



An
Coimisiún
Pleanála

Inspector's Report

ABP 322654-25

Development	Modifications and revised layout to permitted 19 apartment development REF: D22A/0475 & ABP 316304-23, with associated works.
Location	St. Annes Convent, Kilmacud Road Uppe, Kilmacud, Stillorgan, Co. Dublin. A94P5W6
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D24A/0200/WEB
Applicant	Greg Kavanagh Investment Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant	Ray O'Meara
Date of Site Inspection	26 th of August 2025

Inspector

Siobhan Carroll

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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 Whatley Place housing estate and lies circa 1km to the south-west of the Stillorgan District Centre. Whatley 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 and revised layout to permitted 19 apartment development REF: D22A/0475 & ABP 316304-23, with associated works.
- 2.2. The proposed development comprises a revised First and Second-floor layout in Block A and Block B, adding 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.
- 2.3. Additionally, the second-floor external wall to the rear of Block B has been extended out to align with the first floor. There are no changes proposed for the ground or

basement floors and there are no changes proposed to the height or footprint of the building.

- 2.4. There are minor changes to the second-floor windows on Blocks A and B. All with associated site works, and development works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dún Laoghaire Rathdown County Council decided to grant permission by Order dated 7th of May 2025, subject to 3 no. conditions.

- 3.1.2. Conditions

- 3.1.3. 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 Ref. D25A/0193 and 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 Reports

- 3.2.2. Other Technical Reports - 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.

- 3.2.3. 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 - All drainage related conditions and obligations of the parent permission Reg. Ref. D22A/0475 shall apply.

3.3. Third Party Observations

- 3.3.1. The Planning Authority received two submissions/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/0193/WEB – Permission was granted by Dun Laoghaire Rathdown County Council in May 2025 for Modifications to permitted development of 19 apartments with associated works. There is a concurrent appeal in relation to this application (ABP-322623-25).
- 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 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 was submitted Ray O'Meara. The issues raised are as follows;

- The revised application proposes a total of 9 no. one bedroom apartment units and 10 no. four bedroom units. This means a total of 19 no. units. The existing permission is for 10 no. apartments at first and second floor level. There are no changes proposed for the ground and basement floors.
- It is stated that the original permission for Block A was for 4 no. one bedroom apartments. The permission granted by the Council was for a total of 3 no. two bedroom units and 4 no. three bedroom units increasing the number to at

least 7 no. units in Block A and 5 no. units in Block B, a total of 12 no. ground floor units. If granted by the Commission this would be total of 31 no. units.

- A previous application granted under Reg. Ref. D24A/0426/WEB reduced the number of car parking spaces from 34 no. spaces to 22 no. spaces. Now subsequent grants of permission have substantially increased the occupancy levels and number of units while reducing car parking spaces.
- It is highlighted that the site is landlocked and is accessed by a right of way.
- The matter of compliance with conditions attached to the existing permission Reg. Ref. D22A/0475 and ABP 316304-23 is raised. It is stated that the Council issued two warning letters in relation to condition no. 13 and conditions 2, 4, 5, 8, 10, 12, 16 and 17. Documents were received in respect of no's 2, 4, 10, 12, 17 and 13. No documents were recorded in respect of no's 5, 8 and 16. Condition no. 13 which refers to Bats has no decision recorded on 24th of May 2025 which is twenty two days after the Council's decision to grant permission for the current application under Reg. Ref. D25A/0193/WEB. The appellant expressed concern that the conditions were not adhered to.
- The appeal refers to access to planning enforcement files of Dún Laoghaire Rathdown County Council in terms of the requirement to make a freedom of information request.
- Regarding the proposed water supply, wastewater management and surface water disposal, the planning application form states that these facilities are to use the existing facilities. The report of the Planning Inspector dated 17th of December 2024 on page 12 states, "The Developer acknowledges the current wastewater infrastructure of the convent building is insufficient to serve the needs of the proposed 19 no. apartments. Correspondences between the Developer's agent and the Board of Whately Place GLC clearly indicates that the Developer wishes to have the Board's permission into Whately Place wastewater infrastructure and their request was categorically refused."

- In relation to window sizes, the letter from CDP Architecture to the Planning Department dated 13th of March states, “There are minor changes to the Second floor windows on Blocks A and B”. The drawing submitted as “As granted Block A Elevation 3-3 and Proposed Elevation, 303 CDP Architecture Drawing Ref. 3.1.402 has what appears to be one large window and bathroom small opaque window being altered to two large windows overlooking two storey properties. It is presumed this applies to Block B. The developer is applying to increase the number of bedrooms and person after receiving permission to reduce the number of car parking spaces and to increase the size and number of windows overlooking other properties.
- Matter of health and safety were raised in relation to the issue of vehicles travelling in a forward gear specifically service vehicles which was previously raised in a further information request. Concern is expressed in relation to construction traffic accessing the site from Whately Place and also whether there is asbestos within the existing buildings on the site.
- The applicant names of St. Annes Property Ltd, and Greg Kavanagh Investments Ltd. (a company incorporated on 2nd of September 2024) has both made applications on the site. The last two applications have been made by Greg Kavanagh Investments Ltd.

7.2. Applicant Response

A response to the third party appeal has been submitted by CDP Architecture on behalf of the applicant Greg Kavanagh Investments Ltd. The main issues raised are as follows;

- The applicant wishes to clarify the nature of the proposed development. The current application seeks to reconfigure the internal layout of the previously permitted apartments, specifically within Block A and B, to convert some of the as granted three-bedroom units into four bedroom units.
- No increase in the overall number of residential units is proposed. The unit count remains as originally granted under the existing planning permission. There are no proposed changes to the ground or basement floors. No new units are being introduced as part this application.

- The site notice and newspaper advertisement correctly described the proposed development, stating the total number of units as 9 no. one bedroom units and 10 no. four bedroom units which aligns with the proposed internal layout modifications.
- The appeal references a cumulative total of 31 units which may be based on a misinterpretation. The modifications simply redistribute bedroom configurations within existing unit numbers.
- The applicant acknowledges the concerns raised regarding compliance with conditions attached to previous permission. In relation to the scope of the current application it is for a modification to internal layouts only, specifically to convert some of the previously permitted three bedroom units into four bedroom units, without increasing the total number of residential units. No additional works are proposed beyond internal reconfigurations. All other aspects of the permitted development, including landscaping, site layout and conditions imposed under earlier permissions, remain unchanged and in effect.
- In relation to compliance with conditions, the applicant states that they have taken all necessary steps to comply with the 21 no. conditions attached to the grant of permission. They state that significant progress has been made and that all outstanding matters are being actively addressed.
- Regarding conditions no's 2, 4, 10 and 17 it is confirmed that these conditions have been fully complied with. The relevant documentation was submitted to the Council and 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 Dún Laoghaire Rathdown County Council. The project team is currently preparing a detailed response to address the matters raised.
- Regarding condition no. 13 which refers to Bats and Tree felling, the information concerning Bats was prepared and submitted to the Planning Authority on 28th January 2025 and was approved on 10th April 2025. The developer confirms that all required compensation measures identified in the approved bat report will be implemented in full during the construction phase.
- 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 the enforcement files, Dún Laoghaire Rathdown County Council as the competent planning authority initiated warning letters in respect of certain conditions attached to the permission granted under Reg. Ref. D22A/0475. These letters triggered standard enforcement reviews. According to the 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.
- It is stated that this decision falls within the Planning Authority's remit and indicates that no unauthorised development was found to justify escalation beyond the warning stage. The Council's decision to close ENF 34624 and to monitor any outstanding compliance issues through normal planning channels is a reasonable and appropriate exercise of its statutory responsibilities.

- In relation to Freedom of Information (FOI) and access to enforcement files, FOI legislation provides a route for public access to certain records held by public bodies, this is a separate and distinct process from the planning appeal process. If the Planning Enforcement files contain material relevant to this appeal, it is the responsibility of the Planning Authority to include those in its submission under Section 131 of the Planning and Development Act 2000 (as amended). There is no obligation on An Coimisiún Pleanála to initiate FOI requests or to access external materials not forming part of the planning file.
- The appellant expresses concern over the naming of St. Anne's Property Ltd. as the original applicant, while Greg Kavanagh Investments Ltd. is mentioned in the new application. The applicant provides the following clarification. St. Anne's Property Ltd. and Greg Kavanagh Investments Ltd. are sister companies with the same director, Mr. Greg Kavanagh. The ownership of the site was transferred to Greg Kavanagh Investments Ltd. from St. Anne's Property Ltd. During the lodgement of the subject application, Greg Kavanagh Investments Ltd. was the owner and applicant, which is the reason why the company's name was mentioned in the public notices and the application form.
- The site notices were erected in full accordance with Articles 17 and 19 of the Planning Regulations. No defects in the site notice content or placement were identified by the Planning Authority during validation.
- In relation to drainage, 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 utilised 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 capacity for up to 19 residential units. This 150mm sewer connects to a 225mm diameter sewer directly outside of the site.

- Regarding window sizes, all window dimensions are clearly noted on architectural drawings and comply with national Building Regulations, particularly Part B (fire safety), Part F (ventilation), and Part L (energy efficiency). While there are minor modifications to some second floor windows as outlined in Drawing Ref. 3.1.402 and associated elevations, these adjustments have been carefully designed and do not increase the potential for overlooking or loss of privacy.
- The additional or adjusted windows do not face directly onto neighbouring two-storey properties. Instead, they face inward toward the subject site itself. These design changes are consistent with best practice in residential design, improving natural light and ventilation within the proposed units without impacting the amenity of adjacent properties.
- The applicant respectfully submit that the minor alterations to window configurations are compliant, considerate and do not result in any material change to the level of residential amenity or privacy for neighbouring residents.
- The applicant states that they acknowledge the concerns raised by the appellant regarding vehicles travelling in a forward gear. 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. This is standard design protocol and was addressed in the Quality Audit – Including Cycle Audit, as prepared by Traffico, Road Safety Engineers, and submitted with the original application Reg. Ref. D22A/0475.
- Condition no. 10 refers to the Construction and Environmental Management Plan and condition no. 4 refers to the Resource and Waste Management Plan for Reg. Ref. D22A/0475. These plans were formally submitted to the Council and approved on 9th December 2024 and 21st 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 issue of asbestos, no demolition involving asbestos has been proposed under this application. Should any material be encountered during construction, it would be subject to strict compliance with the Safety, Health and Welfare at Work (Construction) Regulations 2013, and monitored by the Health and Safety Authority (HSA).
- In conclusion, the issues raised do not provide a valid basis for refusal of planning permission. Specifically, there is no irregularity in the applicant's identity, site services have been adequately addressed and approved by competent authorities. The planning application has been assessed based on its merits and statutory compliance.
- The applicant respectfully request that the Commission consider these clarifications in support of the planning permission and uphold the validity of the planning permission.

7.3. Planning Authority Response

- In response to the letter dated 3rd of June 2025 with regard to the appeal Ref: 322654-25 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
- Water and drainage infrastructure
- Compliance with conditions of parent permission
- 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 on 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 were proposed for upper floor levels. Ground floor level changes were 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/0193/WEB permission was granted by Dun Laoghaire Rathdown County Council in May 2025 for modifications to permitted development of 19 apartments with associated works. The proposed development comprises 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. A terrace has been added to apartment 1, with the granted terraces in apartments 2 and 3 extended slightly. The development granted by the Council did not increase the number apartments. There is a concurrent appeal in relation to this application (ABP-322623-25).

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 31 units.
- 8.2.2. The first party in response to this matter has confirmed the nature of the proposed development. The development proposed consists of the reconfiguration of the internal layout of the previously permitted apartments, specifically within Block A and B, to convert some of the as granted three-bedroom units into four bedroom units. Accordingly, no increase in the overall number of residential units is proposed.
- 8.2.3. The grounds of appeal raised concern in relation to revised window proposed. In response to the matter the first party stated that minor modifications to some second floor windows are proposed which have been carefully designed and do not increase the potential for overlooking or loss of privacy. The first party highlighted in their response that the additional or adjusted windows do not face directly onto neighbouring two-storey properties and therefore do not result in any material change to the level of residential amenity or privacy for neighbouring residents.
- 8.2.4. As detailed on Drawing No. 201 which is titled 'Block A Second floor plan as granted (Plan Ref. D22A/0475 & ABP-316304) & Proposed' it is proposed to revise the internal layout adding an additional bedroom to apartments no. 10, no. 11, no. 12 and no. 13 at second floor level. These revisions to the internal layout also entail the relocation of windows to provide adequately sized windows to serve all bedrooms. The proposed revisions to windows are illustrated on Drawing No. 401 which is titled 'Elevation 2-2 as granted (Plan Ref. D22A/0475 & ABP-316304) & Proposed' I note that no changes are proposed to this north facing elevation. The proposed revisions to windows are illustrated on Drawing No. 401 which is titled 'Elevation 3-3 as

granted (Plan Ref. D22A/0475 & ABP-316304) & Proposed' I note that while revised window design and additional windows are proposed to this south facing elevation it 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.

8.2.5. As detailed on Drawing No. 203 which is titled 'Block B Second 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 duplex apartments at second floor level. These revisions to the internal layout also entail the relocation of windows to provide adequately sized windows to serve all bedrooms. As detailed on Drawing No. 202 which is titled 'Block B first floor plan as granted (Plan Ref. D22A/0475 & ABP-316304) & Proposed' it is proposed to marginally revise the internal layout by increases the area of storage closets from 0.9m² to 1.9m². The revised layout also includes the second-floor external wall to the rear of Block B being extended out to align with the first floor.

8.2.6. In relation to Block B as illustrated on Drawing No. 403 which is titled 'Elevation 4-4 as granted (Plan Ref. D22A/0475 & ABP-316304) & Proposed' I note no changes to the east facing elevation are proposed. Accordingly, I am satisfied that the proposed revised windows and additional windows would not unduly impact the private amenity space of adjacent properties. Furthermore, in relation to Block B as illustrated on Drawing No. 400 which is titled 'Elevation 1-1 as granted (Plan Ref. D22A/0475 & ABP-316304) & Proposed' I note no changes to the west facing elevation are proposed.

8.2.7. 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 1-bedroom apartments and 4-bedroom duplex units. 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. Water and Drainage infrastructure

- 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 appeal refers to a section of the report of the Planning Inspector in relation to Reg. Ref. D24A/0426/WEB & ABP-320724-24 which refers to a revised basement layout and a reduction in car parking spaces, with all associated site and development works to the permitted scheme and page 12 which states 'Correspondence between the Developer's agent and the Board of Whately Place GLC clearly indicates that the Developer wished to have the Board's permission to connect into Whately Place wastewater infrastructure and this request was categorically refused.' Regarding this quoted section of report, I note that it is taken from the summary of the grounds of the third party appeal. The Inspector in assessing the matter in their report highlighted that the applicant notes that the proposed development will utilise existing foul sewer connections and connect to the adjacent local surface water and wastewater sewer networks, which are public in nature.
- 8.3.3. 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.
- 8.3.4. 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. It is stated in the appeal that the Council issued two warning letters in relation to condition no. 13 and conditions 2, 4, 5, 8,10,12, 16 and 17. Documents were received in respect of no's 2, 4, 10, 12, 17 and 13. No documents were recorded in respect of no's 5, 8 and 16. Condition no. 13 which refers to Bats has no decision recorded on 24th of May 2025 which is twenty two days after the Council's decision to grant permission for the current application under Reg. Ref. D25A/0200/WEB.
- 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. Other issues

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 the 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.

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 a revised First and Second-floor layout in Block A and Block B, adding 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 second-floor external wall to the rear of Block B has been extended out to align with the first floor. Minor changes to the second-floor windows on Blocks A and B. All with associated site works, and development 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 a revised First and Second-floor layout in Block A and Block B, adding 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 second-floor external wall to the rear of Block B has been extended out to align with the first floor. Minor changes to the second-floor windows on Blocks A and B. All with associated site works, and development 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

- 10.1.5. 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. 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 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 322654-25		
Proposed Development Summary	Permission is sought for modifications and revised layout to permitted 19 apartment development REF: D22A/0475 & ABP 316304-23, with associated works.		
Development Address	St. Annes Convent, Kilmacud Road Uppe, 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	✓	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	322654-25
Proposed Development Summary	Modifications and revised layout to a permitted development Ref: D22A/0475 & ABP 316304-23 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 and a revised layout 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)	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.

e.g. wetland, coastal zones, nature reserves, European sites, 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)