



An  
Bord  
Pleanála

## Inspector's Report ABP-300244-17

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| <b>Development</b>                  | 47 dwellings, comprising of 33 apartments within a 4-storey building and 14 no. houses comprised of terraced and semi-detached units at Thornhill House.                 |
| <b>Location</b>                     | Thornhill House, Cherrygarath, Mount Merrion, Blackrock, Co. Dublin.   |
| <b>Planning Authority</b>           | Dun Laoighaire Rathdown County Council   |
| <b>Planning Authority Reg. Ref.</b> | D17A/0240  |
| <b>Applicant(s)</b>                 | David Doyle  |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Refuse   |
| <b>Type of Appeal</b>               | Third Party  |
| <b>Appellant(s)</b>                 | As above   |
| <b>Observer(s)</b>                  | <ul style="list-style-type: none"><li>- Fiona &amp; Michael Slevin</li><li>- Aideen &amp; Joacim Hallstrand</li><li>- Donal Kavanagh</li><li>- Cllr Barry Saul</li></ul> |

- Liam & Michelle Prenderville
- Patricia & Martin Ryan
- An Taisce
- Cedric Heather
- Mount Merrion Residents Association
- Victor Hrymak
- Douglas & Ursula Veale
- Cllr. John Kennedy
- Des Smith
- Cllr. Deirdre Donnelly
- Gerard Dunnion
- Thomas & Mary Martin
- Robert & Paula McDonnell
- Tom & Maura Fahey

**Date of Site Inspection**

28<sup>th</sup> March 2018

**Inspector**

Kenneth Moloney

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## **1.0 Site Location and Description**

- 1.1. The subject site is located adjacent to the housing development Cherrygarth, which is situated just west the N11 near to Stillorgan in Co. Dublin.
- 1.2. The local area is characterised by suburban type development and typically single storey and two-storey semi-detached dwellings.
- 1.3. The appeal site is an enclosed site within this suburban setting. There is a period property (Thornhill House) which is a protected structure on the appeal site and this property is two-storey over basement (for this application the protected structure is removed from the application site).
- 1.4. There is a large garden / driveway to the front and side of the existing period property on site.
- 1.5. The overall size of the appeal site is approximately 1.39 ha (3.43 acres) and the shape of the appeal site is approximately square.
- 1.6. The gradient of the subject site slopes gently from northwest to southeast.
- 1.7. There are established houses located to the north of the appeal site. These houses face onto Trees Road Lower and have relatively large rear gardens and these rear gardens adjoin the northern boundary of the appeal site.
- 1.8. There are also established houses located to the south, east and west of the appeal site.
- 1.9. The southern boundary of the appeal site comprises of mature trees / hedgerows and palisade fencing. The east, west and northern boundary treatment of the appeal site comprises of a high wall.
- 1.10. The curtilage of the subject site is landscaped including a notable mature tree situated in the centre of the site.
- 1.11. The gardens around Thornhill House are landscaped mainly comprising of lawns.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of 47 no. dwellings provided as;
  - 33 no. apartments

- 14 no. houses

2.2. The following Table includes a breakdown of the residential units proposed;

| <u>Type of Units</u> | <u>No. of Units</u> |
|----------------------|---------------------|
| 1-bed apartments     | 3                   |
| 2-bed apartments     | 24                  |
| 3-bed apartments     | 6                   |
| Semi-detached houses | 6                   |
| Terraced houses      | 8                   |

- 2.3. The proposed site layout includes a 4-storey apartment building located to the east of the subject site, two pairs of semi-detached houses located to the north of the site and a block of houses situated to the south of the site.
- 2.4. The height of the pair of semi-detached houses are two-storey and the block of houses situated to the south of the site is effectively 3-storey in height.
- 2.5. The block of houses situated to the south of the site comprises of 8 mid terrace properties and two end of terrace or semi-detached dwellings.
- 2.6. The proposal also includes the provision of public open space. The open space has 3 no. components and includes open space to the front of the 4-storey apartment building and secondly to the rear of the apartment building and to the north of the subject site.
- 2.7. The houses proposed include the provision of private open space provision in the form of rear gardens.
- 2.8. The proposed development includes car parking provision. The proposed houses have surface car parking whereas the apartments have basement car parking provision.
- 2.9. The proposed development includes the provision of two separate vehicular entrances, one, which is the established entrance, providing access to the surface

car parking and second vehicular entrance providing access to the basement which is situated to the south of the site.

Additional information was sought in relation to the following issues;

1. Urban conservation,
2. Surface water drainage
3. Compliance with DMURS
4. The public areas shall be redesigned to ensure they are in accordance with the 'Taking in Charge Procedure Document'
5. Details of grass verge and footpaths
6. Details of ramp entrance to the basement
7. Details of stop sign / line at ramp entrance
8. Pedestrian footpath details
9. Front boundary wall
10. Bicycle parking details
11. Car parking provision
12. Revised drawings illustrating lifts/plant/water tanks in basement car park
13. Provision for motorcycle parking provision
14. Provision for future electric charging points for electrically operated vehicles
15. Details of turning movements for emergency vehicles
16. Street lighting details
17. Details of construction management plan
18. Bat survey
19. Tree survey
20. Landscape proposals
21. Proposals for northern existing wall
22. Details for site boundary to the rear of house no's 3 -12

### 3.0 Planning Authority Decision

Dun Laoighaire-Rathdown County Council decided to **refuse** planning permission for the following reason;

1. Having regard to the extent, siting, design of houses No. 3 to 12 and the resulting loss of dedicated open space to Thornhill House it is considered that the proposed development would seriously adversely affect the character, setting and amenity of Thornhill House, a protected structure and would denigrate the primacy of the protected structure on the site. The proposed development would, therefore, be contrary to the 2016 – 2022 Dun Laoighaire-Rathdown County Development Plan Policies AR1, RES3, Chapter 8: Principles of Development, Section 8.2.11.2 (iii) Development in Proximity to a Protected Structure and would be contrary to the proper planning and development of the area.

#### 3.1. Planning Authority Reports

- 3.1.1. The main issues raised in the planner's report are as follows;

##### Planner's Report

- Thornhill House to be retained for residential.
- Policy RES 3 'Density' is relevant.
- The proposed residential density of 47 is acceptable.
- It is considered that 3-bedroom houses should be encouraged on the site.
- The units are consistent with Sustainable Urban Housing: Design Standards for New Apartments Guidelines for PA (December 2015).
- The proposed height is considered acceptable.
- Separation distances acceptable. No overlooking concerns.

- Public open space standards of 20% meets County Development Plan standards.
- A management plan for Japanese knotweed is required and a bay survey.
- The Conservation Officer considers that the development is unacceptable.
- Inadequate car parking provision.
- Further information required regarding the cost of acquiring housing units for Part V.

3.1.2. Conservation Officer – Refusal as proposal would adversely affect the character, setting and amenity of the protected structure as such contrary to County Development Plan policies AR1, RES3.

3.1.3. Municipal Services Dept. – Additional information required in relation to surface water drainage.

3.1.4. Transportation Planning; Additional information sought.

3.1.5. Housing Department; - Clarification sought in relation to Part V proposals

3.1.6. Landscape – Additional information sought in relation to tree survey and landscape proposals

## 3.2. **Submissions**

There is a submission from Irish Water who have no objections. There is also a submission from the Department of Culture, Heritage and the Gaeltacht who recommend grant subject to conditions.

### 3.3. **Third Party Observations**

There were 125 third party submissions and the issues have been noted and considered. The issues raised are broadly similar to those issues raised in the observations submitted to the Board.

### 4.0 **Planning History**

- No recent relevant planning history on the subject site.

### 5.0 **Policy Context**

#### 5.1. **Development Plan**

Dun Laoighaire – Rathdown County Development Plan, 2016 – 2022, is the operational Development Plan.

The following designations are related specifically to the appeal site

- The subject site is zoned Objective A ‘To protect and / or improve residential amenity’.
- The house, i.e. Thornhill House, on the subject site is a Protected Structure in accordance with the Appendix 4 of the County Development Plan. The RPS no. is 936.
- The site is also designated ‘to protect and preserve trees and woodlands’.

The following County Development Plan provisions are relevant;

#### Residential

Policy RES3 – Residential Density

Policy RES4 – Existing Housing Stock and Densification

Policy RES7 – Overall Housing Mix

Policy RES9 – Housing for All

Policy RES13 – Planning for Sustainable Communities

### Landscape

Policy LHB5 – Historic Landscape Character Areas

### Built Heritage

Policy AR1 – Record of Protected Structures

### Development Management

- Section 8.2.3.1 ‘Quality Residential Design’
- Section 8.2.3.2 ‘Quantitative Standards’.
- Section 8.2.3.3 ‘Apartment Development’.
- Section 8.2.4.5 ‘Car Parking’
- Section 8.2.4.7 ‘Cycle Parking’
- Section 8.2.4.8 ‘Motorcycle Parking’
- Section 8.2.11.2 ‘Architectural Heritage – Protected Structures’
  - (i) Works to Protected Structures
  - (iii) Development in Proximity to a Protected Structure

## 6.0 National Policy

### 6.1. National Planning Framework, 2018

The recently published National Planning Framework, 2018 – 2040, recommends compact and sustainable towns / cities, brownfield development and densification of urban sites and policy objective NPO 35 recommends increasing residential density in settlements including infill development schemes and increasing building heights.

Some other relevant policies from the NPF include the following;

- NPO 6 – Regenerate / rejuvenate cities, towns and villages
- NPO 8 – Targeted population growth in Ireland's 5 cities
- NOP 13 – Relax car parking / building heights to achieve well-designed high-quality outcomes

#### 6.2. **Sustainable Residential Development in Urban Areas, 2009**

The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout. Chapter 6 sets out guidance for residential development in small towns and villages. Appendix A of this document sets out guidance for measuring residential density.

#### 6.3. **Sustainable Urban Housing: Design Standards for New Apartments, Dec. 2015**

These guidelines provide recommended guidance for internal design standards, storage areas and communal facilities, private open spaces and balconies, overall design issues and recommended minimum floor areas and standards.

#### 6.4. **Architectural Heritage Guidelines, 2011**

The Architectural Heritage Protection Guidelines for Planning Authorities, 2004, offers guidance to planning authorities on determining planning applications in relation to protected structures.

Chapter 2 of the Guidelines deals with Protected Structures, while Chapter 3 deals with Architectural Conservation Areas.

Paragraph 13.5 'Development within the Curtilage of a Protected Structure' and paragraph 13.7 'Development within the Attendant Grounds' are relevant.

## 7.0 The Appeal

The following is the summary of a first party appeal submitted by the applicant's agent;

- Historical maps indicate that the setting of Thornhill House has been radically altered over the years.
- The protected structure now looks inwards with no relationship to the surrounding urban environment.
- Earlier historic maps showed the layout of Thornhill House as u-shaped in plan whereas later maps show a rectangular footprint with free standing out building to the rear.
- It is submitted that the setting of Thornhill House has been largely undermined by development in the local area particularly in the last century.
- It is contended that the submitted Conservation Report concludes that the Thornhill House is inward looking whereas the proposed development intends to reintegrate Thornhill House as part of the wider urban context.
- The proposed development achieves a reasonable balance between achieving a sustainable density of development, protecting residential amenity, retaining important trees on the site and safeguarding historical setting of Thornhill House.
- It is contended that the redesigned mews proposals address the concerns of the local authority with regard to setting to the south of Thornhill House.

- The ridge height of Thornhill House is +81.87m and the ridge height of the apartment block is +83.275m.
- The heights of the proposed development are consistent with the Building Height Strategy and the local character.
- The set back distances of the proposed development from the existing houses are also adequate.
- The modified scheme as submitted as part of the additional information submission reduces the scale of the development at this location and the impact on Thornhill House. The reduction in scale is evident in the submitted contextual elevations / sections.
- The landscaping treatment in the area between the proposed mews and Thornhill House has been revised to provide a more suitable landscaping setting. The appropriate landscape drawings were prepared by Doyle + Troithigh Landscape Architects submitted to the LA on 26<sup>th</sup> September 2017.

### Precedents

- Appeal ref. 243799. The Local Authority granted permission for housing development adjoining a gate lodge structure which is a protected structure.
- Local Authority granted permission however a 3<sup>rd</sup> party appealed. The Board granted permission and it is noted that the height of gate lodge is +4.60m and located to the southeast corner of the site, the proposed unit was located 10.1m from the northern façade of the gate lodge and has a proposed ridge height of +9.340m, approximately 4.7m higher than the protected structure.
- Appeal ref. 246254. This related to site with an existing Victorian property not on the RPS. The proposal included 5 no. houses within the site of the Victorian property. The Local Authority refused permission however the Board granted permission. The ridge height of the Victorian House was +8.735m higher than the adjoining two proposed units.
- Appeal ref. 248343. This related to 89 no. residential units with 84 no. apartments in Block A, 2 no. apartments in Block B, conversion of Herbert

House (protected structure) into 2 no. residential units and refurbishment and extend gate lodge to 1 no. residential unit. The Board granted permission.

- The ridge height of Herbert House is shown as +75.102m and the ridge height of the apartments ranged in height from approximately +78m to +88m.
- Appeal ref. 244653. This application relates to a redevelopment at Annefield House. The Local Authority refused permission and the Board also refused permission. This development represented an extensive intensification of the subject site which resulted in a limited set back from Annefield House (a Protected Structure) resulting in excessive overbearing and impact on the protected structure.
- Clancy Quay Phase 3 was granted permission by Dublin City Council notwithstanding the Officers Mess Building, a protected structure.
- Finally, the Oatlands development (appeal ref. 247267). The Local Authority refused permission and An Bord Pleanala granted permission. The important issue is that the decision by the Board took account of competing policies rather than relying specifically solely on specific policies.

#### Modified Layout

- The proposed modifications are contained in the submitted drawings.
- The rear gardens of all proposed houses comfortably comply with Development Plan standards.
- There is now an increased set back distance of 40m from Thornhill House.
- Units 8 – 11 are now further reduced in scale by replacing a terrace block with semi-detached dwellings. This reduces the scale of development at this location and improves the relationship with Thornhill House.
- Additional planting is proposed to the south west directly in front of Thornhill House.
- The layering of new planting will reduce the impact on Thornhill House and provide buffering between the house itself and the proposed houses.

- The residential density is 45 units per ha which is considered acceptable.
- The wide variety of unit types and sizes will ensure a sustainable residential community.
- The proposal will provide 20% public open space.
- The private open space provision ranges from 102 sq. m. to 117 sq. m.
- Each house will be provided with 2 no. car parking spaces.

## 8.0 Observations

The following is a summary of observations submitted by the stated following parties;

- Fiona & Michael Slevin
- Aideen & Joacim Hallstrand
- Donal Kavanagh
- Cllr Barry Saul
- Liam & Michelle Prenderville
- Patricia & Martin Ryan
- An Taisce
- Cedric Heather
- Mount Merrion Residents Association
- Victor Hrymak
- Douglas & Ursula Veale
- Cllr. John Kennedy
- Des Smith
- Cllr. Deirdre Donnelly
- Gerard Dunnion
- Thomas & Mary Martin
- Robert & Paula McDonnell
- Tom & Maura Fahey

### Services

- Inadequate sewage capacity. It is proposed to divert a large sewer pipe into a local sewer pipe that runs through the front of Gerrygarth.

- The absence of a comment by the Local Authority on the drainage proposals is surprising.
- The local roads are substandard and not capable of coping with traffic.
- Two new entrances proposed from the development and an adjacent development are located opposite one another.
- Parking is a big concern locally.
- The additional building runs the risk of flooding with increase surface water runoff.

### Architectural Heritage

- Thornhill House forms part of 3 local Georgian houses which relate to the areas historic past. The other Georgian properties, i.e., Oatlands and Beaufield are since demolished and therefore Thornhill House has added importance locally.
- The proposal represents an erosion of the existing curtilage and therefore the setting of the house.
- It is questionable whether the existing house can remain as a dwelling.
- Adverse impact on character, setting and amenity of Thornhill House. The proposal will have a serious adverse impact given its proximity, height, density and bulk to the 3.5 curtilage and the 18<sup>th</sup> century protected structure.
- It is contended that the proposal is contrary to Policy AR1 of the County Development Plan.
- The proposal is also contrary to the Architectural Guidelines with regard to the setting of a protected structure and curtilage of a protected structure.
- It is contended that the southern elevation is the elevation of visual and conservation merit and the proposal primarily protects the eastern elevation.
- It is submitted that a more appropriate design solution that would preserve the historic context of the protected structure is to re-establish a south north driveway to Thornhill House and part of the overall redevelopment of the site.

- The existing walls form a fundamental component of the curtilage of the property.
- The open space for the protected structure is important.
- The precedents submitted are not comparable to the current proposal.
- It is submitted that the proposed houses no. 13 and no. 14 will have an adverse impact on Thornhill House as will require the removal of existing trees.
- The configuration of the proposal does not respect the historical setting of Thornhill House.
- The loss of trees adversely impacts on the setting of Thornhill House.
- Allowing this development will create a precedent for other developments close to a protected structure.
- The proposed 4-storey apartment height is not sensitive to the historic setting of the subject site.
- The significance in Thornhill House lies in the landscaping.

#### Impact on Established Residential Amenities

- Cherrygarath to the east of the proposed development comprises of single storey houses.
- The height and scale of the proposal will be visually obtrusive and out of character with the local area. The bungalows, no's 1 – 5 Cherrygarath, are 30m away from a 4-storey apartment building.
- The placing of deciduous trees along the eastern boundary of the proposed development ensures that overlooking occurs.
- The natural light for the west facing bungalows would be blocked out.
- Also having regard to the permitted development at Oatlands the entire outlook of Cherrygarath has changed.
- The proposal turns its back on Cherrygarath

- The proposed vehicular entrance given the recent permission for Oatlands is a concern.
- Overlooking and overshadowing from the apartments is a concern. The topography compounds the issue.
- The proposed development will seriously injure the amenities and depreciate the value of property in the area.
- The proposal will overlook no. 37 South Avenue.
- The houses proposed to the south of the appeal site would have an adverse impact on the established residential amenities of no. 43 Cherrygarath in terms of overlooking and visual overbearance. This is due to the difference in topography, scale of buildings and windows and proximity.
- The heights of the proposal will have an adverse impact locally.
- The visual impact on Cherrygarath is overbearing.
- It is contended that the established houses in Cherrygarath have a north – south orientation and a valid proposal would be to orientate terraced dwellings north – south.
- The removal of mature trees along the northern boundary will reduce privacy for established properties on Trees Road. This will result in overlooking.
- It is contended that the proposed house no. 12 and no. 13 are situated too close to the northern boundary.

#### Traffic / Access

- There are traffic concerns given traffic generation from the proposed development and Oatlands. The safety of children and pedestrians is a concern.
- It is submitted that a single vehicular entrance would be more appropriate.
- South Avenue is heavily trafficked.

- Traffic is particularly congested on the Kilmacud Road Lower as a route to M50/Sandyford / Stillorgan / N11 / Newpark. There is also congestion on South Avenue, Tress Road where 4 no. roads converge.
- Given the level of traffic congestion along the N11 rat-running through many housing estates is necessary.
- The QBC on the N11 is full to capacity when arriving in Stillorgan / Mount Merrion and rarely stops to pick-up passengers.
- Inadequate access for emergency vehicles.
- Inadequate car parking provision and visitor car parking. This will be compounded by the redevelopment of Thornhill House (47 units proposed) and Oatlands 63 units permitted as per appeal ref. 247267.
- The additional traffic will amount to excessive noise
- The trip generation from the proposed development has been underestimated.
- The combination of the proposed development with the permitted development at Oatlands has not been assessed.
- The combined developments will increase two-way traffic flows from the Trees Road Lower / Cherrygarath junction from 197 to 715 vehicles.
- The post development traffic flows will be significantly above the minimum requirements for a ghost island.
- The sightline distance from Cherrygarath exiting Trees Road is greater than 50m.
- It is contended that the traffic assessment is substandard.
- Policy objective RES3 of the County Development Plan states that shortcomings on the capacity of the local road network would curtail proposed housing density.
- The traffic survey in the submitted application is not robust as it only took place for one-hour period On Tuesday 10<sup>th</sup> January 2016 between the hours

of 8am & 9am. The NRA guidance recommends that a localised count should be done over 7 days.

- The local traffic congestion has not been captured in the submitted traffic survey.
- The proposed access from the underground car park will be dangerous.

### Landscaping

- The surface water attenuation and the location of the compound during construction will necessitate the loss trees.
- Much of the existing screen planting will be lost along the southern boundary. It is requested, should the Board grant permission, that the new southern boundary wall is finished in granite rubble stone to reflect the character of the existing boundary walls.
- The survival of the stone boundary wall along the eastern boundary is questionable given the proximity of the proposed apartment building.
- The removal of the horse chestnut (no. 176), maple (no. 177) and Scots Pine (no. 167) is questioned.
- Proposal will result in the loss of hedge rows and trees.
- It is submitted that there are inadequate proposals to address the spread of Japanese knotweed.
- The removal of the Scots Pine will have an adverse visual impact.

### Other Issues

- There were insufficient levels of consultation.
- The density is excessive. Also having regard to the permitted development at Oatlands the overall density is excessive.
- There is no provision for additional local schools.

- The applicant has failed to demonstrate sufficient legal interest along the southern boundary.
- Planning precedent is not a valid consideration for the current proposal as it must be considered on its own merits.
- The modifications to the proposed development are inadequate as it would not significantly alter the relationship between the protected structures and the houses in front of it or the loss of dedicated open space resulting from the siting of house no's 3 to 11.
- It is questioned whether Section 3.4 of 'Sustainable Residential Development in Urban Areas' is being adhered to.
- Shortage of sports clubs and amenities locally.
- The access in relation to the public open space is unclear.
- It is submitted that any grant of permission should ensure that the proposal is not a gated community.
- The EIS is unclear in relation to sewage and drainage proposals.
- It is submitted that there is a lack of a hydrographic survey. Water pressure is low.
- Construction management is unclear in terms of the quantities of materials to be taken from the site and imported to the site. Also, no details in relation continuity of access during proposed sewage excavation works. There are also concerns in relation to noise.

## 9.0 Response

The following is the summary of a response submitted by the Local Authority

- Residential development on the subject site is considered acceptable.
- However the setting of Thornhill House has been compromised by houses no. 3 to no. 12.
- The proposal would denigrate the original dominance of Thornhill House.

- The open space to the front of Thornhill House will be reduced.
- The revised modifications are welcome however it is still considered that the reduction of dedicated open space to the front of the Thornhill House would seriously affect the setting, character and amenity of the protected structure.

## 10.0 Assessment

- Principle of Development
- Architectural Heritage
- Impact on Established Residential Amenities
- Residential Amenities for future occupants
- Density
- Building Height
- Landscaping
- Services – Foul Drainage & Water
- Flood Risk
- AA Screening
- EIA Screening
- Traffic / Access
- Precedents

### 10.1. Principle of Development

10.1.1. The appeal site is zoned Objective A '*To protect and / or improve residential amenity*', in accordance with the Dun Laoighaire Rathdown County Council County Development Plan, 2016 – 2022. I would note that in accordance with Table 8.3.2 of the County Development Plan that residential development is permitted in principle within this zoning objective A.

- 10.1.2. The recently adopted National Planning Framework<sup>1</sup> (NPF) recommends compact and sustainable towns / cities, brownfield development and densification of urban sites. The themes of compact and sustainable development are reinforced by policy objective NPO 35 from the NPF as this policy recommends increasing residential density in settlements including infill development schemes and increasing building heights. It is national policy, (i.e. Sustainable Residential Development in Urban Areas, 2009) to promote residential densities in urban areas in close proximity to services and public transport. The appeal site offers an opportunity to fulfil these national objectives as the subject site is located within walking distance of established amenities and a quality bus corridor (QBC) is situated on the N11 within 500m of the appeal site.
- 10.1.3. I also would note that the Planning Authority have stated in their planner's report that the principle of residential development on the appeal site is accepted. Therefore, I would conclude that the principle of residential development on the appeal site is generally acceptable in principle provided that the proposal has adequate residential amenity, adequately safeguards the amenities of the adjoining properties, would not result in a traffic hazard, protects the environment, architectural heritage and would be in accordance with the provisions of the Dun Laoighaire Rathdown County Council County Development Plan, 2016 – 2022.

## 10.2. **Architectural Heritage**

- 10.2.1. The primary architectural heritage feature on the appeal site is a Georgian villa, which is a protected structure. This Georgian villa is a two-storey residential property over basement. The overall size of the site measures 1.39 ha (3.43 acres). The Georgian villa style house includes outhouses and associated buildings situated to its rear. I would note that in accordance with documentation on the file, including historic mapping, that the Georgian villa dates from the period 1816 – 1821.

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<sup>1</sup> Adopted 16<sup>th</sup> February 2018

10.2.2. I noted from my site inspection that the front elevation of the Georgian house is south facing. The south facing elevation, in my view, is the most impressive feature of the building, and contains many original features including sash windows, large double wooden door with fanlight above, granite columns and porch above front door and granite steps leading to front door. The front elevation is pebble dashed with large deciduous climbing vegetation. The roof materials and clay pot chimneys would also appear to be original. There are a number of outhouses situated to the rear of the Georgian house and according to the documentation on the file some of these structures are later additions and would date from the Edwardian period.

10.2.3. I also noted from my site inspection that the Georgian house (known as Thornhill House) is generally not visible from the surrounding public roads / areas. The appeal site is enclosed by a wall to the east, and planting / fencing to the south and rear gardens to the west and north and as such the appeal site is largely removed from the public interface. The property is gated and there are some glimpses of the eastern gable elevation from the public road via the entrance gate. I would also consider, based on a visual observation of the appeal site and the submitted documentation, that given the existing vehicular entrance is facing onto a gable elevation of Thornhill House and not towards the front elevation, that the setting of the property would have no formal relationship with the existing vehicular entrance. The house sits on the most elevated part of the site and this is confirmed by the submitted map entitled 'Topographical Survey'.

10.2.4. In considering the impact of the proposed development on the architectural heritage of the Thornhill House I would have regard to the submitted Architectural Heritage Assessment (AHA), the Local Authority's Conservation Officer's assessment and the Architectural Heritage Guidelines, 2011.

10.2.5. I would note from the submitted AHA that the property is at least 200 years old. I would also note from the historic maps submitted with the AHA that the curtilage of Thornhill House, has significantly changed from its original layout and setting. The original layout of Thornhill House compliments the principle south facing elevation.

The AHA includes historic mapping and of particular note is the OS map surveyed 1837–43. This map is also illustrated in the applicant's appeal submission<sup>2</sup>. This OS map indicates the original setting of Thornhill House and its primary orientation. It is evident from this OS map that the main access to the property was from the south where access was from the Lower Kilmacud Road and there was a gate lodge situated adjacent to this entrance. The OS map also appears to indicate that there was a walled garden situated to the east of the landholding which is close to the current vehicular entrance serving the appeal site. This OS map therefore sets out the main features of the original setting for Thornhill House. It is also evident from a recent aerial photograph that the housing estate, Cherrygarath which was constructed in the 1960's, was built within the original landholding / curtilage of Thornhill House and has therefore truncated the original setting and layout of this historical landholding and curtilage. As such it is my view that the current curtilage that relates to Thornhill House has not the same historical significance as that indicated in the OS map 1837–43.

10.2.6. I have reviewed the report by the Conservation Officer<sup>3</sup> from the Local Authority and I note that the Conservation Officer is concerned that the proposed development would effectively reduce the protected structure to '*an appendage to a large-scale development*'. The Conservation Officer is particularly concerned with the proposed housing located to the south of Thornhill House, given their heights and scale. I would concur with the Conservation Officer in this regard as these properties, although allowing for a 35m separation distance between the proposed housing and the protected structure would, in my view, compete with Thornhill House in terms of scale and height.

10.2.7. The applicant submitted revised drawings, as part of an additional information response, with a view to addressing the Conservation Officer concerns.

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<sup>2</sup> Paragraph 1.3 of Architectural Heritage Response to DLRDCC decision to refuse permission.

<sup>3</sup> Dated 19<sup>th</sup> April 2017

10.2.8. The modifications have revised the southern block of housing units. This block is reduced from 10 no. units to 9 no. units and units no. 8 – 12 are replaced with units no. 8 – 11. The original units, i.e. no's 8 – 12, were three-storey in height and had an overall floor area of 238 sq. metres per unit. The overall ridge height of these units was approximately 11.39 metres above ground level. The revised proposal reduces the number of units from five to four and the front building line of these units is set back further from the protected structure than the original proposal. The revised overall set back distance is approximately 40 metres. The revised units have an overall floor area of approximately 179 sq. metres<sup>4</sup> and the revised units are two-storey in height. The overall height of the modified units is 7.5 metres above ground level. In considering the impact of the modified proposal on the protected structure I draw the Board's attention to the submitted 'Site Elevations & Sections DD & EE'<sup>5</sup>. This drawing illustrates a cross section analysis of the revised block of houses in relation to the original proposal. It is evident from the proposed modification that scale of the proposed two-storey houses are reduced and would have a mitigating impact in terms of the proposed development on the protected structure.

10.2.9. In accordance with paragraph 13.1.1 of the Architectural Heritage Guidelines for Planning Authorities, 2004 (revised in 2011), the curtilage of a protected structure is referred to as '*the parcel of land immediately associated with that structure and which is (or was) in use for the purpose of the structure*'. A protected structure therefore includes land lying in the curtilage of the protected structure. As such the entire appeal site is a protected structure.

10.2.10. I have reviewed both paragraph 13.5 'Development within the Curtilage of a Protected Structure' and paragraph 13.7 'Development within the Attendant Grounds' of the Architectural Guidelines, 2011. The guidelines outline that any development within the curtilage of a protected structure should ensure that any new construction will not interrupt any formal relationship between the protected structure and the curtilage, and the relationship between the protected structure and the street

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<sup>4</sup> 59 sq. metres less than the original proposal

<sup>5</sup> Drawing no. PL25B

shall not be damaged and should the garden contribute the character of the protected structure then any impact shall be minimal. I would consider as outlined above that the historical formal relationship between the protected structure and its curtilage has been lost since the construction of Cherrygarath and the garden, as exists, would not, in my view, make any contribution of value to the character of the protected structure. Furthermore, there are currently no formal views that exist of the protected structure from the street or any public area and as such the proposed development will not interrupt with these views.

10.2.11. However, the most significant issue for the Board, in my view, is whether the impact of the revised units no. 8 – 11 would have a detrimental impact on the architectural heritage of the protected structure. I would note from the historical mapping included in the documentation on the file that the primary elevation, i.e. the front elevation, orientates southwards and this orientation relates to the historical setting of the curtilage of the protected structure as it would have looked towards the gate lodge and the entrance to the property. I would acknowledge that the proposed apartments and housing units to the east of the protected structure would remove part of the existing curtilage however this curtilage generally only offers views to a gable elevation. I would consider that the north-south orientation from the front elevation of Thornhill House is the most significant setting of the protected structure I therefore consider that units no. 8 – 11 would alter significantly the current and historical setting of the protected structure. I therefore would recommend to the Board, should they favour granting permission, that units no. 8 – 11 are removed by condition in the interest of protecting the historic setting of the protected structure.

### 10.3. **Impact on Established Residential Amenities**

10.3.1. There are several aspects of the proposed development to consider in assessing the impact of the proposal on established residential amenities. In order to evaluate the impact of the proposal on residential amenities I will subdivide this assessment into three components.

- Impact of the proposed apartment block on Cherrygarath

- Impact of proposed houses on Trees Road Lower
- Impact of the proposed houses on South Avenue and Cherrygarath

### 10.3.2. Impact of the proposed apartment block on Cherrygarath

The proposed apartment building which is situated to the east of the appeal site is 4-storey's in height. The apartment building, as proposed, overlooks the public road and there are single storey detached houses located on the opposite side of the public road. There are approximately 5 no. houses located on the opposite side of the public road adjacent to the eastern boundary of the appeal site. It is important to note that one of these houses, i.e. house no. 2, is proposed for demolition as part of the permitted residential development, known as Oatlands<sup>6</sup>, to the east of these houses. House no. 2 (proposed for demolition) will provide vehicular access for the permitted residential development at the former Oatlands Monastery.

The minimum set back distance from the apartment building to one of these existing houses<sup>7</sup> at Cherrygarath is 33.9 metres. The scale of the proposed apartment building relative to the established houses is significant. The submitted drawing Section B-B illustrates that the ridge height of no. 3 Cherrygarath is approximately 5.06 metres above ground level whereas the ridge height of the proposed apartment building is approximately 14.6 metres above ground level. I would note that the submitted drawing entitled 'Topographical Survey' indicates that the site levels on the appeal site, at the point of the proposed apartment building, are similar to the site levels to the front of no. 3 Cherrygarath.

I acknowledge that the proposed apartment building is likely to have an imposing impact on the established residential amenities of no. 1 – 5 Cherrygarath and it is also possible that the proposed balconies will introduce overlooking to the front of no's 1 – 5 Cherrygarath. Notwithstanding the overlooking introduced these areas to

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<sup>6</sup> Appeal ref. 247267

<sup>7</sup> No. 2 Cherrygarath

the front of no's 1 – 5 Cherrygarath are public areas and are currently overlooked from the public road. I would not consider that the proposed balconies would overlook the rear gardens of no. 1 – 5 Cherrygarath. Overall, I would conclude that there would be a slight to moderate impact on the established residential amenities, in terms of impact, of no. 1 – 5 Cherrygarath but the overall impact would not be significant.

### 10.3.3. Impact of Proposed Houses on Trees Road Lower

There are 4 no. houses proposed adjacent to the northern boundary of the appeal site. The eastern most houses are two-storey in height and their rear elevations orientates towards the rear gardens of no. 64 – 68 Trees Road Lower. The rear gardens of Trees Road Lower are substantial in length and measure approximately in excess of 35 metres in length. The proposed houses are set back from the common boundary by approximately 5m – 6.7m in length and the eaves height of the proposed houses are approximately 5.5 metres above ground level. The rear elevations of the proposed houses have obscure glazing only at first floor level and therefore in my view overlooking, of established residential amenities, is not an issue of concern. Having regard to the length of the established rear gardens, as outlined above, overshadowing, in my view, would not be a significant issue. I would consider, allowing for planting either side of the common boundary, that the proposed 2 no. houses would not unduly impact on established residential amenities in terms of visual impact.

A further 2 no. houses are proposed to the east of the protected structure. These proposed houses would be located on the opposite side of the common boundary from the rear gardens of no. 74 – 76 Trees Road Lower. As referred to above the rear gardens for Tress Road Lower are significant in length. The side elevation of the proposed house no. 14 is located to the south of the rear garden boundaries of no. 74 – 76 Trees Road Lower. The side elevation is set back from the common boundary by a minimum distance of approximately 1 metre and a maximum distance of approximately 2 metres. This side elevation has an eaves height of 5.5 metres above ground level. The side elevation has no first-floor windows however there is a

half landing window which is proposed to serve a folding attic stairway. Having regard to the separation distance of this window from the common boundary I would consider it reasonable that the Board, should they favour to grant permission, would attach a condition requiring that this window is finished in obscure glazing. Having regard to the scale of the proposed 2 no. houses, the extent of the rear gardens serving the adjacent properties on Trees Road Lower I would not consider that the proposed 2 no. houses would adversely impact on established residential amenities in terms of overlooking, overshadowing and visual impact.

#### 10.3.4. Impact of the Proposed Houses on South Avenue and Cherrygarath

The proposed houses located to the south-west corner of the appeal site are located adjacent to the rear gardens of established houses on South Avenue and no. 43 Cherrygarath.

The rear elevations of the proposed houses no. 8 to no. 11 are set back approximately 10.5 to 10 metres from the common boundary with no. 43 Cherrygarath. I would also note that the finished floor level for the proposed houses is on average approximately 1.6 metres higher than the finished floor level of no. 43 Cherrygarath. As such the proposed houses have a higher relative ridge height than the existing ridge height at no. 43 Cherrygarath. I would consider that the introduction of house no's 8 to no. 11, having regard to separation distances and heights would introduce overlooking to the rear gardens of no. 43 Cherrygarath. On this basis I would recommend to the Board, should they favour granting permission, that house no. 8 to no. 11 are omitted from the development in the interest of protecting residential amenities.

The gable elevation of the proposed house no. 11 orientates towards the rear elevation of no. 39 – 41 South Avenue. The eaves height of the proposed gable elevation is approximately 5.3 metres above ground level. The proposed gable elevation is set back approximately 26 metres from the rear elevations of no. 39 – 41

South Avenue. Overall, I would consider that having regard to the separation distances as outlined above and planting either side of the common boundary that the proposal would not significantly impact on the established residential amenities of no. 39 – 41 South Avenue.

#### 10.4. **Residential Amenities for future occupants**

10.4.1. I would consider that the provision of private open space, public open space, quality of housing units, car parking provision and cycle parking would be relevant considerations in assessing the residential amenities for future occupants of the proposed development.

10.4.2. In relation to private open space provision paragraph 8.2.8.4 'Private Open Space – Quality' of the County Development Plan, 2016 – 2022, recommends that the minimum private open space for a 4 bedroom (or more) sized house shall be 75 sq. metres. I would note from the submitted Site Layout Plan<sup>8</sup> that all the houses proposed comfortably exceed this minimum requirement. As such the private open space provision for the proposed houses are acceptable. Table 8.2.5 of the County Development Plan, 2016 – 2022, outlines minimum private open space provision for apartments. In relation to the proposed apartment building I would acknowledge that the private open space for the ground floor apartment units consists of an external terrace. In terms of compliance with private open space provision I would note that except for two 3-bed units that all the units meet the minimum private open space provision.

10.4.3. In relation to the two 3-bedroom units I would note that these units have large internal floor areas, i.e. 126 sq. metres for unit no. 2 and 129 sq. metres for unit no. 20, which is generous and therefore offer a good standard of residential amenity. The private open space provision for the proposed first and second floor apartment units would also be acceptable. I would also note that unit no. 25 and unit no. 30, both 3-bed units have marginally less than the minimum required private open space

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<sup>8</sup> Drawing no. PL02

however having regard to the generous floor areas of these units I would consider that the overall amenity value of these apartments would be an acceptable standard. The balcony provision at third floor level for the proposed apartments would significantly exceed the minimum requirements as set out in Table 8.2.5 of the County Development Plan. The orientation of the proposed balconies is predominantly west and east facing.

10.4.4. The provision of public open space for the proposed development comprises of three parcels of open space within the proposed development and the total amount of public open space is 2,847 sq. metres in accordance with the submitted 'Site Layout Plan'. Given that the overall size of the site is 1.39 ha the provision of public open space represents approximately 20% of the site area<sup>9</sup>. In accordance with paragraph 8.2.8.2 'Public Open Space – Quality' the required public open space provision for a residential development greater than 5 units is 15% - 20%. The proposed development would therefore offer a good standard of public open space provision.

10.4.5. I would acknowledge that Table 8.2.2 of the County Development Plan, 2016 – 2022, sets out the minimum overall floor areas required for apartments. These minimum floor areas in the County Development Plan exceed the minimum floor areas as recommended in the national guidelines 'Sustainable Urban Housing: Design Standards for New Apartments, Dec. 2015'. The floor areas for the proposed apartments would exceed the recommended minimum floor areas in the national guidelines and would generally exceed the minimum recommended floor areas in the County Development Plan.

10.4.6. In relation to car parking provision for the proposed houses I would note that Table 8.2.3 of the County Development Plan requires two spaces for 3+ bedroom houses. The proposed development comprises of 13 houses each with 3+ bedrooms as such the required car parking provision is 26 spaces. The revised 'Site Layout Plan'

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<sup>9</sup> This site area calculation includes Thornhill House and outbuildings

submitted with the additional information submission illustrates that each house will have off-street car parking for 2 no. cars which is adequate.

10.4.7. The proposed development includes the provision of 44 no. car parking spaces in the basement level of the proposed apartment building. Having regard to the breakdown of units, in terms of 1-bed, 2-bed and 3-bed, the required car parking provision is 51 spaces is in accordance with the provisions of the County Development Plan. The proposal also indicates 8 no. surface car parking spaces on the southern edge of the primary public open space. The overall car parking provision adequately meets the minimum requirements of the County Development Plan, 2016 - 2022.

10.4.8. In conclusion therefore, I would consider that the proposed development would offer a good standard of residential amenity for future occupants.

#### 10.5. **Density**

10.5.1. It is policy of the County Development Plan, 2016 - 2022, i.e. Policy RES3 to promote higher residential densities to achieve more compact development. This policy provision is consistent with national policy in the National Planning Framework, 2018.

10.5.2. It is national guidance in accordance with the 'Sustainable Residential Development in Urban Areas, 2009', to promote and encourage higher residential densities where appropriate, i.e. within proximity to cities and towns. I would note the location of the appeal site is within a built-up area with established services and amenities with public transportation connections to the City Centre. I would consider that Paragraph 5.11 of The Sustainable Residential Development for Planning Authorities, 2009, is most relevant to the proposed development. Paragraph 5.11 recommends that in outer suburban greenfield sites in large cities that densities of 35-50 dwellings per hectare are recommended.

10.5.3. Paragraph 2.1.3.3 of the Dun Laoighaire Rathdown County Council County Development Plan states that higher densities with a minimum of 50 units per hectare will be encouraged for sites located within circa 1 km pedestrian catchment of a Quality Bus Corridor (QBC). The appeal site is located within 500m walking distance of the Stillorgan dual carriageway which offers a QBC and also within 1.4km from a Luas station. I would also note that paragraph 2.1.3.3 of the County Development Plan states that higher residential densities may be constrained by the presence of protected structures.

10.5.4. I would note that the Local Authority states that the residential density of the proposed development is 47 units per ha. The applicant, in the Planning Application Report, submits that the residential density of the proposed development is 45 units per ha. However, having regard to the site area of approximately 1.39 ha I would estimate that the residential density for the proposed development is approximately 34 units per ha. I would note that the applicant in calculating their figure of 45 units per ha has omitted Thornhill House, the 'F' (open space) zoned land and the infrastructure in the public road from the site area calculation. I would consider that having regard to the conservation issues relating to the protected structure and in particular paragraph 2.1.3.3 of the County Development Plan that the residential density range of 34-45 units per hectare would be acceptable on this site and would not be contrary to Policy RES 3 of the Dun Laoighaire Rathdown County Council County Development Plan.

## 10.6. **Building Height**

10.6.1. In terms of building height, I would note that Appendix 9 of the County Development Plan, 2016 – 2022, contains a 'Building Height Strategy'. This strategy sets out area specific locations where it is feasible to consider higher than the normal or established building heights. One such area is public transport corridors and the N11 is identified as one such public transport corridor due to the presence of a QBC. I would consider that the proposed building height of a 4-storey building, on the appeal site, although a departure from established building heights would be acceptable having regard to Appendix 9 of the County Development Plan.

10.7. **Services – Foul Drainage and Water**

The proposed development will be served by the public water mains and the public waste water drainage. I would note that there is no objection on the file from the Drainage Division of the Local Authority or Irish Water and therefore I would consider that the proposed foul drainage and public water proposals are acceptable.

10.8. **Flood Risk**

- 10.8.1. In terms of assessing a potential flood risk I would note that the Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009, sets out a sequential test for assessing flood impact.
- 10.8.2. The appeal site is located in area that would be designated Flood Zone C in accordance with these guidelines. The proposed development, i.e. residential, is a highly vulnerable development in accordance with the Table 3.1 of the guidelines and having regard to Table 3.2 of the guidelines the proposed residential development would be appropriate on the appeal site which is situated in Flood Zone C.
- 10.8.3. I have reviewed the website [www.floodmaps.ie](http://www.floodmaps.ie) and there is no recorded history of flooding on the appeal site. The nearest recorded flood event to the appeal site was flooding at Dale Drive on the 24<sup>th</sup> October 2011. This flood event was localised.
- 10.8.4. The proposed development includes attenuation proposals whereby it is intended that surface water discharge from the subject site post development will be the same rate as pre-development greenfield rates.
- 10.8.5. Overall, I would conclude that the proposed development would be appropriate in terms of flood risk and I would consider based on the information available that the proposed development would not create a flood risk.

## 10.9. **Landscaping**

- 10.9.1. In terms of the proposed landscaping it is proposed to retain a number of established trees on the site and approximately 18 no. established trees to the front of the site. There is an established mature tree, i.e. a Holm Oak, situated in the centre of the site and it is proposed for retention. This tree, based on my visual inspection of the appeal site, has an impressive canopy and would, in my view, make a positive contribution to the proposed public open space, in terms of visual amenity. This tree is identified as no. 164 in the submitted tree survey and the report from the Parks Department, dated 5<sup>th</sup> May 2017, identified that this tree has a very high amenity value.
- 10.9.2. The Parks Department, in their report dated 19<sup>th</sup> October 2017, recommend that the eastern boundary wall and railing should be removed to allow for this space to be used by the wider community. I would not concur with the Parks Department in relation to this recommendation as the space is planted and offers a good visual amenity for residents of Cherrygarath and also provides a buffer from the proposed development to the public areas.
- 10.9.3. The Parks Department also recommend a Tree and Hedgerow Bond to the value of €30,000 to ensure the protection of trees on and immediately adjacent to the site. I would recommend a condition to the Board, should they favour granting permission.
- 10.9.4. Overall, I would consider that the proposed development adequately incorporates the established landscape features on the site and that overall, in my view, the proposed landscaping, including public open space, would add value to the proposed development.

## 10.10. **AA Screening**

- 10.10.1. The Board will note that activities, plans and projects can only be permitted where it has been ascertained that there would be no adverse effect on the integrity of a Natura 2000 site, apart from in exceptional circumstances.

10.10.2. The Department of Environment, Heritage and Local Government Guidelines on 'Appropriate Assessment of Plans and Projects in Ireland, 2009,' recommend that the first step in assessing the likely impact of a plan or project is to conduct an Appropriate Assessment Screening to determine, on the basis of a preliminary assessment and objective criteria, whether a plan or project, alone or in combination with other plans or projects, could have significant effects on a Natura 2000 site in view of the site's conservation objectives. The Guidelines recommend that if the effects of the screening process are '*significant, potentially significant, or uncertain*' then an appropriate assessment must be undertaken.

10.10.3. The submitted AA Screening, which accompanied the planning application, assessed potential impacts of the proposed development on existing Natura 2000 Sites. The subject site is not actually located within a designated site, however there is an SAC (South Dublin Bay SAC, site code 000210) and an SPA (South Dublin Bay and Tolka Estuary SPA, site code 004024) located approximately 2km to the east of the appeal site. The qualifying interests for the SAC include mudflats and sandflats, annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand and shifting dunes. The qualifying interests for the SPA include 14 birds. I would note from the documentation on the file that there is no direct connectivity from the appeal site to the designated sites referred to above. The proposed development will be served by the public water mains and the public waste water drainage. There is potential that run-off surface water will drain towards the designated sites however this is over a distance of 2km. As part of the proposed development an on-site attenuation system is proposed. This proposed attenuation system will ensure that surface water run-off from the proposed development will be the same as the current greenfield rate.

The AA Screening report, submitted by the applicant, concludes that the proposed development will have no direct impacts on established Natura 2000 sites. In terms of indirect impacts, the AA Screening outlines that as surface water drainage is adequately controlled and there is no concern in relation to surface water run-off from the proposed development adversely impacting on the Natura 2000 sites.

10.10.4. I would consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Sites, i.e. site code 000210 and site code 004042, in view of the sites conservation objectives and a stage 2 AA is therefore not required.

#### 10.11. **EIA Screening**

10.11.1. The size of the appeal site is a relevant consideration in determining whether an EIS is required in accordance with the provisions of the Planning and Development Regulations, 2001 (as amended). Section 10 (b) (iv) of Schedule 5, Part 2 of the Planning and Development, 2001 (as amended) states that urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 ha elsewhere is development that requires an EIS. The appeal site is not located within a business district however the appeal site is located within a built-up suburban area on a zoned site in accordance with the provisions of the County Development Plan.

10.11.2. The size of the site in the current application which is 1.39 falls below the 10-ha threshold and therefore an EIS is not required having regard to Section 10 (b) (iv) of Schedule 5, Part 2 of the Planning and Development Regulations, 2001 (as amended).

10.11.3. Schedule 7 of the Planning and Development Regulations, 2001, sets out criteria for determining whether a development would or would not be likely to have significant effects on the environment. This criterion includes characteristics of the proposed development, location of the proposed development and characteristics of potential impacts.

10.11.4. In accordance with the 'EIA Guidance for Consent Authorities regarding Sub-threshold Development', 2003, the following is stated "there is a requirement to carry

EIA where competent/consent authority considers that a development would be likely to have significant effects on the environment". The guidelines advise the criteria to be considered for the need for sub-threshold E.I.S. and this includes (i) characteristics of the proposed development, (ii) location of the proposed development, and (iii) characteristics of potential impacts as referenced in Schedule 7. The guidelines outline that there may be projects below national thresholds in Schedule 5 of the Planning Regulations, 2001(as amended), which are likely to have significant effects on the environment by reference to the use of natural resources, production of waste, environmental emissions or the risk of an accident associated with the use or storage of dangerous substances or a combination of these factors. I would consider that based on the information available that the proposed housing development is unlikely to have significant effects on the environment having regard to the above criteria.

10.11.5. The guidelines also advise that the environmental sensitivity of a geographical area may also mean that a project is likely to have significant effects on the environment.

10.11.6. I would conclude that having regard to the characteristics of the proposed development, the location of the proposed development and the characteristics of the potential impacts, that the proposal is not likely to give rise to significant effects on the environment and that an EIS would not be warranted in this instance.

## 10.12. **Traffic and Access**

10.12.1. I would note that the appeal site is well served by public transportation provision. A LUAS station is situated approximately 1.4km from the appeal site and a QBC, situated on the N11, is located approximately 500m walking distance from the appeal site.

10.12.2. I have considered the car parking provision in section 9.4 above and I concluded that the proposed car parking is adequate for the proposed development.

The proposed development includes cycle parking provision in accordance with the minimum required as set out in Table 8.2.3. of the County Development Plan which I would consider acceptable. The proposed development includes the provision of motorcycle parking in accordance with the provisions of the County Development Plan.

10.12.3. The submitted Transportation Statement estimated traffic generation from the proposed development using the computer modelling package TRICS. It is estimated that the proposed development has the potential to generate 17 and 12 two-way traffic movements during the AM and PM peak hour periods. The Transportation Statement estimates that the proposed development will generate an increase in traffic of only 1.42% (20 new vehicle trips) and concludes that this is negligible traffic impact. I would concur with this conclusion. I would note that the report from the Transportation Planning, of the Local Authority, concluded that there was no objections to the proposed development.

10.12.4. I would consider that the traffic and access issues are adequately addressed.

### 10.13. **Precedents**

The appeal submission argues that precedents in relation to residential developments adjacent to architectural heritage would justify the proposed development. I have reviewed the submitted precedents and I would consider that each application must be considered on its own individual merits.

## 11.0 **Recommendation**

11.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

## 12.0 Reasons and Considerations

Having regard to the zoning objective for the site as set out in the Dun Laoighaire Rathdown County Council, 2016 – 2022, the National Planning Framework, 2018 – 2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) and the overall scale, design and height of the proposed development it is considered that, subject to compliance with the conditions set out below the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not have a detrimental impact on architectural heritage, and would be acceptable in terms of traffic safety and convenience. 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, and as amended by plans and particulars submitted to Dun Laoighaire Rathdown County Council on 26<sup>th</sup> September 2017, and except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The proposed development shall be modified as follows:
  - a. Units no. 8 to no. 11 (inclusive) in revised 'Site Layout Plan' shall be omitted.
  - b. The north facing gable window in Unit no. 14 shall be finished in obscure glazing. Revised drawings showing compliance with the above requirements shall be submitted to the planning authority for written agreement prior to the commencement of development.

**Reason:** In the interest of protecting established residential amenities.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

5. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

**Reason:** In the interests of amenity and public safety.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

7. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

**Reason:** In the interest of urban legibility.

8. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

9. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of 3 years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To secure the protection of the fine trees on the site

10. The applicant should inform the local authority and the National Parks and Wildlife Service of the Department of Culture, Heritage and the Gaeltacht as soon as possible after receiving notification of the granting of planning permission of the methods of disposal of Japanese Knotweed and Knotweed contaminated soil from the site, whether by burial or off-site, and in the case of that the latter method is to be employed, apply to the NPWS for a licence permitting the transport of Japanese Knotweed from the site to a licensed disposal facility.

**Reason:** To ensure that an invasive species, Japanese Knotweed, which can damage buildings and other built structures and harm biodiversity, is properly and safely disposed of.

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This

plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management

14. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on

behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Kenneth Moloney  
Planning Inspector

29<sup>th</sup> June 2018