various parties on the intentions of the Board and the reporting Inspector in the case of the parent permission. These interpretations generally relate to the rationale behind condition no. 2 (a) and (b) and the intentions for treatment of this area at the southern end of the site along Kilmacud Road Upper / Sydenham Place. I do not consider it appropriate or helpful to speculate on such matters. My consideration of the matter will therefore be limited to the relevant stated requirements and reasoning for the condition (parts (a) and (b)) as per the Board's Order, which can be summarised as follows:
- House number 2 shall be omitted
  - The existing pedestrian connection onto Kilmacud Road shall be retained
  - The area shall be landscaped
  - House number 6 shall be redesigned to provide passive surveillance to the open space and pedestrian access
  - The reason for the above (and condition 2(c)) was collectively cited as '*In the interests of visual and residential amenity*'.
- 7.1.3. The case has also caused some confusion as to the scope and extent of the proposed works. The description of the development (as per the public notices) is clear insofar as the proposed amendments relate to houses 10-12 on the southern portion of the site. This is further confirmed by the 'proposed site plan' which includes a broken purple line to define the '*outline of area of site subject to proposed modifications to parent permission ref no. ABP-307640-20*'. However, some submissions/reports have referred to matters outside that area, such as third-party submissions about the boundary with Taney Lawns and the DLRCC Transportation

Planning report comments on the pedestrian road crossing of the main access road. Therefore, in the interest of clarity, I consider that assessment should be limited to the area outlined in the broken purple line only and this should be specified in the terms of any permission. Otherwise, the development should be carried out in accordance with the terms and conditions of the parent permission.

7.1.4. The appeal includes a revised site plan (Revision B) which provides an increase in the private open space requirements for house no. 12. The submission of a revised proposal is not an uncommon practice with appeals. This proposal attempts to address the reason for refusal, and I am satisfied that third parties and the planning authority have been given the opportunity to comment. Accordingly, I am satisfied that the amended proposal can be considered by the Board.

7.1.5. Having clarified the above preliminary matters, I would summarise by stating that the principle of an additional house and associated alterations to the parent permission would be consistent with the Development Plan 'Objective A' zoning for the site. The proposal would also be consistent with local and national policies which aim for increased density and compact growth on accessible sites such as this. Having inspected the site and examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, I consider that the main issues in this appeal are as follows:

- The standard of residential amenity proposed
- Impacts on residential amenity of surrounding properties
- Visual amenity and built heritage
- Traffic and parking

## 7.2. **The standard of residential amenity proposed**

### Internal floor areas

7.2.1. I have reviewed the target/minimum areas for dwellings as set out in '*Quality Housing for Sustainable Communities*' (Table 5.1) and I note that the gross floor area for the proposed new dwelling (house no. 11 (144m<sup>2</sup>)) significantly exceeds the requirements for a 3-bed/6-person 3-storey house (110m<sup>2</sup>). The internal arrangements for this house are also consistent with the required standards and

those previously permitted under the parent permission. Houses 10 (144m<sup>2</sup>) and 12 (80m<sup>2</sup>) have already been permitted and it is not proposed to alter the internal floor areas for these dwellings. Accordingly, I would have no objection in respect of the proposed internal floor areas.

#### Private Open Space

- 7.2.2. Section 12.8.3.3. of the Development Plan sets out that all houses require good quality private open space behind the front building, with 3-bed houses requiring an area of 60m<sup>2</sup> while 48m<sup>2</sup> may be acceptable for 2-bed houses. Open space to the side of dwellings will only be considered where it is useable, good quality space. In instances where an innovative design response is provided, particularly for infill and corner side garden sites, a relaxation in quantum may be considered. Section 12.8.7 sets out quality standards, stating that a minimum separation distance of 22m for opposing rear windows should usually be observed, normally resulting in a minimum rear garden depth of 11m. However, where sufficient alternative space is available, required separation distances may be reduced. Private open space should not be unduly overshadowed and separation distances should be increased where there is potential to overshadow/overlook adjoining properties. In an exceptionally well-designed scheme that is in close proximity to existing public open spaces, the above standards may be relaxed.
- 7.2.3. House no. 10 would have an area of 76m<sup>2</sup>, provided through a rear garden (c. 52m<sup>2</sup>) and a 2<sup>nd</sup> floor terrace (c. 24m<sup>2</sup>). This clearly exceeds the total requirements for a 3-bed house. And while I acknowledge that the rear garden depth (6.7m) is less than the normal requirement of 11m, it involves an increased depth (1m) to that previously permitted. Overall, the increased depth and area of this space would be an improvement on the quantity and quality of that previously permitted and I would have no objection in this regard.
- 7.2.4. House no. 11 would have an area of 60m<sup>2</sup>, provided through a rear garden (c. 36m<sup>2</sup>) and a 2<sup>nd</sup> floor terrace (c. 24m<sup>2</sup>). This complies with the total requirements for a 3-bed house. Again, I acknowledge that the rear garden depth (4.6m) is less than the normal requirement of 11m. However, as outlined in the Development Plan, this normal 11m standard is derived from the requirement for 22m separation from opposing rear windows, which does not apply in this case given the presence of the

LUAS line to the west. Accordingly, I consider that the overall area is the key consideration, and I am satisfied that the combined garden and roof terrace areas would provide an acceptable quantity and quality of private open space which would be consistent with the arrangements for other permitted houses in this scheme.

- 7.2.5. House no. 12 (as originally proposed) would have an area of 48m<sup>2</sup>, provided through a combined rear and side garden. The rear garden would have a maximum depth of c. 3.4m, while the side garden would have a depth of c. 12m and a tapered width from c. 4.5m to c. 1.8m. Under 'Revision B', the side garden width would be increased (tapering from c. 5.5m to c. 3m) to provide an increased overall area of 60m<sup>2</sup>. I acknowledge that the space is of an unconventional layout whereby the side garden is the predominant space. And while I would concur with the planning authority's concerns regarding the quality and usability of the original proposal, I consider that 'Revision B' constitutes an improved space (60m<sup>2</sup>) which significantly exceeds the minimum standard for 2-bed houses (48m<sup>2</sup>). The side garden remains the predominant space, but it connects well with the rear garden and the internal living/dining area and its increased width (up to 5.5m) significantly improves the usability of the space. The proposal is a response to the narrow constraints of the site, and I am satisfied that it provides a space of adequate quantity and quality for the prospective occupants. Any permission should therefore be based on 'Revision B' as submitted with the appeal.
- 7.2.6. In terms of sunlight availability, the Development Plan refers to the need to consider sunlight standards but does not refer to any particular standard for private open spaces for houses (such as Site Layout Planning for Daylight and Sunlight, A guide to good practice, Building Research Establishment (BRE) Report, 2011). The BRE guide is cited in the Sustainable Residential Development Guidelines and it recommends that at least half of a garden or amenity area should receive at least 2 hours of sunlight on 21<sup>st</sup> March.
- 7.2.7. I would highlight that the BRE guidelines allow for flexibility in their application, stating in paragraph 1.6 that '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. The BRE Guide notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an

acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones

- 7.2.8. The original application included a 'shadow study' including calculations for the 21<sup>st</sup> March. An updated study was submitted with the appeal to reflect 'Revision B' and to address errors relating to boundary treatment and vegetation in the original study. The appeal contends that the original analysis included a wall along the LUAS boundary that is higher than the actual 1.2m, and that additional trees/planting were erroneously included, all of which exacerbated sunlight impacts. Notwithstanding this, I note that the proposed site plan continues to include a 1.8m fence along this boundary, something which does not appear to have been clarified in the updated shadow study.
- 7.2.9. As previously outlined, house no. 10 would benefit from an increased rear garden area/depth, and I consider that this would result in improved sunlight conditions. For house no. 11, I am satisfied that the shadow study demonstrates that approximately half of the amenity space would receive sunlight between the hours of 11am and 1pm, which would comply with the BRE guide recommendations.
- 7.2.10. For house no. 12, I acknowledge that the shadow study for the original proposal indicates that it would not comply with the BRE recommendations and that this was largely affected by its limited size and overshadowing vegetation. However, in the updated study for 'Revision B', I am satisfied that the shadow study demonstrates that approximately half of the amenity space would receive sunlight between the hours of 10am and 1pm, which would comply with the BRE guide recommendations.
- 7.2.11. I acknowledge that the shadow studies do not provide detailed figures for the proportion of spaces in shadow, and it is unclear whether the 1.8m high fence has been factored into the study. However, given the stated need for flexibility in the application of BRE standards, I am satisfied that the proposal would be generally consistent with BRE recommendations and that any effect of the 1.8m high fence would not result in unacceptable impacts.
- 7.2.12. Having regard to the above, I am satisfied that the private open space provision for houses 10, 11, and 12 (as per Revision B) would be of an acceptable quantity, layout, and design, and that the spaces would receive acceptable levels of sunlight. Accordingly, I have no objection in this regard.

## Public Open Space

- 7.2.13. Section 12.8.3.1 of the CDP sets out the requirements for public open space in residential developments, which has regard to the Sustainable Residential Development Guidelines and is stated to be a minimum of 15% of the site area in existing built-up areas. It also acknowledges that this standard may not be possible in high-density or urban infill schemes and in such cases a development contribution may be sought in lieu of the shortfall.
- 7.2.14. The overall site has a stated area of 6,930m<sup>2</sup> and the proposed site plan indicates 'communal open spaces' of 61m<sup>2</sup> and 380m<sup>2</sup>. Although stated as being 'communal', I consider that these spaces are 'public' given that public access will be maintained through the site. The area along Kilmacud Road is not quantified on the site plan but I calculate that it is c. 156m<sup>2</sup> (excluding parking/turning areas), resulting in a cumulative open space area of 597m<sup>2</sup> or 8.6% of the total site area. However, a key factor in this case is the inclusion of Annefield House, its curtilage, and access as part of the overall site. When this existing 'private' area (c. 1,900m<sup>2</sup>) is excluded, I consider that the actual area of the new residential scheme is more accurately reflected as c. 5,000m<sup>2</sup>, in which case the proposed open space (c. 600m<sup>2</sup>) would constitute c. 12% of the scheme area. Furthermore, if the proposed parking/turning area was to be removed (as suggested in section 7.5 of this report) I estimate that an additional open space area of c. 90m<sup>2</sup> could be achieved, resulting in a total open space figure of c. 690m<sup>2</sup> or 13.8%.
- 7.2.15. I acknowledge that this still would not appear to meet the 15% standard, although more precise calculations are required. In any case, the Development Plan acknowledges that such instances may be accepted, and the Sustainable Residential Development Guidelines emphasise the need to consider quality rather than just quantitative standards. In this case the proposed dwellings would be set within the attractive open spaces surrounding Annefield House and I am satisfied that the quality of this setting would adequately compensate for any shortfall in quantity. A section 48 development contribution would adequately address the quantitative shortfall, the precise details of which should be agreed with the planning authority or, in default, with the Board.

7.2.16. In terms of quality and design, the residual open space at the southern end of the site importantly maintains a strong pedestrian connection to Kilmacud Road Upper. The area will be suitably landscaped and will be adequately overlooked, both from the side elevation of house no. 12 and the adjoining Kilmacud Road itself. And given the location of any proposed development to the north of the space, sunlight levels would not be significantly affected by the proposed amendments. Therefore, I am satisfied that the layout and design of the space is acceptable and, notwithstanding that this case should be judged on its merits, I consider that it would satisfactorily address the stated requirements and reasoning of condition no. 2 (a) & (b) of the parent permission.

### Conclusion

7.2.17. Having regard to the above, I am satisfied that, subject to conditions, the proposed amendments (as per Revision B) would result in appropriate standards for internal living space and external private and public open space. The proposal would therefore ensure an appropriate standard of residential amenity for the prospective residents, and I have no objections in this regard.

## **7.3 Impacts on residential amenity of surrounding properties**

### Overlooking and privacy

7.3.1. In outlining design criteria for residential development, section 12.3.1.1 of the CDP highlights the need to consider levels of privacy and amenity, including consideration of overlooking and the appropriate use of screening devices. As previously outlined, the CDP generally requires a minimum distance of 22m between opposing rear windows and rear garden depths of 11m. However, that does not apply in this case given that the presence of the LUAS track to the rear of the dwellings. Therefore, the CDP does not include any particular specification for separation distances from the front of proposed dwellings to surrounding dwellings/gardens. The Sustainable Residential Development Guidelines advise that normal requirements (i.e. 22 metres) may be impractical and that innovation and flexibility will be essential to achieve an attractive character in new development. It also acknowledges that careful positioning and detailed design of windows can prevent overlooking.

- 7.3.2. Regarding the permitted house no. 3, I acknowledge that house no. 10 would be moved 1m closer. However, house no. 10 would still be at least 11m from the garden boundary and at least 20 metres from any of the permitted windows in house no. 3. I consider this adequate separation which would protect the privacy of the permitted house no. 3.
- 7.3.3. Of the existing dwellings in the area, I acknowledge that No. 1 Sydenham Place would be most affected by the proposed amendments. This property has the benefit of a large rear garden which is well screened by existing vegetation. It should be noted that the permitted scheme included windows above ground-level facing into the rear garden of this property at a distance of c. 5.6m. The main impacts of the proposed development would be to introduce an additional house facing this property and to relocate the proposed dwellings closer to the property.
- 7.3.4. House no. 10 faces only the extreme rear (northern) garden end of No. 1 Sydenham Place and I am satisfied that there would be no significant overlooking impacts in this case. House no.'s 11 and 12 include 1<sup>st</sup> and 2<sup>nd</sup> floor windows with the potential for overlooking impacts. However, the window in no. 12 serves a utility room and the majority of the opening would use obscured glass. Given the nature of the room and the obscured provision, I am satisfied that no significant overlooking would occur. Similarly, the upper floor windows in no. 11 mainly serve the bathroom or stairwell and would be suitably obscured. The 'study' room incorporates privacy fins, and the roof terrace would be bounded by a 1.8m high wall. I consider that these are acceptable mitigation measures which would satisfactorily prevent any significant overlooking impacts.
- 7.3.5. Having regard to the above, I do not consider that the proposed development would have any unacceptable privacy or overlooking impacts on the immediately adjoining existing/permitted dwellings. Other properties in the area would benefit from greater separation distances and there would be less impacts on privacy. Accordingly, I have no objections in this regard.

#### Daylight/Sunlight

- 7.3.6. In outlining design criteria for residential development, section 12.3.1.1 of the CDP highlights the need to consider levels of amenity, including consideration of sunlight/daylight standards. It does not specify any particular standards but the

Sustainable Residential Development Guidelines (section 7.2) acknowledges the potential for overshadowing issues and states that the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 1991) or B.S. 8206 Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting should be followed in this regard. I have previously outlined that the BRE guidelines allow for flexibility in their application.

- 7.3.7. With regard to '*light from the sky*', the BRE guide outlines that diffuse daylighting of an existing building may be adversely affected if a new building, measured in a vertical section perpendicular to a main window wall of an existing building from the centre of the lowest window, subtends an angle of more than 25° from the horizontal. In this case, the subject dwellings are significantly separated from existing development to the west by the LUAS line and to the south by Kilmacud Road Upper. And to the east where the closest existing dwellings are, I note that the proposed dwellings (10-12) would not impact on any section measured perpendicular to the rear windows of 1-2 Sydenham Place. There are no windows in the side elevation of 1 Sydenham Place. Although it does include rooflights in the single storey rear return, the proposed development would not oppose these windows or any perpendicular section measured from same. Accordingly, I am satisfied that further assessment in this regard is not required and that daylight to existing windows will not be significantly affected by the proposed development.
- 7.3.8. On the question of '*sunlight*', the BRE Guide states that a dwelling may be affected if it has a main living room window facing within 90° of due south and a new building, measured in a vertical section perpendicular to the centre of the window, subtends an angle of more than 25° from the horizontal. Apart from the rooflights in the rear return to no. 1, the windows serving the rear of 1 & 2 Sydenham Place do not face within 90° of due south and the proposed dwellings would not impact on any perpendicular section measured from same (including the rooflights). Accordingly, I am satisfied that further assessment in this regard is not required and that sunlight to existing windows will not be significantly affected by the proposed development.
- 7.3.9. As previously outlined regarding sunlight for gardens and open spaces, the BRE guide recommends that at least half of a garden or amenity area should receive at least 2 hours of sunlight on 21<sup>st</sup> March. It also states that, if as a result of the development, the area which can receive 2 hours of sunlight on 21<sup>st</sup> March is less

than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. Having regard to the location and orientation of the proposed development to surrounding properties, I again consider that potential impacts on existing dwellings would be limited to 1 & 2 Sydenham Place.

7.3.10. The shadow studies submitted with the application do not give detailed figures on the proportions of adjoining gardens that would be overshadowed. However, for the relevant day of 21<sup>st</sup> March, I note that the proposed dwellings would not have any perceptible impact until after 2pm. After this time, no. 1 Sydenham Place would experience significant overshadowing, although it should be noted that this would also be the case when compared to the permitted scheme and indeed when compared to the baseline scenario caused by the existing boundary wall (western) and vegetation within no. 1. I also note that no. 2 Sydenham Place would experience additional overshadowing around 5pm, which again is largely consistent with the permitted scheme and the baseline conditions.

7.3.11. In summary, I would accept that the proposed development would result in additional overshadowing of the rear gardens of 1 & 2 Sydenham Place in the later hours of 21<sup>st</sup> March, albeit only to a limited degree when compared to the permitted scheme and baseline conditions. And while the application does not include detailed figures to determine whether or not at least half these gardens would receive at least 2 hours of sunlight on 21<sup>st</sup> March, or whether the area which can receive 2 hours of sunlight on 21<sup>st</sup> March is less than 0.8 times its former value, I would again highlight the stated requirement for flexibility in the application of BRE standards. Accordingly, I am satisfied that the limited extent of additional overshadowing would not result in any unacceptable impacts on the adjoining gardens.

### Conclusion

7.3.12. In conclusion, I have considered the impacts of the development on existing properties, and I do not consider that the proposal would seriously detract from the privacy of surrounding properties by reason of overlooking. Furthermore, I do not consider that there will be any likely sunlight/daylight impacts for the windows of surrounding properties, and I am satisfied that the limited overshadowing of adjoining gardens at 1 & 2 Sydenham Place would not be to an unacceptable extent.

Accordingly, I would have no objection to the proposal on grounds on impacts on the amenities of surrounding properties.

#### **7.4 Visual amenity and built heritage**

- 7.4.1. It is acknowledged that the site is located within the curtilage of Annefield House, a protected structure, and that the proposed amendments affect the pedestrian linkage from Kilmacud Road Upper to the main house. Furthermore, since the making of the decision by the planning authority, No.'s 1 & 2 Sydenham Place have been included as protected structures in the new Development Plan 2022-2028 and I note that the proposed amendments involve additional development in closer proximity to these structures. The proposed amendments are concentrated to the southwest corner of the site, and I am satisfied that they would not have any impact of the Sydenham Road ACA to the east.
- 7.4.2. I note the policies of the Development Plan, which seek to protect the character and special interest of protected structures, their curtilage and setting. Further guidance on these matters is outlined in the Architectural Heritage Protection Guidelines, which highlight that new development can impact on protected structures even if it is outside the curtilage on adjoining lands.
- 7.4.3. I accept the historical significance of the pedestrian link from Kilmacud Road Upper and its association with Annefield House. This will be retained in the proposed development, including the existing boundary wall along Kilmacud Road Upper. I acknowledge that the design and layout of the area will be amended with a revised path route and the introduction of additional landscaping, parking, hardstanding etc. However, I consider that the wider linkage would be significantly altered by the permitted scheme in any event. I am satisfied that the historical significance of the link has been protected through the retention of its function and I do not consider that the proposed amendments would adversely detract from the character or special interest of Annefield House or its curtilage.
- 7.4.4. In relation to impacts on the nearest other protected structures (1 & 2 Sydenham Place), it should be noted that the subject dwellings (no.'s 10 – 12) are well setback to the rear of these properties. House no. 12, a 2-storey house, would be at least 22 metres from front building line of Sydenham Place, while the 3-storey element of no.

11 would be setback further at c. 32 metres. The proposed dwellings would also be on significantly lower ground, with the proposed floor levels being c. 1.5m lower than the level of the adjoining Kilmacud Road Upper. Having inspected the site and considered this significant setback and the level differences involved, I do not consider that the proposed dwellings would have a significant impact on the setting of 1 & 2 Sydenham Place when viewed from Kilmacud Road Upper. The Sydenham Place properties would retain their prominence and the proposed dwellings would have only a limited impact in this visual context.

- 7.4.5. As previously outlined, I am satisfied with the design and layout of the proposed open space and pedestrian link to the side (west) of No. 1 Sydenham Place. And while additional development and parking is proposed within this space, I consider that the area will largely retain its open space use and character and will provide a suitable buffer to the side of the protected structures. The proposed works in this area are of limited scale and would not adversely impact on the setting of the protected structures.
- 7.4.6. To the rear of Sydenham Place, I acknowledge that the rear gardens are part of the curtilage of the protected structures and also require protection. I accept that there would be some intervisibility between the proposed dwellings and the rear of the protected structures. However, having regard to the limited scale of the proposed dwellings and their distance and orientation in relation to 1 & 2 Sydenham Place, I do not consider that the development would have any unacceptable overbearing impacts or that it would adversely impact on the character or setting of the protected structures.
- 7.4.7. Having regard to the above, I am satisfied that the proposed development would not adversely impact on the character or setting of Annfield House, 1 & 2 Sydenham Place, or any other protected structures or ACAs in the surrounding area. Accordingly, I have no objections on grounds of visual amenity or built heritage. However, as outlined in the following section 7.5, I feel that the proposed parking/turning area could be omitted from the development, which would result in an improved arrangement for the pedestrian linkage and a softer transition with the protected structures on Sydenham Place.

## **7.5 Traffic and Parking**

- 7.5.1 The overall development would comprise 13 dwellings consisting of 1 no. 5-bed unit, 7 no. 4-bed units, 4 no. 3-bed units, and 1 no. 2-bed unit. Private, gated on-site parking would be provided to the rear of the 5-bed property along Sydenham Road, while the remaining 12 dwellings would be served by communal on-street parking. The site is within Parking Zone 2 of the CDP, although it borders Zone 1 (Dundrum Town Centre). According to Table 12.5 of the CDP, those 12 houses would require a 'standard' total of 23 communal spaces as per Zone 2 requirements, while Zone 1 requirements would allow only a 'maximum' of 12 spaces.
- 7.5.2 The Development Plan states that the parking zones are indicative and section 12.4.5.2 allows for a deviation depending on criteria such as proximity to public transport; walking/cycling facilities; the need to encourage modal shift; sharing facilities; existing parking availability; the nature, scale and characteristics of the development; the range of services in the area; traffic safety, capacity and amenities; urban design and other benefits; mobility management; on-street parking controls; and any other specific measures.
- 7.5.3 A total of 22 communal spaces are proposed, which would not meet the gross requirements for Zone 2 (23 spaces). However, the current application involves an additional 2 spaces which is considered sufficient to satisfy the CDP requirements for the additional 3-bed house (house no. 11). Furthermore, having regard to the location of the site bordering Parking Zone 1 and its proximity to Dundrum LUAS stop; the need to encourage a shift in transport modes as per local and national policy; the infill nature of the site and its good permeability; and the wide range of services available in the Dundrum area; I consider that a deviation of parking standards should apply in this case. Furthermore, while I have not raised any fundamental objection to the 2 proposed spaces on grounds of urban design, amenity, or heritage, I would accept that the omission of the spaces and the associated turning area would provide an increased open space area, an improved pedestrian linkage, and a softer transition with the adjoining protected structures. Therefore, I do not consider that the 2 additional spaces are necessary, and I am satisfied that the 20 communal spaces already permitted would satisfactorily serve the remaining 12 houses.

7.5.4 In the event that the Board does not agree with this conclusion, I note that concerns have been raised regarding the safety and convenience of access and egress to/from the 2 proposed spaces. The appeal includes a site layout plan showing vehicle movement checks for service and emergency vehicles on the main access roads, as well as private car manoeuvres for the 2 proposed spaces. It indicates that both spaces can be accessed and egressed in forward gear.

7.5.5 I note that several manoeuvres would be required to access/egress these spaces, particularly in the case of the western space. However, I am satisfied that safe manoeuvres are achievable, that the frequency of traffic movements would be limited, and that the movements would not significantly interfere with the safety and convenience of movements for other vehicles, pedestrians, or vulnerable road users. Therefore, if the Board feels that the 2 additional spaces are necessary, I would have no objection on grounds of traffic safety and/or convenience.

## 7.6. **Other Issues**

### Biodiversity

7.6.1. I note that third-party concerns have been raised about the loss of open space and associated impacts on biodiversity. The overall site is currently under construction, and it is acknowledged that issues relating to tree retention etc. have been addressed under the parent permission. The area affected by the current application is limited in size and does not contain any significant vegetation, watercourses or other potential habitat features. The site is not subject to any nature conservation designations and there are no such sites in the immediate surrounding area.

7.6.2. The additional development proposed would result in the loss of an insignificant quantum of land. A landscaped open space would be retained, and this area would be significantly increased subject to the omission of the proposed parking / hardstanding area as suggested. In any case, I do not consider that the proposal would have any significant adverse impacts on biodiversity.

### Working Hours

7.6.3. Concerns have been raised that the permitted construction start time of 07:00 hours contravenes the CDP and should be changed to 08:00 hours. I consider that the parent permission has established the working hours, and this should not be affected

by the proposed amendments. In any case, I note that section 12.9.5 of the current CDP 2022-2028 allows for construction hours from 07:00 am (Monday to Friday) and I have no objection in this regard.

## **8.0 Appropriate Assessment – Screening**

Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area, zoned for residential development, and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

Having regard to the above, and based on the following reasons and considerations, it is recommended that permission be granted subject to conditions.

## **10.0 Reasons and Considerations**

Having regard to the pattern and character of existing and permitted development in the area, the design and scale of the proposed development, the planning history of the site, and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity of the area or the character of the protected structures within and adjoining the site, would provide an acceptable standard of residential amenity for the prospective residents and would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 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 received by An Bord Pleanála on the 26<sup>th</sup> day of November, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The proposed development shall be amended as follows:
  - (a) The two proposed parking spaces and associated hardstanding areas to the south of house no. 12 shall be omitted.
  - (b) The area referred to in (a) above shall be included as part of a larger, landscaped open space with a pedestrian connection to Kilmacud Road Upper.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation, residential amenity and visual amenity.

3. Apart from any departures specifically authorised by this permission, which are limited to the area outlined by a broken purple line in the 'proposed site plan' received by An Bord Pleanála on the 26<sup>th</sup> day of November, 2021, the development shall be carried out and completed in accordance with the terms

and conditions of the permission granted on the 22<sup>nd</sup> day of April, 2021, under appeal reference number ABP-307640-20, planning register reference number D20A/0189, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

4. 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.

---

Stephen Ward  
Senior Planning Inspector

24<sup>th</sup> June 2022