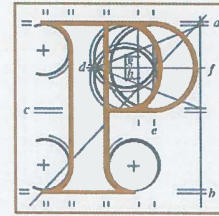


Our Case Number: ABP-313059-22



An  
Bord  
Pleanála

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24

LAND USE, PLANNING  
& TRANSPORTATION DEPT.

1 - JUL 2022

Date: 30 June 2022

**Re:** Demolition of buildings, construction of 178 no. residential units (72 no. houses, 106 no. apartments) creche and associated site works.  
Lands at Kilmashogue House and Coill Avon House, Whitechurch Road, Rathfarnham, Dublin 16.  
(www.edmondstownshd.com)

Dear Sir / Madam,

An Bord Pleanála has made a decision in respect of the above mentioned Strategic Housing Development. A copy of the Board Order is enclosed.

In accordance with section 146(5) of the Planning and Development Act, 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. In addition, the Board will also make available the Inspector's Report and the Board Direction on the decision on its website ([www.pleanala.ie](http://www.pleanala.ie)). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please mark in block capitals "STRATEGIC HOUSING UNIT" and quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Hereunder contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

**Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended.**

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

Tel	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
Riomhphost	Email	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, [www.citizensinformation.ie](http://www.citizensinformation.ie).

**Disclaimer:** The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

Yours faithfully,

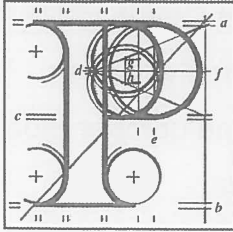


Hannah Cullen  
Executive Officer  
Direct Line: 01-8737246

SHA32

<b>Tel</b>	<b>Tel</b>	(01) 858 8100
<b>Glaos Áitiúil</b>	<b>LoCall</b>	1890 275 175
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An  
Bord  
Pleanála

Board Order  
ABP-313059-22

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## Planning and Development Acts 2000 to 2021

Planning Authority: South Dublin County Council and Dún

Laoghaire-Rathdown County Council

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 21<sup>st</sup> day of March 2022 by BCDK Holdings Limited and Coill Avon Limited care of Simon Clear and Associated of 3 Terenure Road West, Terenure, Dublin.

**Proposed Development comprises of the following:**

1. Demolition of Kilmashogue House and outbuildings and demolition of Coill Avon House and outbuildings;
2. The refurbishment and re-use of two number stone outbuildings for community use, to be incorporated into an area of public open space on the southern lands;
3. The construction of a mixed-use development comprising neighbourhood centre and 178 number residential units comprising 72 number houses, 38 number apartments and 68 number duplex apartments;
4. The 72 number houses will comprise two, two and a half and three storey detached, semi-detached and terraced units to include:-
  - (a) Six number two-bed houses;
  - (b) 45 number three-bed houses;
  - (c) 21 number four-bed houses;

5. The 38 number apartments and 68 number duplex apartments are located across seven number buildings ranging in height from three to five storey consisting of one number Block A/B, one number Block C, one number Block E, one number Block S and three number Blocks T as follows: -
- (a) **Block A/B:** Five storey over basement and podium accommodating 10 number one-bed apartments, 16 number two-bed duplex apartments and one number three-bed duplex apartment with associated balconies and terraces;
  - (b) **Block C:** Five storey over basement accommodating four number one-bed apartments and eight number two-bed duplex apartments with associated balconies and terraces;
  - (c) **Block E:** Four storey over basement accommodating eight number one-bed apartments and 16 number two-bed duplex apartments with associated balconies and terraces;
  - (d) **Block S:** Three storey accommodating two number two-bed duplex apartments and one number three-bed apartment and one number three-bed duplex apartments with associated balconies and terraces;
  - (e) **Block T:** Three number three storey buildings accommodating six number one-bed apartments, 18 number two-bed duplex apartments, nine number three-bed apartments and six number three-bed duplex apartments, all with associated balconies and terraces;
6. Block A/B and Block C are arranged around a landscaped podium. The neighbourhood centre is located below this podium and accommodates a two level creche (313 square metres) at lower ground and ground floor level, and three number retail and non-retail service and cafe units (470 square metres) at ground level;
7. The basement below Block A/B and Block C accommodates 50 number car parking spaces, bicycle parking, bin stores, plant and staff service area (80 square metres);
8. The basement below Block E accommodates 35 number car parking spaces, bicycle parking, bin store and plant;

9. A section of link street with footpath and bicycle path (approximately 438 linear metres) extending from the junction of Whitechurch Road and College Road on an alignment parallel to the M50 Motorway, to provide access to the southern development lands and incorporating a bus turning circle;
10. A new signalised crossroads junction to connect the proposed link street with Whitechurch Road and College Road;
11. Upgrade works to College Road including a new two-way bicycle track and relocated footpath from the Whitechurch Road junction to provide connectivity to the Slang River pedestrian and bicycle Greenway;
12. Upgrades to the existing vehicular access and bridge at the entrance to Coill Avon House on Whitechurch Road;
13. Foul sewer drainage works along Whitechurch Road from the southern lands to the existing junction at Glinbury housing estate;
14. All landscaping, surface car parking, boundary treatments, infrastructure works, Electricity Supply Board substation, signage and associated site works and services all located at Kilmashogue House and Coill Avon House, Whitechurch Road, Rathfarnham, Dublin 16.

## **Decision**

**Refuse permission for the above proposed development based on the reasons and considerations set out below.**



## Reasons and Considerations

1. The "Sustainable Residential Development In Urban Areas - Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in May, 2009, recommends a sequential and co-ordinated approach to residential development, whereby zoned lands should be developed so as to avoid a haphazard and costly approach to the provision of social and physical infrastructure and where undeveloped lands closest to the core and public transport routes be given preference. Notwithstanding the 'RES' - residential zoning objective that applies to this site, as set out in the South Dublin County Development Plan 2016-2022, it is considered that the site is located in an area which is remote and isolated from other areas of consolidated residential development and not in line with the orderly expansion of the settlement. Having regard to the scale and density proposed, the lack of suitable pedestrian linkage, the excessive walking distance to services such as retail, schools, social/ community services, and the absence of public transport serving the site, it is considered that the proposed development would be excessively car dependent and would, therefore, be contrary to the Guidelines and to the proper planning and sustainable development of the area.
2. The site is located in an area zoned objective RES – zoned for residential use in the current South Dublin County Development Plan 2016-2022. The proposed development provides for a density of 41 number units per hectare which is contrary to Policy H3 SLO 1 which limits density to 12 number units per hectare. Considering the location of the subject site, the limited availability of services and the established character of the area, it is considered that this policy objective as applied to these lands is reasonable at this time. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.
  - (a) The development would be premature by reference to the prospective deficiency in the road network serving the area of the proposed development, which would arise because of the increases in road traffic likely to result from the development and the weight limitation on the use of Whitechurch road by public transport vehicles.
  - (b) The proposed development would endanger public safety by reason of traffic hazard arising from the increase in vehicular traffic using Whitechurch Road, the proposed upgrades to which do not sufficiently correct the alignment or capacity of the road nor the provision of safe space for vulnerable road users.
  - (c) The local road network cannot currently provide for suitable pedestrian and cyclist facilities to serve the increased demand generated by the proposed development. There is no public transport serving the site and the nearest bus routes, which are low frequency, are over 1.2 kilometres away, to the north of the site. Future residents would be required to walk or cycle along the substandard road network, which would lead to conflict between road users, that is, vehicular traffic, pedestrians, and cyclists. The proposed development would, therefore, endanger public safety by reason of traffic hazard.
  - (d) The applicant has contravened Condition Number 3 of the letter of consent from Dún Laoghaire-Rathdown County Council in relation to tree removal on College Road and has, therefore, no prospect of being able to carry out the proposed development and does not have sufficient legal basis for submitting the planning application.
  
4. Having regard to the following;
  - (a) The location of the proposed development on the southern side of Whitechurch, but remote from the established urban area,
  - (b) The proposed development area consists of two separate sites that are only connected by the public road and a relatively narrow footpath located on the western side of the Whitechurch Road,

- (c) The separated nature of the site layout results in a need for duplication through the proposed internal road layout and the need for two separate access points to the Whitechurch Road,
- (d) All proposed retail/childcare services are provided to the southern section of the site, and this is likely to result in increased car traffic as the northern section is lacking in retail provision and childcare,
- (e) The poor disposition and quantity of public and private and communal open space through location and lack of passive surveillance,
- (f) The proposed development is located to the south of the Whitechurch Road in an area that is rural in character and the piecemeal nature of the development would have a negative impact on the established character of the area,
- (g) The proposed Block A/B which addresses the Whitechurch Road is considered to be unacceptable in terms of façade treatment and design and would provide for a poor entrance and streetscape to the southern portion of the development,

It is, therefore, considered that the proposed development would constitute a substandard form of development which would seriously injure the amenities of the area, would provide for poor residential amenity, and would be contrary to the proper planning and sustainable development of the area.

5. The proposed development would, due to the lack of a natural Sustainable Urban Drainage Systems strategy and the provision of underground attenuation tanks under the public open spaces, restrict the potential for landscaping in public open spaces and would be contrary to Policies IE2, in IE2 Objective 5 and Policy GI5 of the South Dublin County Council Development Plan 2016-2022 and would undermine water quality and the efficient provision of surface water drainage services in the County.



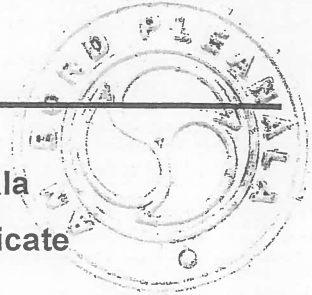
6. The proposed removal of boundary trees and vegetation on the northern site is not in keeping with Policies G11, G12 and G15 of the South County Council Development Plan 2016-2022.

*Terry Ó Niadh*

Terry Ó Niadh

Member of An Bord Pleanála

duly authorised to authenticate  
the seal of the Board.



Dated this *30<sup>th</sup>* day of *June*, 2022

