



An
Bord
Pleanála

Inspector's Report RL06D.RL3597

Question	Whether a temporary access road at the site of a permitted residential development is or is not development or is or is not exempted development.
Location	Knockrabo, Mount Anville Road, Goatstown, Dublin 14.
Declaration	
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	5217
Applicant for Declaration	Knockrabo Investments DAC
Planning Authority Decision	Is development and is not exempted development.
Referral	
Referred by	Knockrabo Investments DAC
Owner/ Occupier	Knockrabo Investments DAC
Observer(s)	None.
Date of Site Inspection	25 th June, 2018
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The site in question is located within the confines of a permitted residential development known locally as 'Knockrabo', which is presently under construction on lands to the north of Mount Anville Road, approximately 440m northeast of the junction of Mount Anville Road with Drummartin Road (R112 / R825), at Goatstown, Dublin 14. Notably, whilst the wider development site is characterised by on-going construction works, a number of the completed units, including those sited alongside 'Knockrabo Court', are presently occupied. Furthermore, although the overall site has a stated site area of 2.54 hectares, the extent of those lands occupied by the temporary access roadway (i.e. the subject matter of this referral) is limited to a section of the site located between the permitted housing units and the south-eastern site boundary alongside Mount Anville Road. This area presently comprises, in part, a stretch of roadway surfaced in tarmac and bounded by a pedestrian footpath which extends between 'Knockrabo Way' and 'Knockrabo Drive' (as shown on the submitted site layout plan) to provide access to the occupied units, whilst the remainder of the roadway further northeast is finished in loose hardcore and provides access for the construction of adjacent housing (*N.B.* The Board is advised that since the lodgement of the subject referral, a considerable proportion of the north-eastern extent of the temporary access roadway shown on the submitted site layout plan would appear to have been built over due to the construction of the southernmost housing units along 'Knockrabo Drive' and 'Knockrabo Court').

2.0 The Question

- 2.1. On 17th May, 2017 Knockrabo Investments DAC submitted a request to Dún Laoghaire Rathdown County Council for a declaration in accordance with Section 5 of the Planning and Development Act, 2000, as amended, to determine whether a temporary access road at the site of a permitted residential development on lands at Knockrabo, Mount Anville Road, Goatstown, Dublin 14, was or was not development, and was or was not exempted development.
- 2.2. Subsequently, on 13th June, 2017 the Planning Authority issued a declaration which determined that the temporary access road in question constituted development which was not exempted development. Accordingly, pursuant to Section 5(3) of the

Planning and Development Act, 2000, as amended, the applicant (i.e. Knockrabo Investments DAC) has now referred the matter to the Board for a determination.

- 2.3. Having conducted a site inspection, and following a review of the submitted information, in my opinion, the question before the Board can be formulated as follows:

‘Whether the construction of a temporary access road at the site of a permitted residential development on lands at Knockrabo, Mount Anville Road, Goatstown, Dublin 14, is or is not development, or is or is not exempted development’.

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. On 13th June, 2017 the Planning Authority issued a declaration which determined that the temporary access road at the site of a permitted residential development on lands at Knockrabo, Mount Anville Road, Goatstown, Dublin 14, was development which was not exempted development.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context and the relevant planning history before concluding that the construction of the temporary access road involves the carrying out of works as defined in Section 2(1) of the Planning and Development Act, 2000, as amended, and also constitutes development pursuant to Section 3(1) of the Act. The report proceeds to consider the exempted development provisions set out under Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, and subsequently states that as road in question is not used solely for construction purposes (as detailed in the application documentation) given that it is also used by residents to access the wider development, it does not constitute exempted development.

3.2.2. Other Technical Reports:

None.

4.0 **Planning History**

4.1. On Site:

PA Ref. No. D04A/1546 / ABP Ref. No. PL06D.213634. Was refused on appeal on 23rd December, 2005 refusing Knockrabo Development Limited permission for the construction of a residential development of 369 units in total (330 number apartments, 34 number duplex apartments and five number townhouses) in eight blocks ranging in height between two to 12 storeys. The provision of a total of 538 number carparking spaces (520 number in basements and 18 on surface) and 429 number bicycle parking spaces. The provision of a 246 square metre crèche and a 353 square metre fitness facility within one of the proposed blocks. The construction of a new access from Mount Anville Road to serve the proposed development pending the construction of the Sandyford-Saint Helen's Link motorway. The use of the existing access from Mount Anville Road through the entrance gate and wing walls (protected structure) as the vehicular access to the proposed crèche. The provision of foul and surface water outfall sewers to the drainage for a proposed housing development adjacent to the north-west corner of the site, between the housing along Heidelberg Road and Hollywood Drive. All other site infrastructure works above and below ground and landscaping required to facilitate the proposed development. The proposed development will be within the curtilage of a gate lodge and entrance gates and piers (to the former Knockrabo House) which are protected structures. All on a 3.10 hectare site on these lands known as Knockrabo, bounded by Mount Anville Road and the reservation for the proposed Sandyford-Saint Helen's Link motorway, Goatstown, Dublin.

PA Ref. No. D08A/0457 / ABP Ref. No. PL06D.232694. Was refused on appeal on 18th November, 2009 refusing Knockrabo Developments Limited permission for a residential development of 85 number residential units and a crèche of approximately 130 square metres comprising one number two storey four bedroom house (House Type 7.0), 26 number five bedroom houses (House Types 2.0, 3.0, 3.1, 4.0 are four storeys; House Types 1.0, 1.1, 2.1, 2.2, 3.2, 4.1, 5.0 are part

four/two storeys; House Type 6.0 is four storeys including attic space); and 58 number apartments consisting of eight number one bedroom apartments, 42 number two bedroom apartments and eight number three bedroom apartments in three five storey blocks as follows: Block D1 is five storeys over two basements and comprises 18 number apartments consisting of eight number one bedroom apartments and 10 number two bedroom apartments and a crèche (double height ceiling) of approximately 130 square metres at ground floor level (with external play area of 207 square metres); all apartments will have balconies/terraces. Block D2 is five storeys over basement and comprises 30 number apartments consisting of 22 number two bedroom apartments and eight number three bedroom apartments; all apartments will have balconies/terraces. Block D3 is five storeys and comprises 10 number apartments consisting of 10 number two bedroom apartments; all apartments will have balconies/terraces. Permission is also sought for provision of new vehicular and pedestrian access off Mount Annville Road; provision of single storey concierge structure of approximately 10 square metres adjacent to new access; provision of 149 number car parking spaces consisting of 62 number surface car parking spaces (including two number within curtilage of each house) and 87 number car parking spaces at basement levels; 98 number bicycle spaces comprising 92 number at basement level and six number at surface level, along with ancillary bin storage, landscaping and associated site development and services works at this site of approximately 2.4 hectares known as Knockrabo, Goatstown, Dublin, bounded generally by the reservation for Sandyford to Saint Helen's link road to the north, Mount Annville Road (and Gate Lodge and entrance gates and piers (to the former Knockrabo House) which are protected structures) to the south, Ardilea Downs to the east and reservation for Sandyford to Saint Helen's link road and Cedarmount House and lodge (both protected structures) to the west. As amended by the revised public notice received by the planning authority on the 15th day of December, 2008 as follows: A residential development of 85 number residential units, a crèche of approximately 223 square metres and extending of the red line boundary to include the refurbishment of existing protected gate lodge and entrance gates and piers to former Knockrabo House. Residential units consist of 27 number houses comprising one number two storey four bedroom house (House Type 7.0), 22 number four storey five bedroom houses (House Types 1.0, 2.0, 2.1, 3.0, 3.1, 4.0 and 5.0), four number three storey four bedroom houses (House Types 8 and 9). 58 number

apartments consisting of eight number one bedroom apartments, 37 number two bedroom apartments and 13 number three bedroom apartments in three five storey blocks as follows: Block D1 is five storeys over basement and comprises 18 number apartments consisting of eight number one bedroom apartments and 10 number two bedroom apartments and a crèche of approximately 223 square metres at ground and first floor levels (with external play area of 280 square metres); Block D2 is five storeys over basement and comprises 30 number apartments consisting of 22 number two bedroom apartments and eight number three bedroom apartments; Block D3 is five storeys over basement and comprises 10 number apartments consisting of five number two bedroom apartments and five number three bedroom apartments; all apartments have private open balconies or terraces. Parking provision includes 143 number car parking spaces consisting of 58 number surface car parking spaces (including two number within curtilage of each house) and 85 number car parking spaces at basement levels; 90 number bicycle spaces comprising 60 number at basement level and 30 number at surface level. Permission is also sought for the refurbishment of existing protected gate lodge and entrance gates and piers to their original condition. Provision for new vehicular and access off Mount Annville Road is also sought including provision of ancillary bin storage, landscaping, boundary treatment and associated site development, removal of existing structures/walls and services works on a 2.5 hectares site.

PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243799. Was granted on appeal on 23rd January, 2015 permitting Knockrabo Developments Limited permission for the construction of 88 number dwellings (47 houses, including existing Gate Lodge and 41 apartments) comprising of six number four-bedroom three-storey semi-detached houses, five number four-bedroom two-storey detached houses, 15 number four-bedroom two-storey semi-detached houses, six number three-bedroom two-storey detached houses, nine number three-bedroom two-storey semi-detached houses and five number three-bedroom two-storey terrace houses (with 27 houses having provision for optional attic conversion and rear ground floor extension, six houses having provision for optional attic conversion only, four houses having provision for optional rear ground floor extension and six houses having provision for optional ground floor side extension only); all two and three-storey houses to have solar panels, the refurbishment, repair and extension of existing Gate Lodge (a Protected

Structure) to accommodate a three-bedroom single storey house and 41 number two-bedroom apartments in three buildings ranging in height from four to five storeys; an existing Gate Lodge (a Protected Structure) is being refurbished, repaired and extended to the rear so as to provide a single storey three-bedroom dwelling, one number new vehicular access on the southern boundary of the site to Mount Anville Road (opposite Mount Anville School); the existing vehicular entrance from Mount Anville Road (entrance gates and piers-a Protected Structure) are to be maintained and used for pedestrian and cycle access, all ancillary and associated site development and landscape works, including removal of remaining existing structures/walls; a sub-station (circa 19 metres square), all on lands measuring circa 2.54 hectares bounded generally by the reservation for the Sandyford to Saint Helen's link road to the north, Mount Anville Road to the south, Ardilea Downs to the east and the reservation for the Sandyford to Saint Helen's link road and Cedar Mount House and Lodge (both protected structures) to the west, all at Knockrabo, Mount Anville Road, Goatstown, Dublin.

PA Ref. No. D16A/0821. Was granted on 12th January, 2017 permitting Knockrabo Investments DAC permission to amend a permitted residential development (DL-RCC Reg. Ref. D13A/0689; ABP Ref. PL. 06D243799), on a site of c.0.35 hectares, at Knockrabo, Mount Anville Road, Goatstown, Dublin 14. The development will consist of the reconfiguration of Apartment Blocks A, B and C. The proposed amendments will result in a marginal change to the permitted footprint, mass and height of the blocks with revisions to the layout and configuration of the apartment units, associated basements and car parking facilities. The reconfiguration of these blocks will result in the following: an increase in the total no. of permitted apartment units from 41 No. 2-bedroom units, to 51 no. apartment units (2 No. 3-bedroom units, 38 No. 2-bedroom units and 11 No. 1-bedroom units); an increase in the total floor space of Blocks A, B and C from c.5,069sqm Gross Floor Area (GFA) to c.5,721 sqm GFA; an increase in the overall permitted height of Blocks A, B and C by c.1.5 metres; an increase in overall heights of Blocks A, B and C from 4-5 storey over semi-basement to 5 storey over semi-basement; the marginal re-location of the vehicular access to semi-basement car park of Block A and B on north-eastern side of Block A; the marginal location of vehicular access to semi-basement car park at Block C, to the north-western side of Block C; Re-configuration of the layout of the

storage area at ground floor level of Block B (Level 00) to provide 69 No. storage units, with pedestrian access from north-eastern side of Block B and from the circulation core of Block B; Re-configuration of car parking at semi-basement levels of Block A, B and C and on-street, to provide a total of 70 No. car parking spaces, an increase from 61 No. permitted car parking spaces. The proposed development also comprises: the provision of semi-recessed balconies on the south-western and north-eastern elevations of Blocks A and C and on south-western, south-eastern and north-eastern elevations of Block B; the provision of sedum roofs and solar panels on the roof levels of Blocks A, B and C; the demolition of the remaining portion of a wall to a former bowling green, located to the north-west of Block A and to the south-west of Blocks A and B; and all associated amendments to the permitted road layout; waste storage facilities at semi-basement and ground floor levels; public and private open space areas including hard and soft landscaping; site service (foul and surface water drainage and water supply); and all other associated site excavation, infrastructural and site development works above and below ground.

PA Ref. No. D16A/0960. Was granted on 5th July, 2017 permitting Knockrabo Investments DAC permission to amend a permitted development DLRCC: Reg. Ref. D13A/0689; An Bord Pleanála (ABP) Reg. Ref. PL.06D.243799 on site of c. 0.42 hectares. The proposed development will comprise the construction of 1 No. Apartment Block (Block D) to the south-east to Block C; the provision of an additional 3 No. Houses and all ancillary works. The proposed development will integrate fully with the permitted development (DLRCC Reg. Ref. D13A/0689; ABP Ref. PL06D.243799), and as proposed to be amended under separate Planning Application (DLRCC Reg. Ref. D16A/0821), for amendments to permitted Blocks A, B and C. Block D will comprise 5 storeys over semi-basement level, with an overall height (including parapet) of c.90.05 metres OD; comprising 18 No. apartments units (2 No. 1 bedroom units and 16 No. 2 bedroom units) with a total Gross Floor Area (GFA) of 2,004 sqm; with sedum roof and solar panels at roof level and semi-recessed balconies / terraces on the south-eastern, south-western and north eastern elevations. Vehicular access to Block D is from the semi-basement level of Block C (as permitted under DLRCC Reg. Ref. D13A/0689; ABP Ref. PL.06D.243799) and as proposed to be amended under Reg. Ref. D16A/0821). The proposed development also comprises: the provision of 24 No. car parking spaces at semi-

basement level of Block D and 17 No. spaces at surface level (including 3 No. visitor car parking spaces); 5 No. Motorcycle parking spaces at surface level; and bicycle parking stands at semi-basement level of block D and at surface level; the provision of waste storage facilities at semi-basement and ground floor levels of Block D; removal of an internal wall at semi-basement level between Blocks C and D, to accommodate vehicular access from Block to Block D; the construction of 3 No. Houses at the south-eastern end of permitted houses on Knockrabo Court, comprising 2 No. 4 bedroom units; (2.5 storey semi-detached units, c. 165 sqm GFA); and 1 No. 4 bedroom unit (2 storey detached units, c 155.7 sqm GFA), with 2 No. car parking spaces per House; the provision of public and private open space, including areas of hard and soft landscaping; all associated amendments to; the permitted road layout (including the extension to Knockrabo Court to provide vehicular access to proposed house units.) and to public and private open space areas; all ancillary works including upgrade and maintenance works to the existing boundary wall to Mount Anville Road; site services (foul and surface water drainage and water supply); and all other associated site excavation infrastructural and site development works above & below ground .This development will amend permitted development (DLRCC Reg. Ref. D13A/0689; ABP Ref. PL.06D243799), resulting in; the removal of permitted temporary surface level car park (18 No. spaces) to the south-east of Block C; an increase in the total No. of permitted houses from 47 No. to 50 No. units an increase in total No. of permitted apartment units from 41 No. 2 bedroom units to 59 No. units (57 No. 2 bedroom units and 2 No. 1 bedroom units);and an overall increase in permitted units from 88 No. units to 109 No. units.

4.2. On Adjacent Sites:

PA Ref. No. D17A/1124. Application by Knockrabo Investments DAC for permission for a total of c.11,910.1 sqm Gross Floor Area (GFA), consisting of 93 no.

Residential Units, Childcare Facility (c.400 sqm GFA) and Community/Leisure Uses (c.223 sqm GFA) and all ancillary works as follows: Block E (c.1,237.3 sqm GFA) 4 storey over basement level, comprising 12 no. apartments (1 no. 1 bed, 8 no. 2 beds and 3 no. 3 beds) with semi-recessed balconies; bicycle and bin storage at ground floor level; car parking at basement and surface levels with vehicular access from Knockrabo Way (permitted access from Mount Anville Road); Block F: (c.837.5 sqm GFA) 5 storey block comprising 9 no. apartments (5 no. 1 beds, 3 no. 2 beds and 1

no. 3 bed), semi-recessed balconies; bicycle and bin storage at ground floor level with surface level bicycle and car parking; Block G (c.4,283.4 sqm GFA) L shaped block comprising 3-4 storeys over basement (western block), 5 storey over basement (southern block); consisting of 36 no. apartments (6 no. 1 beds, 19 no. 2 beds, 4 no. 3 beds, 7 no. 2/3 bed duplex units) with semi-recessed balconies/terraces, storage at ground floor level; block H (c.1,897.2 sqm GFA); 6 storey over basement comprising 12 no. apartments (2 no. 2 beds, 10 no. 3 beds) with semi-recessed balconies; blocks G + H are located over a single basement level comprising lower levels of 2 no. duplex apartments, bin and bicycle storage, lobby and services rooms, car parking, with vehicular access on northern side of Block H and with a landscaped courtyard at ground floor level between the blocks. Blocks E, F, G & H to comprise sedum roofs and solar panels at roof level. 20 no. (new build) houses comprising (4 no. 4 bed 2.5 storey semi-detached units (c.165 sqm GFA), 10 no. 5 bed 2.5 storey semi-detached units (c.207.4 sqm GFA - c.265.5 sqm GFA), 4 no. 4 bed 2 storey detached units (c.155.7 sqm GFA), 1 no. 3 bed townhouse (c.126.2 sqm GFA) and 1 no. 1-2 storey 'Gate House' (c.122.6 sqm GFA) to the west of proposed repositioned entrance to Cedar Mount from Mount Anville Road. The continued use of existing 'Coach House' as a residential dwelling and for internal/external repair/refurbishment works at ground and first floor levels, including the removal of 3 no. roof lights, 1 no. metal clad dormer roof window and external water tank; the construction of 2 no. single storey flat roof extensions (c.35.5 sqm GFA), revisions to the external façade including the addition of 1 no. new window ope on the south façade and rendered finish to all original façades, solar panels at roof level, removal/re-use of stone to form new garden wall; to provide 1 no. 2 bed house (c.99.5 sqm) with refurbished stone shed (c.13.9 sqm for storage). The continued use of Knockrabo Gate Lodge (west)(a Protected Structure) as a residential dwelling and for repair/refurbishment works including demolition of existing single storey extension (c.41.9 sqm GFA)(including section to boundary wall); demolition of external timber terrace and stairs; removal of 1 no. roof light and 1 no. internal partition wall; construction of replacement extension (c.77.5 sqm GFA) to provide 1 no. 3-bed unit (c.128 sqm GFA) with solar panels at roof level, bin storage, landscaping, all repair works to the existing gate and piers and all associated internal and external elevational changes. The proposed development comprises works to Cedar Mount (a Protected Structure) to provide: 1 no. Childcare

Facility at lower ground floor level (c.400 sqm GFA) with associated external play and bin storage areas; Community/Leisure Uses at ground floor level (c.223 sqm GFA), comprising gym/studio (c.35.6 sqm GFA), Meeting room (c.28.4 sqm GFA) and conservatory room (c.21.6 sqm GFA) and 2 no. 2 bed apartments at 1st floor level, (c.77.6 sqm GFA and c.88.2 sqm GFA). The works to Cedar Mount to consist of: At lower ground floor/basement level, the removal of 2 no. WCs, sections of external and internal walls and access doors; insertion of openings through external and internal walls; removal of internal staircase to ground floor level; repair of existing 'loggia' (covered external corridor) on northern, north-western and north-eastern façades, with revised elevations comprising glazed panels/glazed entrance doors, located with loggia opes; the additional area (c.58 sqm GFA) to form part of proposed Childcare Facility; At ground floor level removal of wooden staircase to 1st floor level and replacement with open-tread staircase; demolition of utility room (c.6.7 sqm GFA) and conservatory room (c.31.5 sqm GFA) including single-pitched roof and replacement with conservatory room (c.21.6 sqm GFA) with flat roof on south-western side of Cedar Mount with sedum roof; removal of 1 no. WC: At first floor level removal of sections of internal walls/access doors, insertion of doors through internal walls; re-instatement of 1 no. new chimney stack on the western end of the existing roof; replacement of rubble masonry finish with lime and sand plaster finish on all elevations relating to sections of original façade; removal of security bars from existing windows in front porch; replacement/reconfiguration of rainwater downpipes, hopper heads and associated roof outlets; re-modelling of extension on northern side including replacement of timber/pressed metal cladding with brick/zinc cladding and glazing at ground and 1st floor levels, removal/replacement of internal/external doors and windows; replacement of flat roof deck, parapet eaves and roof light with flat roof comprising brick/zinc clad parapet and removal of internal link at 1st floor level; removal of external wooden staircase on north of Cedar Mount and associated infill repair works to external wall at ground floor level; replacement of external glass/concrete gate and guarding to terrace with rendered block-work wall and steel handrail and associated infill works to section of existing parapet wall on eastern side of Cedar Mount; all hard and soft landscaping including removal of external lamp stands, revisions to garden wall and pillars on western side of Cedar Mount and all associated internal and elevational changes. The development will be served by the permitted access road 'Knockrabo Way' (DLRCC Reg. Ref. D13A/0689 ABP Ref.

PL06D.243799, DLRCC Reg. Ref. D16A/0821 and DLRCC Reg. Ref. D16A/0960) with associated amendments comprising 2 no. vehicular access and 3 no. pedestrian access routes from Knockrabo Way to serve the development. The development will also comprise the repositioning of existing access (including gates and piers) to Cedar Mount (a Protected Structure) on Mount Anville Road by c.8 metres to the north-east with associated works to boundary wall to Mount Anville Road, 159 car parking spaces at basement and surface levels, 1 no. electricity sub-station, all associated landscaping and boundary treatment works including repair and refurbishment works to boundary walls, the provision of public and private open space areas comprising hard and soft landscaping, amendments to permitted open space/landscaping works at north-east of site (DLRCC Reg. Ref. D13A/0689 ABP Ref. PL06D.243799), site services (foul and surface water drainage and water supply) and all other associated site excavation, infrastructural and site development works above and below ground. No decision to date.

5.0 Policy Context

5.1. Development Plan

5.1.1. Dun Laoghaire Rathdown County Development Plan, 2016-2022:

Land Use Zoning:

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

Other Relevant Sections / Policies:

Chapter 2: Sustainable Communities Strategy:

Section 2.1: Residential Development

Section 2.2: Sustainable Travel and Transportation:

Section 2.2.10: Roads

Chapter 8: Principles of Development:

Section 8.2: Development Management

Chapter 9: Specific Local Objectives:

Clonskeagh/Dundrum: Specific Local Objective No. 6:

It is an objective of the Council:

- To promote potential additional future uses of the Dublin Eastern Bypass reservation corridor, including a greenway/cycleway, a pedestrian walkway, biodiversity projects, recreational opportunities – inclusive of playing pitches - and public transport provision such as Bus Rapid Transit services, pending a decision from Transport Infrastructure Ireland/Central Government in relation to the future status of the Bypass. Any potential additional future short-term uses of the reservation corridor will be subject to a joint feasibility study to be undertaken by TII and the NTA.

5.1.2. Goatstown Local Area Plan, 2012 (extended until 2022):

Section 3: Development Plan Policy:

Section 3.3: Residential Development

Section 4: Urban Design

Section 5: Movement:

Section 5.3: Eastern Bypass:

The reservation for the Dublin Eastern Bypass corridor has been in place for many years and the sterilisation impact of the corridor has significantly restricted the development and hampered the evolution of Goatstown as a distinctive urban village. The Draft '2030 Vision' for the Greater Dublin Area states quite categorically that the Eastern Bypass will not be constructed during the lifetime of the Strategy, but nevertheless, requires the retention of the reservation corridor to facilitate its potential future use for alternative transport initiatives.

Section 6: Site Framework Strategies:

Section 6.4: Knockrabo Sites:

The lands at Knockrabo, zoned for residential development, comprise of two potential development sites, which are subdivided by the road reservation for the Dublin Eastern Bypass. The area was previously occupied by a Bank of Ireland recreational facility. The site to the north of the reservation requires to be accessed

via Heidelberg, Ardilea. The site to the south of the reservation is accessed via Mount Anville Road.

The sites provide an opportunity for high quality residential development within the Plan area. There is a notable level differential across the two sites. Consideration of the difference in levels should inform the design approach to ensure that any new development integrates successfully with the existing built environment.

The lands at Knockrabo include many mature trees and planting. This should be integrated into any redevelopment proposals to help assimilate the development and enhance the character of any new development.

5.2. Natural Heritage Designations

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

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 2.4km northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 2.6km northeast of the site.
- The North Dublin Bay Special Area of Conservation (Site Code: 000206), approximately 7.5km northeast of the site.
- The North Bull Island Special Protection Area (Site Code: 004006), approximately 7.5km northeast of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 8.9km east of the site.
- The Dalkey Islands Special Protection Area (Site Code: 004172) approximately 8.7km east-southeast of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 7.6km southwest of the site.
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 7.7km southwest of the site.

N.B. This list is not intended to be exhaustive and is simply a summation of those Natura 2000 sites in closest proximity to the application site.

6.0 The Referral

6.1. Referrer's Case

- The construction of the temporary access road constitutes exempted development pursuant to Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.
- The subject roadway has been constructed in the context of the parent grant of permission issued under PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243699.
- Construction of the overall site commenced in April, 2016 in accordance with the phasing information submitted as part of the Construction Management Plan provided by way of compliance with Condition No. 20 of the parent grant of permission (i.e. PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243699). In this respect the temporary roadway was constructed in order to provide direct access to the south-eastern corner of the site during the construction works, particularly during the initial phases of development as regards the construction of those houses within the south-eastern part of the site along Knockrabo Drive. The initial launch within the site subsequently commenced from this corner and the use of the temporary access road allows for construction works to continue without the need for unnecessarily bringing vehicles through the remaining extent of the overall internal road network (which is subject to a more extensive construction programme). Furthermore, the temporary roadway has been completed to full tarmac level and all appropriate temporary landscaping and tree protection works have been carried out in accordance with the Construction Management Plan.

It is intended that the residential units within the first two phases of the development, when occupied, will utilise the temporary roadway as their main access route until such time as construction activity within the wider site has been completed.

The completion of the units within the south-eastern end of Knockrabo Drive will require the removal of the temporary access road and it is intended that the road will be removed in its entirety and the development completed as per the approved plans and particulars.

- The internal route network has been constructed to a primary level and as houses are completed the immediate section of internal access road will be finished in full to serve the residential units prior to occupation.
- It is acknowledged that the subject proposal involves the carrying out of ‘works’ and thus constitutes ‘development’, however, the temporary access road is also considered to be ‘exempted development’ pursuant to Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, in light of the following:

“the erection, construction, or placing on land on, in, over or under which, or on land adjoining which . . . development consisting of works . . . is being carried out . . .”

- The roadway has been constructed on lands which lie partially within the site boundary of PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243699, and whilst part of the road lies to the south of that application site boundary, it remains fully within lands which immediately abut the site of the grant of planning permission and which are in the full control of the applicant. The temporary access road is, therefore, located on land, or on land adjoining, where development is being carried out.
- The access road is being provided in association with a permitted development which is under construction.

“pursuant to a permission under the Act . . .”

- The development presently under construction was granted permission under PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243699. Planning permission has also been granted for amendments to Blocks ‘A’, ‘B’ & ‘C’, although no development on foot of same has commenced to date.

- The extent of the amendments proposed under PA Ref. No. D16A/0960 at the southern end of Knockrabo Court have been illustrated on the accompanying site layout plan for information purposes.
- The temporary roadway has been constructed to serve the permitted development on site to date. The layout of subsequent phases of development is shown on the submitted drawings in order to indicate how the temporary access road relates to these components. It should be noted that the temporary access road will be removed in subsequent phases and the development completed in accordance with the permission granted. Therefore, the temporary access road has been constructed *'pursuant to a permission under the Act'*.

“of structures . . . needed temporarily in connection with that development during the period in which it is being carried out”

- The access road is required on a temporary basis to provide general vehicular access, initially, to the south-eastern part of the site during the period in which the development is being carried out.
- This will include serving as an access to residential units for prospective occupants in advance of the completion of the overall road network.

“such structures . . . shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act . . .”

- The access road is only required on a temporary basis. It will be removed and the approved development completed in accordance with PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243699 or as amended by any subsequent grant of permission.
- With regard to the restrictions on exemption set out under Article 9(1)(a) of the Regulations, these are considered in turn as follows:

(i) “contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act”

The temporary access road does not contravene any of the conditions attached to the grants of permission that authorise the permitted residential development.

Furthermore, the provision of the temporary roadway will not affect the implementation of Condition No. 11 of PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243699 which refers to the construction of internal access roads to at least base wearing course prior to the making available of any house / apartment available for occupation.

(ii) “consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width”

The temporary access road is located within a permitted residential development, is entirely internal to that scheme, and does not involve the material widening of an access to a public road.

By way of precedent, the Board is referred to its determination of ABP Ref. No. RL61.RL2138 which concerned the provision of an access road and ramp to serve a development during its construction phase. In that instance it was noted that as the access road in question had not been taken in charge by the local authority it did not constitute a public road.

(iii) “endanger public safety by reason of traffic hazard or obstruction of road users”

The temporary roadway provides a safe vehicular access route to the development and, in terms of serving residential units as they become occupied, it is considered that this arrangement enhances overall traffic safety within the site.

In support of the foregoing, the Board is referred to the accompanying Traffic Statement prepared by DBFL Engineers which concludes that

the temporary road will not have a negative impact on traffic conditions within the site. Therefore, the roadway will not endanger public safety by reason of traffic hazard or obstruction.

The Board is further referred to its previous determination of ABP Ref. No. RL61.RL2138 (and the reporting inspector's assessment of same) by way of precedent, particularly in light of the lesser scale of the development in question and the lower traffic volumes which will be managed entirely on site.

It is further submitted that the restrictions set out in parts (iv), (v), (vi), (vii), (viiA), (viiB), (viiC), (viii), (ix), (x), (xi) & (xii) of Article 9(1)(a) do not apply with regard to the development in question.

- None of the restrictions set out in Article 9(1)(b) of the Regulations apply to the subject development.
- The temporary access road does not require Environmental Impact Assessment and thus is not subject to the restrictions imposed under Article 9(1)(c) of the Regulations.
- The development in question is not of a class subject to the restrictions set out in Article 9(1)(d) of the Regulations.
- It is considered that the Planning Authority's interpretation of Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, is inaccurate. In the subject instance, a temporary access road has been constructed in accordance with the provisions of Class 16 within and immediately adjoining the site of a development presently under construction pursuant to a grant of permission.
- The temporary access road was constructed to serve the initial construction works and to provide general access to the south-eastern part of the site at the southernmost end of Knockrabo Drive. The accompanying site layout plan shows that the main access route through the site is otherwise via Knockrabo Way, the main access off Mount Anville Road, and along Knockrabo Avenue.
- The initial phase of development relates to units located on Knockrabo Drive and it is intended that as these units are occupied they will be accessed via

the temporary roadway. It is proposed that residential and construction traffic entering the development from Mount Anville Road will share the permitted main access from Mount Anville Road and that residential traffic will use the temporary road in the initial phases of development during the period in which the wider construction activities within the site are completed.

- The temporary access road is required during the period in which the development is being carried out and will be removed in full as part of the completion of the development.

6.2. Planning Authority Response

No further comments.

6.3. Further Responses

None.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

7.1.1. Section 2(1) of the Act defines “works” as follows:

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

7.1.2. Section 3(1) of the Planning and Development Act, 2000, as amended, states the following:

“Development” in this Act means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in use of any structures or other land.

7.1.3. Section 3(1) of the Act also states that “public road” has the same meaning as in the Roads Act, 1993.

N.B. Section 2(l) of the Roads Act, 1993 defines a public road as ‘a means over which a public right of way exists and the responsibility for the maintenance of which lies on a roads authority’.

- 7.1.4. Section 4(2) of the Act states that the ‘*Minister*’ may by Regulation provide for any class of development to be exempted development for the purposes of the Act.

7.2. Planning and Development Regulations, 2001

- 7.2.1. Article 6(1) of the Regulations states the following:

‘Subject to article 9, development of a class specified in column 1 of part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1’.

- 7.2.2. Article 9(1) of the Regulations states as follows:

‘Development to which article 6 relates shall not be exempted development for the purposes of the Act –

(a) If the carrying out of such development would –

- i. contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- ii. consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- iii. endanger public safety by reason of traffic hazard or obstruction of road users . . .*

7.2.3. *Part 1 of Schedule 2: Exempted Development – General:*

Class 16:

<i>Column 1</i> <i>Description of Development</i>	<i>Column 2</i> <i>Conditions and Limitations</i>
The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.	Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.

7.3. **Other Relevant Information:**

7.3.1. *Relevant Section 5 Determinations:*

ABP Ref. No. RL61.RL2138. Was determined on 25th June, 2004 wherein the Board held that the formation of a temporary access and access ramp during construction of the development known as ‘Bailey Point’ from a section of private road between Rockhill Avenue and San Antonio Terrace, Salthill, Galway, was exempted development.

8.0 **Assessment**

8.1. **Is or is not development**

- 8.1.1. Section 3 of the Planning and Development Act, 2000, as amended, defines “*development*” as the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land. In my opinion, the construction of the temporary access road on site has clearly involved

an act of development having regard to Section 2 of the Act where “works” are defined as:

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior to exterior of a structure.

8.1.2. Accordingly, having established that the construction of the temporary access road constitutes development, the question arises as to whether or not these works constitute exempted development.

8.2. Is or is not exempted development

8.2.1. Article 6(1) of the Planning and Development Regulations, 2001, as amended, states that subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in Column 2 of the said Part 1. In this respect I would draw the Board’s attention to Column 1 of Class 16 of Part 1 of Schedule 2: *‘Exempted Development – General’* of the Regulations which refers to *‘The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out’* and the condition / limitation imposed within Column 2 of that class i.e. *‘Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act’.*

8.2.2. Having reviewed the available information, and following a site inspection, it is apparent that the principle issue arising in the consideration of the subject referral as regards the applicability of the exemption provided for under Class 16 of Part 1 of Schedule 2 of the Regulations relates to the fact that the temporary access road in question is simultaneously being used for both construction purposes and as the

main means of access to those residential units within the wider development which have been completed and are now occupied by individual households. By way of explanation, I would advise the Board that the on-going construction of the wider housing development approved under PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243799 has been undertaken on a phased basis and that the 'temporary access road' in question was seemingly provided at the outset in order to facilitate access to the initial phases of the development as regards the construction of those houses within the south-eastern part of the site along Knockrabo Drive.

Subsequently, a further grant of permission was issued in respect of PA Ref. No. D16A/0960 on those lands immediately adjacent to the development permitted under PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243799 which approved the construction of Apartment Block 'D' and the 3 No. additional dwelling houses located at the southernmost end of 'Knockrabo Court' (the outlines of which are shown on the site layout plan that has accompanied the subject referral). At this point I would advise the Board that since the lodgement of the subject referral, the construction of the southernmost housing units along 'Knockrabo Drive' and 'Knockrabo Court' (as approved under PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243799 & PA Ref. No. D16A/0960) has either been completed or is nearing completion and, therefore, a considerable extent of the temporary access roadway shown in hatching on the site layout plan provided with the referral documentation (i.e. that section extending north-eastwards beyond the 'Knockrabo Court' service road) is no longer in existence as it has been removed to accommodate the construction of the aforementioned housing. Accordingly, the situation has now arose whereby a number of the dwelling houses within the wider residential development have been completed and are currently occupied whereas construction is on-going in other areas of the site with the result that the extent of the 'temporary access road' between 'Knockrabo Way' and 'Knockrabo Court' is being used to facilitate vehicular access for existing residents of the scheme whilst also accommodating construction access to those units nearing completion at the southernmost end of 'Knockrabo Court' and 'Knockrabo Drive'.

- 8.2.3. In my opinion, it would appear that the temporary access road was likely originally constructed to accommodate the construction of the initial phases of the wider housing development, however, as these works progressed and as finished units

were subsequently sold, the principal function of the roadway would seem to have shifted increasingly towards use as a dedicated residential access serving the occupied housing units with a lesser focus on its use for construction purposes. In this regard whilst I would accept that the dual usage of the temporary access road in question gives rise to some degree of complication, and although Class 16 of Part 1 of Schedule 2 of the Regulations makes no specific reference to any temporary works which would facilitate access to occupied housing units pending the completion of a wider residential scheme, it is of particular relevance to note that during the course of my site inspection it was observed that there was gateway at the junction of the tarmac section of the temporary access roadway with Knockrabo Court which served to provide access to those units presently under construction at the southernmost end of Knockrabo Court and Knockrabo Drive. Moreover, this gateway was open and there was clear evidence by way of the presence of tracks and tyre marks that it was being used to facilitate ongoing construction activities / access (despite directional signage to the contrary at the junction of the access road with Knockrabo Way). Therefore, whilst I would accept that the overall construction and surface treatment of the existing 'temporary access road' is perhaps more comparable to that associated with the servicing of an occupied housing scheme as opposed to a construction site, it is apparent that it is used in part for construction purposes and that Class 16 of Part 1 of Schedule 2 of the Regulations does not prescribe any particular standard of construction for any works permitted thereunder (*N.B.* It is possible that the higher than expected finish / quality of the roadway in question has been provided to alleviate any concerns which may arise as regards compliance with Condition No. 11 of ABP Ref. No. PL06D.243799 which requires internal roads to be constructed to at least base wearing course prior to the making available for occupation of any house/apartment).

- 8.2.4. In the interests of clarity, and by way of further consideration, the Board may wish to consider the possibility that the wording of Class 16 could be interpreted in a more liberal sense / wider context. In this regard, Class 16 refers to the construction of structures etc. needed temporarily '*in connection with*' development being carried out pursuant to a permission under the Act. Therefore, the case could perhaps be made that the use of the roadway in question solely for the purposes of providing access to completed and / or occupied housing units, in the interests of safety by segregating

residential and construction traffic, pending the completion of construction works within the wider development site (with construction access provided via an alternative route), would be *'in connection with'* the approved development. However, given that the roadway in question is being used for construction purposes, I do not propose to comment further on foregoing suggestion, other than to say that such an interpretation would perhaps not have been the intention of the legislature.

- 8.2.5. On balance, it would appear that the remaining section of the access road which is the subject matter of the referral is continuing to be used for construction purposes associated with the completion of a development permitted under the Act and, therefore, it would presently appear to satisfy the provisions of Class 16 of Part 1 of Schedule 2 of the Regulations on the assumption that it will subsequently comply with the condition / limitation imposed within Column 2 of that class i.e. that it be removed at the expiration of the period and the land is reinstated save to such extent as may be authorised or required by a permission under the Act. In the event that the 'temporary access road' were no longer to be used for construction purposes, it may be necessary for the Local Authority (in the first instance) to review the situation.

8.3. Restrictions on exempted development

- 8.3.1. In the consideration of this referral it also remains to be established whether or not the development in question is subject to any of the restrictions imposed on the relevant exemption under Article 9(1) of the Regulations.
- 8.3.2. Article 9(1)(a)(i) of the Regulations states that development to which Article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of the development would contravene a condition attached to a permission issued under the Act or if it would be inconsistent with any use specified in a permission under the Act. Having reviewed the relevant planning history, with particular reference to PA Ref. No. D13A/0689 / ABP Ref. No. PL06D.243799 & PA Ref. No. D16A/0960, it can be confirmed that there are no conditions attached to same which would prohibit the development in question.
- 8.3.3. With regard to Article 9(1)(a)(ii) of the Regulations which states that development to which Article 6 relates shall not be exempted development if it consists of or

comprises the formation, laying out or material widening of a means of access to a public road, the surfaced carriageway of which exceeds 4 metres in width, having conducted a site inspection, it can be confirmed that the 'temporary access road' in question is accessed via a partially completed service road (identified as 'Knockrabo Way' on the submitted site layout plan) and that said roadway has not been taken in charge by the Local Authority and accordingly does not constitute a public road as defined in the Planning and Development Act, 2000 and the Roads Act, 1993. The development does not therefore come within the scope of Article 9(1)(a)(ii).

8.3.4. In relation to Article 9(1)(a)(iii) of the Regulations which serves to 'de-exempt' any development to which Article 6 relates where it would endanger public safety by reason of traffic hazard or obstruction of road users, having regard to the temporary nature of the development in question, the use of which will cease following the completion of construction, and as traffic emerging from the site via 'Knockrabo Way' onto Mount Anville Road (a major distributor and regional road serving the surrounding area which has adequate capacity to accommodate the likely traffic volumes associated with the development in question) has adequate visibility to ensure that turning manoeuvres can be completed in a satisfactory manner and without any significant impacts on traffic safety, it is my opinion that the access in question would not endanger public safety by reason of traffic hazard or result in the obstruction of road users.

8.3.5. No other aspects of Article 9 of the Regulations are of relevance to the determination of the subject referral.

8.4. **Appropriate Assessment**

8.4.1. Having regard to the nature and scale of the development under consideration, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the construction of a temporary access road at the site of a permitted residential development on lands at Knockrabo, Mount Anville Road, Goatstown, Dublin 14, is or is not development or is or is not exempted development:

AND WHEREAS Knockrabo Investments DAC requested a declaration on this question from Dún Laoghaire Rathdown County Council and the Council issued a declaration on the 13th day of June, 2017 stating that the matter was development and was not exempted development:

AND WHEREAS Knockrabo Investments DAC referred this declaration for review to An Bord Pleanála on the 28th day of June, 2017:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Class 16 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (c) Articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site, and
- (e) the Roads Act, 1993, as amended

AND WHEREAS An Bord Pleanála has concluded that:

- a) the temporary access road during construction comes within the scope of Class 16 of Part 1 of Schedule 2 to the said Regulations;

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the construction of a temporary access road at the site of a permitted

residential development on lands at Knockrabo, Mount Anville Road,
Goatstown, Dublin 14, is development and is exempted development.

Robert Speer
Planning Inspector

28th June, 2018