



An
Coimisiún
Pleanála

Inspector's Report

ABP 322623-25

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| Development | Modifications to permitted development of 19 apartments with associated works. |
| Location | St. Annes Convent, Kilmacud Road Upper, Kilmacud, Stillorgan, Co. Dublin, A94P5W6. |
| Planning Authority | Dun Laoghaire-Rathdown County Council |
| Planning Authority Reg. Ref. | D25A/0193/WEB |
| Applicant | Greg Kavanagh Investments Ltd. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant permission |
| Type of Appeal | Third Party |
| Appellant | Alison Fergussen |
| Observers | None |
| Date of Site Inspection | 26 th of August 2025 |

Inspector

Siobhan Carroll

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Form 2: EIA Preliminary Examination

1.0 Site Location and Description

- 1.1. The subject site is located in the residential suburb of Kilmacud in South Co. Dublin. It is situated within the Whately Place housing estate and lies circa 1km to the south-west of the Stillorgan District Centre. Whately Place contains a mix of two-storey terraced dwellings and two storey duplex units with ground floor apartments.
- 1.2. The area is served by high frequency and high capacity public transport. Stillorgan Luas station is located circa 900m to the south of the appeal site. Kilmacud Road is served by the 11, 47 and L25 bus routes. The no. 11 route runs between Sandyford Business District and Phoenix Park. The no. 47 route runs between Belarmine and Poolbeg Street and the L25 route runs between Dun Laoghaire and Dundrum.
- 1.3. The appeal site has a stated area of 0.25 hectares. It contains the two-storey residential building known as St. Anne's Convent. The building which is now vacant was previously occupied by the Department of Education and was used as a reformatory school. The site is access from the northern section of the access road within Whately Place
- 1.4. The northern, eastern and southern boundaries of the site are formed by stone walls and block walls. Residential properties within Whately Place lie to the north, east and south of the appeal site. The western site boundary is defined by block walls and residential properties within Marsham Court adjoin the western boundary. Marsham Court housing estate contains two-storey semi-detached dwellings.

2.0 Proposed Development

- 2.1. Permission is sought for Modifications to permitted development of 19 apartments with associated works. The proposed development comprises
- 2.2. The proposed modifications include a revised Ground-floor layout in Block A, adding a bedroom to convert the previous one-bedroom units into new two-bedroom configurations for a total of 3 no. two-bedroom units and 4 no. three-bedroom units in Block A. Additionally, a terrace has been added to apartment 1, with the granted terraces in apartments 2 and 3 extended slightly. There are no changes proposed for the basement, first or second floors and there are no changes proposed to the height or footprint of the building. There are minor changes to the ground floor windows.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dún Laoghaire Rathdown County Council decided to grant permission by Order dated 2nd of May 2025, subject to 3 no. conditions.

3.1.2. Conditions

Condition no. 2 - Notwithstanding the permitted amendments under the subject proposal, the developer shall adhere with the conditions of the parent permission under Refs. D22A/0475; ABP-316304-23 (and amendments granted under Refs. D24A/0426; ABP-320724-24).

Reason: To prevent unauthorised development and to protect residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Report - It was concluded in the report of the Planning Officer that having regard to the Objective 'A' zoning of the subject site, the proposed amendment is not considered to result in adverse impact upon the adjacent residential or visual amenity. In addition, it is considered that the proposed design is sensitive to the existing residential context, would not significantly detract from the character of the surrounding area, and would be in accordance with the Dun Laoghaire-Rathdown County Development Plan 2022-2028.

3.2.2. Other Technical Reports

3.2.3. Transport Planning Section - No objection to the proposed development subject to the attachment of all conditions attached to the parent permission Reg. D22A/0475.

3.2.4. Drainage Planning Section - No objection to the proposed development. All drainage related conditions and obligations of the parent permission Reg. D22A/0475 shall apply.

3.2.5. Environmental Enforcement Section - Acceptance of the proposal is recommended subject to the recommendations of the Environmental Health Office.

3.2.6. Environmental Health Office - No comments.

3.3. Third Party Observations

- 3.3.1. The Planning Authority received one submission/observation in relation to the planning application. The main issues raised are similar to those set out in the appeal.

4.0 Planning History

- 4.1.1. There is an extensive planning history referring to the appeal site as follows;
- 4.1.2. Reg. Ref.D25A/0200/WEB & ABP-322654-25 – Permission was granted by Dun Laoghaire Rathdown County Council in May 2025 for modifications and revised layout to permitted 19 apartment development REF: D22A/0475 & ABP 316304-23, with associated works. There is a concurrent appeal in relation to this application.
- 4.1.3. Reg. Ref. D24A/0426/WEB & ABP-320724-24 - Permission was granted by Dun Laoghaire Rathdown County Council in August 2024 for modifications to Reg. Ref. D22A/0475 and ABP Ref. ABP-316304-23 involving a revised basement layout and a reduction in car parking spaces, with all associated site and development works. The Planning Authorities decision was subsequently appealed to An Bord Pleanála by a third party (ABP Ref. ABP-320724-24). The Board granted permission in January 2025.
- 4.1.4. Reg. Ref. D22A/0475 & ABP Ref. ABP-316304-23 - Permission was granted by Dun Laoghaire Rathdown County Council in March 2023 for demolition of existing building and construction of 19 no. apartments over 3 storeys, including 9 no. 1 beds, and 10 no. 3 beds duplex units, served by 34 no. car parking spaces (including 2 no. accessible bays), 6 no. motorcycle spaces and 56 no. bicycle spaces. The Planning Authorities decision was subsequently appealed to An Bord Pleanála by a third party (ABP Ref. ABP-316304-23). The Board granted permission in April 2024.
- 4.1.5. Reg. Ref. D18A/0265 & ABP Ref. ABP-301872-18 - Permission was refused by Dun Laoghaire Rathdown County Council in May 2018 for demolition of existing two storey buildings on site and construction of 5-storey building containing 30 no. apartments, including 12 no. 1 beds, 12 no. 2 beds and 6 no. 3 beds, with associated surface car parking provision. The Planning Authorities decision was subsequently

appealed to An Bord Pleanála by the Applicant (ABP Ref. ABP-301872-18). The Board refused permission in April 2019 for the following reasons:

1. Notwithstanding the residential zoning designation of the site, which is located on a major transport corridor within 200 metres of a bus stop along a Quality Bus Corridor and within one kilometre of a Luas station, it is considered that the ABP-proposed density of the scheme would be excessive in the context of adjoining established development at Whately Place and Marsham Court, and would, therefore, represent overdevelopment of a restricted infill site. Furthermore, by reason of its design, scale, bulk, height, and proximity to the site boundaries, it is considered that the proposed apartment block would result in an abrupt transition in scale relative to the receiving environment, would be out of character with the existing urban landscape in the vicinity, and would seriously injure the residential amenities of adjoining properties through undue levels of overlooking, overshadowing and overbearing impact. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is the policy of the planning authority, as set out in the Dún Laoghaire Rathdown County Development Plan 2016 – 2022 that residential development is provided with adequate open space in the interest of residential amenity. This policy is considered to be reasonable. The proposed development is deficient in the quantum, location and quality of communal open space, and would, therefore, conflict with the provisions of the Development Plan, and would offer a poor standard of residential amenity in terms of quality open space provision for the future residents of the proposed apartments. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 4.1.6. PA Reg. Ref. D16A/0214 & ABP Ref. ABP-PL06D.246756 - Permission was refused by Dun Laoghaire Rathdown County Council in May 2016 for demolition of the existing buildings on site, including St. Anne's Convent, and construction of 8 no. dwellings with all associated site works. The Planning Authorities decision was subsequently appealed to An Bord Pleanála by the Applicant (ABP Ref. PL06D.246756). The Board refused permission in September 2016.

- 4.1.7. PA Reg. Ref. D15A/0706 Permission was refused by Dun Laoghaire Rathdown County Council in January 2016 for demolition of existing buildings on site, including St. Annes Convent; the construction of 8 dwelling houses; and a revised entrance onto Whatley Place to provide for pedestrian and vehicular access.

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework – First Revision – April 2025

- 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.
- 5.1.2. National Policy Objective 7 seeks to “deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.”
- 5.1.3. National Policy Objective 8 seeks to “deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth.”
- 5.1.4. National Policy Objective 43 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.”
- 5.1.5. National Policy Objective 45 seeks to “increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.”

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.

- Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024)
- ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (2023)
- Urban Development and Building Heights – Guidelines for Planning Authorities (2018)

5.2.2. On the 8th of July 2025 the Design Standards for Apartments, Guidelines for Planning Authorities (2025) was issued by the Department of Housing, Local Government and Heritage.

5.2.3. Circular Letter: NPS 04/2025 issued by the Minister on the 10th of July 2025 advises that the Design Standards for Apartments, Guidelines for Planning Authorities (2025) are applicable to any application for planning permission and to any subsequent appeal or direct application to An Coimisiún Pleanála submitted after the issuing of the Guidelines, i.e. from 9th July 2025.

5.2.4. The revocation of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’, 2023 (and all preceding updates) does not apply to current appeals or planning applications, i.e. that were subject to consideration within the planning system on or before the 8th of July 2025. These will be considered and decided in accordance with the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’, 2023, or as set out below, where applicable.

5.3. **Dún Laoghaire Rathdown Development Plan 2022-2028**

5.3.1. The appeal site at is located on lands zoned Objective ‘A’ which has the objective: “to provide residential development and improve residential amenity while protecting the existing residential amenities”. ‘Residential’ development is permitted in principle under this land use zoning objective.

- 5.3.2. Chapter 4 refers to Neighbourhood – People Homes and Place
- 5.3.3. Policy Objective PHP18 - Residential Density: Seeks to increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill / brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12. Additionally, this policy objective seeks to encourage higher residential densities on the proviso proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.
- 5.3.4. Policy Objective PHP20 - Protection of Existing Residential Amenity: Seeks to ensure the residential amenity of existing homes in the Built-Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.
- 5.3.5. Policy Objective PHP27 - Housing Mix: Seeks to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future regional HNDA.
- 5.3.6. Policy Objective PHP42 - Building Design & Height: Seeks to encourage high quality design of all new development. It seeks to ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 in a manner consistent with NPO 13 of the NPF.
- 5.3.7. Chapter 5 refers to the matter of Transport and Mobility. It seeks the creation of a compact and connected County, promoting compact growth and ensuring that people can easily access their homes, employment, education and the services they require by means of sustainable transport.
- 5.3.8. Chapter 12 refers to Development Management
- 5.3.9. Section 12.3.4 refers to Residential Development – General Requirements

5.4. Natural Heritage Designations

- 5.4.1. South Dublin Bay and River Tolka Estuary Special Protection Area (004024) is located circa 2.8km to the east from the appeal site.
- 5.4.2. South Dublin Bay Special Area of Conservation (000210) is located approximately 2.8km to the east from the appeal site.
- 5.4.3. South Dublin Bay proposed Natural Heritage Area (000210) is located approximately 2.8km to the east from the appeal site.
- 5.4.4. Fitzsimons Wood proposed Natural Heritage Area (001753) is located circa 2.3km to the south-west of the appeal site.

6.0 EIA Screening

- 6.1.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of Appeal

A third party appeal has been submitted by Alison Fergusen the issues raised are as follows;

- Under Reg. Ref. D22A/0475 & ABP 316304-23 permission was granted for 19 no. apartments. 9 no. apartments in block A and 10 no. apartments in block B.
- It is stated that under the application D25A/0193/WEB permission was granted to modify the scheme with a ground floor layout with 3 no. two bedroom units and 4 no. three bedroom units.

- The increase in the number of ground floor units in Block A from four to seven units provides for an overall increase of three units and total of 22 units in Block A and Block B.
- It is stated that this is at variance with what is stated in the Dun Laoghaire Rathdown County Council order dated 12th March 2025 which states that there is no increase in the number of apartments. It is submitted that the approval by the Planning Authority of the application for modifications under D25A/0193/WEB
- It is stated that since the original application was granted under Reg. Ref. D22A/0475 & ABP 316304-23 that there have been numerous breaches in the 21 no. conditions attached to the permission. The observation submitted by the appellant to the Planning Authority refer to planning enforcement issues in relation to the site.
- The site notice is referred to in relation to where it was displayed. The appellant stated that it was not displayed on the public road, it was fixed to a pole at the entrance to the site rather than on Upper Kilmacud Road.
- It is stated that there were omissions and inaccuracies in the application form with contact details and address of the agent not included.
- In relation to water infrastructure, it is stated that there is no existing required capacity in existing infrastructure for surface water disposal. It is stated that no authorisation has been given to the applicant to access the privately owned Whatley Place water infrastructure.
- In relation to the appeal on the parent permission D22A/0475 & ABP 316304-23, it is stated that the Board requested further information detailing how the applicant proposed to ensure that the site deliveries and material removal would be conducted in a forward gear. This information was not provided in the Construction Management Plan. The planning authority in their assessment did not address the absence of specific information regarding the traffic movements within Whatley Place.
- It is stated that the felling of trees and removal of large volumes of soil, rubble and vegetation has been carried out by the applicant. It generated truck

movements within Whatley Place. It is stated that a bat survey was not conducted by the applicant prior to the felling of trees.

7.2. Applicant Response

A response to the third party appeal was submitted CDP Architecture on behalf of the applicant Greg Kavanagh Investments Ltd.

- The proposed modifications involve adjusting the ground floor in Block A to convert the existing 1 bedroom units into 2 bedroom units, with window changes to suit. To meet the required minimum standards the terraces on apartments 2 & 3 have been extended. For apartment no. 1 a terrace has been added to the front elevation.
- No modifications are proposed to the first floor, second floor and roof floor from the scheme permitted under the parent permission Reg. Ref. D22A/0475.
- The outcome of the modifications will provide for an overall internal layout which is more efficient, the apartment count remains at 19, it will result in a shift from smaller to larger family sized units. No changes are proposed to total building height and external footprint.
- Contrary to the claim by the appellant the current application does not propose any new residential units. The total number of units permitted under the original planning permission (D22A/0475 & ABP 316304-23) was 19 apartments, comprising Block A: 9 units and Block B: 10 units. This total remains unchanged in the current application.
- The purpose of the application is to make minor internal amendments to the unit layout within Block A. Specifically the 3 no. one bedroom apartments permitted on the ground floor are proposed to be reconfigured into 3 no. two bedroom apartments. This will result in no change in the total number of units. It remains at 3 no. ground floor apartments in Block A. No further changes are proposed to the first floor and second floors of Block A. There are no proposed works to Block B. The reconfiguration has been proposed in

response to increased demand for two-bedroom apartments which better meet the needs of potential occupants.

- The suggestion that the current proposal increases the number of ground floor units in Block A from four to seven appears to stem from a misreading of the application documentation.
- The Planning Authority reviewed the application and confirmed in its assessment that there is no increase in the number of apartments. The reference in the executive report dated 12 March 2025 is accurate.
- In relation to compliance with conditions of the original grant of permission (Reg. Ref. D22A/0475 & ABP 316304-23) they provide the following clarifications. The applicant has taken all the necessary steps to comply with the 21 no. planning conditions attached to the grant of permission. It is stated that significant progress has been made and that all outstanding matters are being actively addressed.
- In relation to conditions no. 2, 4, 10, 13 and 17 it is confirmed that those conditions have been fully complied with. The relevant documentation was submitted to the Planning Authority, and it has been formally reviewed and approved.
- Regarding conditions 5,8 and 16, it is stated that a comprehensive letter was submitted to the Council in response to the warning letter (Ref: ENF 33324), addressing the majority of the prior to commencement conditions. For the outstanding conditions 5, 8 and 16 the Council issued a follow up letter on the 20th of June 2025, requesting that the necessary information be submitted within four weeks by 20th of July 2025. The applicant is actively engaged in compiling the required documentation.
- Regarding condition no. 12, a letter regarding non-compliance with condition no. 12 was received by the applicant from Dun Laoghaire Rathdown County Council. The project team is currently preparing a detailed response to address the matters raised.
- In relation to condition no. 14, O'Connor Sutton Cronin has been formally appointed to address the requirements of the condition.

- In relation to condition no. 18 the developer has initiated discussions with the Council in relation to Part V obligations for the development. Preliminary engagement has taken place and the developer intends to submit further information and proposals to the Council in due course.
- Conditions no's 19, 20 and 21 refer to matters between the developer and the Planning Authority. The developer remains committed to engage with the Council to ensure their satisfactory resolution.
- Regarding compliance with site notice requirements, the applicant confirms that the site notice was erected in accordance with Article 19 of the Planning and Development Regulations 2001 (as amended). Specifically, the site notice was clearly legible, of the correct dimensions and positioned at the main entrance to the development site, as required by regulation. The site notice was erected in a publicly visible and accessible location adjacent to the site boundary, in line with the standard requirements set out by Dún Laoghaire-Rathdown County Council. The application was validated by the Planning Authority, which could not have occurred had the site notice been deemed non-compliant or inadequately visible. The entrance to the site is via a shared access point adjacent to Whatley Place and is visible from Upper Kilmacud Road a public road. The notice was placed at this access point, which is commonly accepted practice in planning applications where site access is via a shared or set-back entrance.
- In relation to alleged omissions/inaccuracies in the planning application form referring to the contact details of the applicant and the agent. The planning application form submitted included all necessary contact details, including those of both the applicant and the agent acting on their behalf. Dún Laoghaire-Rathdown County Council's online submission portal automatically generates a PDF version of the application form upon submission. For data protection and GDPR compliance, certain fields specifically question 23 (applicant's contact details) and question 24 (agent's address) are often excluded from the publicly available version of the form. These details were fully completed and submitted via the portal and their inclusion has been

confirmed through the validation and acceptance of the applications by the Council.

- In relation to the item 18 on the application form which refers to site history, the applicant acknowledges that historical applications Reg. Ref. D16A/0214 and Reg. Ref. D18A/0265 relate to the site. These previous applications are part of the public planning record and can be accessed via the DLRCC planning portal. It is highlighted that both previous applications were for different proposals and by different parties.
- Regarding wastewater and surface water infrastructure, there is an existing public 750mm surface water sewer immediately adjacent to the northern site boundary at Whately Place, with records indicating an existing connection from the site to local surface water network. The existing connection is to a 225mm sewer. It is proposed to separate the surface water and wastewater drainage networks, which will serve the proposed development, and re-use existing independent connections to the adjacent local surface water and wastewater sewer networks respectively. The surface water drainage from the proposed development will be attenuated to limit the surface water outfall from the site. Green roofs and intensive landscaping will be utilized throughout the proposed development with pervious pavement and attenuation, all to ensure that the surface water outfall from the site is limited.
- There is currently a 150mm diameter foul sewer connection serving the existing accommodation, the number of proposed units has been limited to 19, to ensure that the existing foul connection has sufficient capacity, in accordance with the design requirements set out in Uisce Eireann code of practice for wastewater infrastructure, which specifies that a 150mm sewer has sufficient capacity for up to 19 residential units. This 150mm sewer connects to a 225mm diameter sewer directly outside of the site.
- In relation to construction traffic and environmental management, the applicant acknowledges the concerns raised by the appellant regarding the site access, transport management and environmental protection during the initial site works. The Construction Management Plan required under condition no. 10 and the Resource and Waste Management Plan (Condition

no. 4) for Reg. Ref. D22A/0475 were formally submitted to Dun Laoghaire-Rathdown County Council and approved on 9th of December 2024 and 21st of January 2025, respectively. All construction and site logistics going forward will strictly adhere to the requirements set out in these approved plans. These include traffic management protocols, mitigation of disturbance to neighbouring properties and operational controls to ensure public safety.

- Regarding the bat survey and tree felling, the information for condition no. 13 concerning bats was prepared and submitted to the Council on the 28th of January 2025 and was approved on the 10th of April 2025. The developer confirms that all required compensatory measure identified in the approved bat report will be implemented in full during the construction phase.
- In conclusion, it is clearly evident from the grant of permission by Dún Laoghaire-Rathdown County Council that the council is satisfied that the current proposal under Reg. Ref. D25A/0193/WEB can be accommodated on the subject site, in addition to development being in accordance with the proper planning and sustainable development of the area.
- The applicant requests that An Coimisiún Pleanála uphold the decision of Dún Laoghaire-Rathdown County Council and grant permission for the proposed development.

7.3. Planning Authority Response

- In response to the letter dated 3rd of June 2025 with regard to the appeal Ref: 322623-25 the Commission is referred to the previous Planner's Report.
- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

8.0 Assessment

Having examined the application details and all other documents on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant

local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered is as follows:

- Planning history and context
- Design and impact upon amenity
- Drainage
- Compliance with conditions of parent permission
- Access and traffic
- Other issues

8.1. Planning history and context

- 8.1.1. The proposed development comprises the modifications and revised layout to permitted 19 apartment development Reg. Ref. D22A/0475 & ABP 316304-23, with associated works. Under Reg. Ref. D22A/0475 & ABP 316304-23 permission was granted by Dun Laoghaire Rathdown County Council and on appeal by An Bord Pleanála for a scheme of the site comprising the demolition of existing two-storey building and construction of 19 no. apartments over 3 storeys, including 9 no. 1 beds, and 10 no. 3 beds duplex units, served by 34 no. car parking spaces (including 2 no. accessible bays), 6 no. motorcycle spaces and 56 no. bicycle spaces. This permission was granted in April 2024 and is subject to 21 no. conditions.
- 8.1.2. Under Reg. Ref. D24A/0426/WEB & ABP-320724-24 permission was granted by Dun Laoghaire Rathdown County Council and on appeal by An Bord Pleanála for modifications to Reg. Ref. D22A/0475 & ABP-316304-23 involving a revised basement layout and a reduction in car parking spaces, with all associated site and development works. The permitted development comprises revisions to the basement layout, entailing a reduction in the floor area (from 1573.61sqm to 1200.5sqm); and a reduction in the no. of car parking spaces provided (from 34 no. to 22 no.). No changes are proposed for upper floor levels. Ground floor level changes are limited to the repositioning of the basement lift core and ventilation shaft further north. Accordingly, the permitted revisions under Reg. Ref. D24A/0426/WEB & ABP-320724-24 to the originally granted scheme did not increase the number apartments.

8.1.3. Under Reg. Ref.D25A/0200/WEB permission was granted by Dun Laoghaire Rathdown County Council in May 2025 for modifications and revised layout to permitted 19 apartment development REF: D22A/0475 & ABP 316304-23, with associated works. The proposed development comprises a revised first and second floor layout in Block A and Block B entailing the addition of a bedroom to each duplex apartment to convert the previous three-bedroom units into new four-bedroom configurations for a total of 9 no. one-bedroom units and 10 no. four-bedroom units. The proposal also included the extension of the second-floor external wall to the rear of Block B to align with the first floor and minor changes to the second-floor windows on Blocks A and B. The development granted by the Council did not increase the number apartments. There is a concurrent appeal in relation to this application (ABP-322654-25).

8.2. Design and impact upon amenity

- 8.2.1. The grounds of appeal refer to the number of apartments which are proposed under the current application. The appellant questioned if the current application were granted would the total number of apartments permitted increase from 19 units to 22 units.
- 8.2.2. The first party in response to this matter has confirmed the nature of the proposed development. The proposed modifications involve adjusting the ground floor in Block A to convert the existing 1-bedroom units into 2 bedroom units, with window changes to suit. To meet the required minimum standards the terraces on apartments 2 & 3 have been extended. For apartment no. 1 a terrace has been added to the front elevation. The applicant confirms that no modifications are proposed to the first floor, second floor and roof floor and no changes are proposed to total building height and external footprint from the scheme permitted under the parent permission Reg. Ref. D22A/0475.
- 8.2.3. The purpose of the application is to make minor internal amendments to the unit layout within Block A. Specifically the 3 no. one bedroom apartments permitted on the ground floor are proposed to be reconfigured into 3 no. two bedroom apartments. The first party confirm that the proposed modifications will result in no change in the total number of units.

- 8.2.4. The first party submit that the reconfiguration in the layout and design has been proposed in response to increased demand for two-bedroom apartments which better meet the needs of potential occupants.
- 8.2.5. As detailed on Drawing No. 200 which is titled 'Block A Ground floor plan as granted (Plan Ref. D22A/0475 & ABP-316304) & Proposed' it is proposed to revise the internal layout adding an additional bedroom to the apartments at ground floor level. As detailed on Drawing No. 402 which is titled 'Elevation 3-3 as granted (Plan Ref. D22A/0475 & ABP-316304) & Proposed' these revisions to the internal layout also entail the provision of two larger windows to provide adequately sized windows to serve bedrooms in place of the previously permitted smaller windows. I note these revisions are in the southern facing elevation which faces into the scheme itself. Accordingly, I am satisfied that the proposed revised windows and additional windows would not unduly impact the surrounding residential properties.
- 8.2.6. In terms of the design and layout of the proposed revised scheme the Housing Quality Assessment sets out the schedule of floor areas of the 2-bedroom apartments. Having regard to Circular Letter: NPS 04/2025 issued by the Minister on the 10th of July 2025 it advises that the Sustainable Urban Housing: Design Standards for New Apartments, (2023) remains the relevant document to refer to in assessing the proposed development. Having reviewed the Housing Quality Assessment I note that the proposed scheme is in accordance with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, (2023).

8.3. **Drainage**

- 8.3.1. The grounds of appeal have raised concern regarding the proposed connection of the scheme to the existing drainage infrastructure serving Whately Place.
- 8.3.2. The applicant in response to the matter confirms that it is proposed to separate the surface water and wastewater drainage infrastructure serving the scheme. It is proposed to use the existing independent connections to the adjacent local surface water and wastewater networks. The surface water proposals include on site attenuation with the provision of green roofs and pervious pavements. The Drainage Planning Section of the Council in their report raised no objections to the proposed

scheme and specified that all drainage related conditions and obligations of the parent permission Reg. Ref. D22A/0475 & ABP-316304 shall apply.

- 8.3.3. In relation to wastewater drainage the existing building is served by a 150mm diameter foul sewer which it is proposed use to connect to a 225mm diameter foul sewer located outside the site. The applicant in their response highlighted that the total number of residential units within the scheme has been limited to 19 which ensures that the foul connection has sufficient capacity. Having regard to the extant parent permission referring to the site (Reg. Ref. D22A/0475 and ABP 316304-23) which permits the development of a total of 19 no. residential units, I am satisfied that the current proposal which does not increase the number of residential units on site can be satisfactorily serviced by the existing foul drainage network.

8.4. Compliance with conditions of parent permission

- 8.4.1. The grounds of appeal have referred to the parent permission (Reg. Ref. D22A/0475 and ABP 316304-23) and the matter of compliance with the conditions attached to the permission and ongoing planning enforcement.
- 8.4.2. In response to the issue of compliance with the conditions of Reg. Ref. D22A/0475 and ABP 316304-23 the applicant confirms that they have taken all necessary steps to comply with the 21 no. conditions attached to the grant of permission.
- 8.4.3. The applicant confirms that in relation to conditions no's 2, 4, 10 and that those conditions have been fully complied with and that the relevant documentation was submitted to the Council and has been formally reviewed and approved. In relation to conditions 5, 8 and 16 they refer to water supply and drainage arrangements, noise survey and the management of the scheme prior to completion, respectively. The applicant states that a comprehensive letter was submitted to the Council in response to the warning letter (Ref: ENF 33324), addressing the majority of the prior to commencement conditions. Regarding the outstanding conditions 5, 8 and 16 the Council issued a follow up letter on the 20th of June 2025, which requested that the necessary information be submitted within four weeks by 20th of July 2025. The applicant confirms that they are actively engaged in compiling the required documentation.

- 8.4.4. Condition no. 12 refers to the provision of a plan for the management of waste within the development. The applicant confirms that they received a letter regarding non-compliance with condition no. 12 from Dún Laoghaire Rathdown County Council. They confirm that a project team is currently preparing a detailed response to address the matters raised.
- 8.4.5. Condition no. 13 refers to the requirement that the applicant shall undertake a bat survey by a competent qualified person to ascertain the presence of any bat activity on the site. The applicant confirms in their response that the information concerning Bats was prepared and submitted to the Planning Authority on 28th January 2025 and was approved on 10th April 2025. They confirm that all required compensation measures identified in the approved bat report will be implemented in full during the construction phase.
- 8.4.6. Condition no. 14 refers to the requirement to engage the services of a qualified and experienced ecologist for the entire period of construction activity. The applicant has confirmed that O'Connor Sutton Cronin has been formally appointed to address the requirements of the condition.
- 8.4.7. Condition no. 18 refers to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development act 2000. It is confirmed in the appeal response that the developer has initiated discussions with the Council in relation to Part V obligations for the development. Conditions no's 19, 20 and 21 refer to the restriction on the sale of duplex units, the provision of a bond to the planning authority and a financial contribution. The applicant confirms that they are engaged with the Council to ensure the fulfilment of those conditions.
- 8.4.8. In relation to the matter of enforcement referring the certain conditions attached to the permission granted under Reg. Ref. D22A/0475 & ABP 316304-23 (ENF 34624) the first party state that as set out in a letter from the Council dated 6th of May 2025 the Planning Authority considered that the appropriate remedy-submission of compliance documentation had been pursued and that enforcement action was not considered necessary. As such file ENF 34624 was formally closed.
- 8.4.9. Accordingly, the applicant has detailed the ongoing process of their efforts to adhere to the specific requirements as set out in the 21 no. conditions attached to the parent

permission (Reg. Ref. D22A/0475 & ABP 316304-23) which refers to the site. Furthermore, I would highlight that the Planning Authority in their decision to grant permission for the proposed amendments to the permitted scheme were therefore inherently satisfied that the applicant was endeavouring to adhere to the conditions of the parent permission.

8.5. Access and traffic

- 8.5.1. The grounds of appeal refer to the matter of vehicular access into the scheme specifically regarding refuse and delivery vehicles and forward gear access. In response applicant states that they acknowledge the concerns raised by the appellant regarding vehicles travelling in a forward gear. The applicant confirmed that the layout of the development ensures that delivery and refuse vehicles can manoeuvre within the site, minimising or eliminating reversing, in line with best practice safety standards.
- 8.5.2. The appeal also raised concern in relation to truck movements within Whately Place which were generated by works being carried out on the site. In response to this issue the applicant highlighted that condition no. 10 of the parent permission refers to the Construction and Environmental Management Plan and condition no. 4 refers to the Resource and Waste Management Plan. The applicant confirmed that both these plans were formally submitted to the Council and approved on 9th December 2024 and 21st January 2025, respectively. The first party confirmed that all construction and site logistics will strictly adhere to the requirements set out in these approved plans which includes traffic management protocols, mitigation of disturbance to neighbouring properties, and operational controls to ensure public safety.
- 8.5.3. Having regard to the details set out above I consider that the issues concerning access by service vehicles and construction vehicles of has been satisfactorily addressed.

8.6. Other issues

Procedural matters

- 8.6.1. The grounds of appeal raised concern in relation to the location in which the public notice was placed. The matter of omissions and inaccuracies in the application form in relation to contact details and address of the agent was also raised.
- 8.6.2. The applicant in response confirms that the site notice was erected in accordance with Article 19 of the Planning and Development Regulations 2001 (as amended). Specifically, the applicant submits that the site notice was clearly legible, of the correct dimensions and positioned at the main entrance to the development site, as required by regulation. The first party in their response highlighted that the entrance to the site is via a shared access point adjacent to Whatley Place and is visible from Upper Kilmacud Road a public road and that the notice was placed at this access point. Furthermore, I would note that Dun Laoghaire Rathdown County Council validated the application and in doing so, this implies that the Council was satisfied with the location of the site notice and that it readily informed the public as to the nature and extent of the development.
- 8.6.3. Regarding the alleged omissions/inaccuracies in the planning application form referring to the contact details of the applicant and the agent, the first party states that the planning application form submitted included all necessary contact details, including those of both the applicant and the agent acting on their behalf. They highlighted that the Dún Laoghaire-Rathdown County Council's online submission portal automatically generates a PDF version of the application form upon submission. For data protection and GDPR compliance, certain fields specifically question 23 (applicant's contact details) and question 24 (agent's address) are often excluded from the publicly available version of the form. In relation to the matter, I note that the Planning Authority were satisfied with the documentation and details submitted with the application including the application form and therefore the application was validated.

9.0 AA Screening

- 9.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000, as amended.
- 9.1.2. The subject site is located approx. 2.8km, at the closest point from South Dublin Bay and River Tolka Estuary Special Protection Area (004024) and South Dublin Bay

Special Area of Conservation (000210). The Natura 2000 sites lie to the east of the appeal site.

- 9.1.3. The proposed development comprises the modifications to a permitted development of 19 apartments, comprising at ground floor in Block A adding a bedroom to convert the previous one-bedroom units into new two-bedroom configurations for a total of 3 no. two-bedroom units and 4 no. three-bedroom units in Block A. The provision of a terrace to apartment 1, with the granted terraces in apartments 2 and 3 extended slightly and minor changes to the ground floor windows, with associated works on a 0.25 hectare site, located on serviced lands within the suburbs of Kilmacud in south Dublin.
- 9.1.4. No nature conservation concerns were raised in the planning appeal in relation to species of qualifying interest within the Natura 2000 sites in relative proximity to the appeal site.
- 9.1.5. No streams/watercourses are identified on site.
- 9.1.6. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European site. The reason for this conclusion is as follows:
- The nature of the development proposed which are located on serviced lands
 - The distance to the nearest European sites, and the absence of any hydrological or other pathways
 - Taking into account the screening report by the Planning Authority
- 9.1.7. I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 9.1.8. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000, as amended, is not required.

10.0 Water Framework Directive

- 10.1.1. The subject site is located at St. Annes Convent, Kilmacud Road Upper, Kilmacud, Stillorgan. Co. Dublin. It is situated circa 1km to the south-west of Stillorgan District Centre. The River Dodder (IE_EA_09D010900) is located to the west of the site. It is situated circa 1.78km from the site at the closest point. The Brewery Stream (IE_EA_09B130400) is located circa 1km to the east of the site. The ground waterbody Kilcullen (Code IE_EA_G_003) underlies the site.
- 10.1.2. The proposed development comprises development comprises the modifications to a permitted development of 19 apartments, comprising at ground floor in Block A adding a bedroom to convert the previous one-bedroom units into new two-bedroom configurations for a total of 3 no. two-bedroom units and 4 no. three-bedroom units in Block A. The provision of a terrace to apartment 1, with the granted terraces in apartments 2 and 3 extended slightly and minor changes to the ground floor windows, with associated works on a 0.25-hectare site, located on serviced lands within the suburbs of Kilmacud in south Dublin. The grounds of appeal have not raised the matter of the Water Framework Directive.
- 10.1.3. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater waterbodies either qualitatively or quantitatively.
- 10.1.4. The reason for this conclusion is as follows:
- The nature and small scale of the development.
 - The distance to the nearest surface water bodies.

Conclusion

- 10.2. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a

temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1.1. I recommend that permission be granted.

12.0 Reasons and Considerations

12.1. Having regard to the zoning objective for the site as set out in the Dún Laoghaire Rathdown Development Plan 2022 – 2028, the planning history on the site, specifically the parent permission (Reg. Ref. D22A/0475 & ABP 316304-23), the National Planning Framework – First Revision (2025), Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024), Sustainable Urban Housing: Design Standards for New Apartments, (2023) and the nature and extent of the proposed development, it is considered that subject to compliance with conditions below, the proposed development, would not seriously injure the amenities of the area or properties in the vicinity, would not be prejudicial to public health or the environment and would generally be acceptable in terms of design, traffic safety and amenity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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. In default of agreement, such issues may be referred to An Coimisiún Pleanála for determination.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted under ABP Ref. ABP-316304-23 unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.

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

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Siobhan Carroll
Planning Inspector

29th of August 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | |
|--|--|---|---|
| An Bord Pleanála Case Reference | ABP 322623-25 | | |
| Proposed Development Summary | Modifications to permitted development of 19 apartments with associated works. | | |
| Development Address | St. Annes Convent, Kilmacud Road Upper, Kilmacud, Stillorgan. Co. Dublin, A94P5W6 | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | | Yes | ✓ |
| | | No | |
| 2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)? | | | |
| Yes | ✓ | Class 10(b)(i)(iv) – Infrastructure Projects | Proceed to Q3. |
| No | | | |
| 3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class? | | | |
| Yes | | | EIA Mandatory EIAR required |
| No | ✓ | | Proceed to Q4 |
| 4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]? | | | |
| Yes | ✓ | Class 10(b)(i)(iv) - Infrastructure Projects. Thresholds: > 500 homes > 10 hectares | Preliminary examination required (Form 2) |

5. Has Schedule 7A information been submitted?

| | | |
|------------|---------------------|--|
| No | Tick/or leave blank | Screening determination remains as above (Q1 to Q4) |
| Yes | Tick/or leave blank | Screening Determination required |

Inspector: _____ **Date:** _____

Form 2 - EIA Preliminary Examination

| | |
|---|---|
| Case Reference | 322623-25 |
| Proposed Development Summary | Modifications to permitted development of 19 apartments with associated works. |
| Development Address | St. Annes Convent, Kilmacud Road Upper, Kilmacud, Stillorgan, Co. Dublin, A94P5W6 |
| This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith. | |
| Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health). | The development comprises modifications to a previously approved apartment development. It does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health. |
| Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, | The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan. There are no protected species/habitats on site. |

| | |
|--|---|
| densely populated areas, landscapes, sites of historic, cultural or archaeological significance). | |
| Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation). | Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act. |
| Conclusion | |
| Likelihood of Significant Effects | Conclusion in respect of EIA |
| There is no real likelihood of significant effects on the environment. | EIA is not required. |
| There is significant and realistic doubt regarding the likelihood of significant effects on the environment. | Schedule 7A Information required to enable a Screening Determination to be carried out. |
| There is a real likelihood of significant effects on the environment. | EIAR required. |

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)