



An
Bord
Pleanála

Inspector's Report PL06D.247267.

Development	Demolition of the former Oatlands Monastery building, other derelict buildings and an existing house and the construction of 63 residential units with all associated site works. Oatlands
Location	Oatlands Monastery and No 2 Cherrygarth, Mount Merrion Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D16A/0465
Applicant(s)	Balark Investments Ltd
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First & Third Party
Appellant(s)	Mount Merrion Residents Association Balark Investments Ltd
Observer(s)	Various (See Appendix No 1)
Date of Site Inspection	16 th December 2016
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 1.12ha is located at Oatlands Monastery, to the rear of Oatlands College, Mount Merrion, Blackrock, and at No. 2 Cherrygarth, Mount Merrion, Blackrock, Co Dublin. The landholding forms part of the original Oatlands College grounds but is no longer used as an educational facility. The site is proximate to the QBC at the N11. The appeal site backs onto rear gardens of residential properties along Cherrygarth to the west and Trees Road Lower to the north. The adjoining residential development along Cherrygarth is characterised by low-density, low rise housing comprising mainly of detached bungalows set within generous sized plots. Housing along Trees Road Lower is characterised mainly by two-storey semi-detached houses. The site is elevated toward Cherrygarth, gently sloping toward the south east and the playing pitches of Oatlands College.
- 1.2. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file.

2.0 Proposed Development

- 2.1. This is an application for permission for the following:
- demolition of the former Oatlands Monastery building (c.1,682 sqm) and other derelict buildings on the site (c.101 sqm),
 - the demolition of the existing single storey dwelling at No. 2 Cherrygarth (c.157 sqm) and
 - the construction of 63 residential units.
 - access through a new entrance at No. 2 Cherrygarth.
- 2.2. The residential development will comprise 9 houses, 24 duplexes and 30 apartments. These are broken down as follows:
- 1 3-bed detached two-storey dwelling (c.8.3m in height) to replace the demolished dwelling at No. 2 Cherrygarth,
 - 8 no. 2.5 storey 4/5 bed detached units (between c.9.9 - 10.13 metres in height),

- 12 no. 3-bed duplex units of 3 storeys (c.12.8 - 15.8 metres in height) with terraces and balconies on the north and south elevations,
 - two apartment blocks of 4 storeys (c.13.5 metres in height) with 4 no. 1-bed units, 20 no. 2-bed units and 6 no. 3-bed units with balconies on the north, east and south elevations.
- 2.3. The development will also include 18 on-curtilage car parking spaces associated with the detached dwelling units, 43 at-grade car parking spaces associated with the duplex units, 47 car parking spaces at basement level of the apartment block (c.1,808 sqm), 2,929 sqm of open space, including a children's play area and all associated site development works above and below ground, including site services.
- 2.4. The application was accompanied by the following:
- Planning Report
 - Part V compliance proposals
 - Architectural Visual Statement
 - Design Statement
 - Landscape Specifications
 - Traffic Impact Statement
 - Engineering Services Report
 - Arboricultural Report
 - Project Construction and Development Plan
 - Waste Management Plan
 - Energy Statement
 - Waste Management Strategy

3.0 Planning Authority Decision

- 3.1. Dun Laoghaire Rathdown County Council (DLRCC) refused notification of decision to refuse planning permission for the following reason:

It is an objective of the County Development Plan 2016-2022 'to protect and preserve Trees and Woodlands' at this location as identified on Map 2 of the Plan. The proposed site layout does not facilitate or satisfactorily address the

retention of these trees and does not provide quality usable public open space areas. The development would therefore materially contravene an objective of the County Development Plan 2016-2022, would adversely affect the sylvan character of the subject site, would adversely affect the residential and visual amenity of future occupants of the proposed development and would be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

- The Case Planner in their detailed report of 22nd August 2016 raised concerns re the raising the levels of the site, provision of an access along an access laneway along the northern boundary of the overall Oatlands site, private open space for the ground floor units in the duplex blocks; clarification on the specific reason(s) why the raising of the ground levels is required; revised sectional drawings; boundary treatments around the overall site boundary and discrepancy in the schedule of accommodation floor areas to be clarified minimum floor to ceiling heights, clarification of external materials and the provision of a pedestrian/cyclist link between the site and the cul-de-sac in the interests of connectivity. Further stated that the 'Appropriate Assessment' contained within Section 8 of the Planning Application Report is deficient in terms of the information provided.

3.2.2. The Case Planner recommended that permission be refused for the reason set out in the notification of the decision to refuse issued by DLRCC.

3.2.3. **Other Technical Reports**

3.2.4. The **Roads & Traffic Planning Department** in their report of 15th August 2016 requested further information and revised drawings relating to the provision of inter alia a Quality Audit to include road safety audit, access audit and walking audit; compliance with DMURS; car parking; sightlines; street lighting; detailed construction management plan and traffic management plan.

3.2.5. The **Parks & Landscape Service Parks & Landscape Services** in their report of 8th August 2016 recommended refusal for the following reasons as summarised:

- There is a tree protection symbol on the CDP 2016-2022. It is clear from the layout that the applicant has not taken account of the existing trees on the site and the provision of good quality and enjoyable public spaces is not a priority for them. The retention of trees to rear private gardens is unsustainable.
- The design of the public realm is harsh, dominated by engineering interventions and it is not possible to soften the proposed development because of the location of the underground carpark and the attenuation tank.
- There is a requirement for 25% of these Institutional lands to be provided as public open space. The applicant has provided initially 2010 sq. m of open space much of which is restricted by underground car parking and attenuation tanks. The proposed development is not considered to be in accordance with the CDP 2016-2022
- The proposed development is not considered to be in line with the "Urban Design Manual, A Best Practice Guide" in terms of Context, Connections, Inclusivity, Variety, Distinctiveness, Layout, Public Realm and Detailed Design.

3.2.6. The **Drainage Planning Section** in their report of 19th July 2016 requested further information in relation to surface water discharge rate, infiltration testing, location of surface water discharge, manhole levels, percentage of green roofs and construction of sewers in public areas.

3.2.7. The **Housing Department** in their report of 2nd August 2017 requested further information on the estimated costs relating to Part V

3.3. **Prescribed Bodies**

3.3.1. **Irish Water** sought clarification in relation to drainage and invert levels.

3.4. **Third Party Observations**

3.4.1. There are multiple (201) third party submissions on the planning file primarily from residents of the area, two from An Taisce (South County Dublin Association and the Built Environment Office), the Mount Merrion Residents Association, Woodlands (Stillorgan) Residents Association and five public representatives. The issues raised

are similar to those raised in the observations to the appeal. The issues raised may be summarised as follows:

- Contravention of the Development Plan
- Siting / location of proposed access to site, creation of new road onto Cherrygarth, increase in traffic volumes and difficulties with Cherrygarth / Trees Road junction, parking, inadequate width of proposed access road to development, traffic congestion/impact on pedestrians, no access should be facilitated through school grounds or Woodlands Avenue
- Sewage / water run off to Cherrygarth / Trees Road, risk of flooding, concern about the capacity of existing services infrastructure
- Overdevelopment of the site out of character with the area, demolition of No 2 Cherrygarth, density too high, layout / lack of space for children to play, excessive height of development, loss of views, noise, overlooking/overshadowing/impact on residents, inadequate open space, impact on streetscape
- Destruction of mature trees,
- Construction Impacts, disruption caused by demolition and works traffic, height and changes to ground levels, construction nuisance, restriction of construction hours required
- Concern over the pre-planning process, pre-approval of application
- Loss of amenity to Oatlands School, loss of play/playground facilities/ability of existing schools to expand.
- Child protection issues re: overlooking of school grounds, home security / anti-social behaviour / child protection
- Loss of heritage, removal of a section of historic 300-year-old Mount Merrion Demesne Estate Wall
- Inadequate capacity of schools/no crèche provided in the area
- Financial contributions to the schools and residents' associations required.

4.0 Planning History

4.1. There is no evidence of any previous appeal on this site.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned “A” – where the objective is to protect and improve residential amenity. Further the lands of Oatlands College, including the current appeal site, have a specific “Institutional Lands” designation. There are particular policies that apply in such area, aimed at protecting the character of the lands. Further there is a specific objective to protect and preserve trees and woodlands on the site.

5.1.2. The following documents are key references informing residential development standards:

- ‘Delivering Homes, Sustaining Communities’ (DoEHLG, 2007).
- ‘Sustainable Urban Housing: Design Standards for New Apartments’ (DoEHLG, 2007).
- ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ (DoEHLG, 2009).
- ‘Urban Design Manual: A Best Practice Guide’ (DoEHLG, 2009).
- ‘Irish Design Manual for Urban Roads and Streets’ (DTTaS, and DoECLG, 2013).
- ‘National Climate Change Adaptation Framework, Building Resilience to Climate Change’ (DoECLG, 2013).

5.2. Natural Heritage Designations

5.2.1. There are no Natura 2000 sites within the boundary of the appeals site nor are there any Natura 2000 sites directly abutting the appeal site it or within the immediate context of the site. The South Dublin Bay SAC (00210) and the South Dublin Bay (Sandymount Strand) and River Tolka SPA (004024) are located approximately 2km east of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. There are two appeals recorded on file from (1) Balark Investments Ltd (First Party) and (2) Mount Merrion Residents Association (Third Party). Both appeals may be summarised separately as follows:

6.1.2. Balark Investments Ltd (First Party)

6.1.3. The First Party Appeal has been prepared and submitted by Brook McClure on behalf of the applicant Balark Investments Ltd. In addition to the detailed appeal the applicant also submitted information pertaining to the pre-application consultations with DLRCC where it is stated that the Planning Authority expressed their satisfaction with both the fundamental and general details of the development proposal. It is submitted that there were clearly no fundamental concerns regarding the proposed scheme.

6.1.4. The proposed development represents an increase on the scale of development originally sought by the developer at the behest of the Planning Authority. To facilitate the required higher density and also drainage outfall requirements, there is limited opportunity to retain trees on the site. The 25% open space requirement that is an objective of “institutional” zoned lands also reduces the developable area of the site, further limiting the possibility of retaining existing trees. An examination of the existing trees on the site finds that they are of limited quality and expected lifetime and do not warrant retention. There are a number of trees to be removed as a result of the proposed development but adequate mitigation can be provided to replace existing trees with trees of better quality.

6.1.5. The main reason for refusal given by the local authority is related to the objective “to protect and preserve trees and woodlands” on the subject site. This objective was placed on the site without any independent analysis of the actual trees existing on the lands. A tree survey by Tree Files Ltd indicates the overall quality of trees to be removed are not of a significant quality to merit specific preservation. Notwithstanding the quality of the trees to be removed, the number of trees proposed for planting as part of the subject development, exceeds the number to be removed resulting in a net increase in the number of trees on the subject site.

- 6.1.6. In the reason for refusal for the subject application, Council state that the failure “to protect and preserve trees and woodlands” would materially contravene the development plan. A number of trees are retained on site where the site constraints allow and any trees removed are replaced with a higher quality specimen. The objective to protect trees and woodlands is therefore not materially contravened by the subject proposals and should not be refused permission on this basis.
- 6.1.7. To illustrate the applicant’s commitment to provide a reasonable development solution for this strategic site, an alternative option has been prepared to further reduce the number of trees to be removed from the site. The revised proposal results in a reduction of 7 residential units from the site but allows the retention of additional trees on site. However, this scheme also has drawbacks related to usable open space and level differences on the site. Should the Board be so minded to grant permission for a revised scheme, the revised proposal is an option that could successfully address all site constraints albeit at a reduced site density.
- 6.1.8. If An Bord Pleanála consider that a material contravention of the Development Plan has occurred, there is scope for them to grant permission in this instance as it is in compliance with National Policy objectives and is subject to conflicting land use objectives of high density and tree preservation.
- 6.1.9. The appeal was accompanied by the following:
- Engineering Report prepared by OCSC Consulting Engineering
 - Revised Engineering drawings
 - Revised Development Option Scheme, Sectional drawing of the original scheme, revised landscape plan,
 - Revised Construction & Demolition Waste Management Plan
 - Arboricultural Report prepared by The Tree File Ltd, Consulting Arborists
 - Photomontages
- 6.1.10. **Mount Merrion Residents Association (Third Party)**
- 6.1.11. The Third Party Appeal has been prepared and submitted by DK Planning & Architecture on behalf of the Mount Merrion Residents Association. The issues raised may be summarised as follows:

- 6.1.12. **Overdevelopment of the Site / Excessive Density** - In the context of the location of the site, including its proposed access through long established, lower density housing of a high quality, the proposal to develop sixty-three residential units on 1.12ha is excessive. It was proposed, in pre-application discussion at that time, to construct a scheme of 26 houses, but this was deemed too low a density by the planning authority.
- 6.1.13. **Height and Changes to Ground Levels** - The proposed buildings are quite substantial in scale and are significantly higher than the dormer bungalows of Cherrygarth. The proximity of Duplex Block C of the development to the rear of No. 1 Cherrygarth would severely affect the amenity of that house. The impact of this duplex block, over 12m high, would be unacceptably overbearing and overshadowing on the dormer bungalow at No. 1 Cherrygarth, notwithstanding that the planning authority did not identify this a significant issue.
- 6.1.14. **Raising Ground Levels** - Drainage of the new development is proposed through Cherrygarth, but this would require raising ground levels within the development lands by approximately 2-3 metres in parts of the site to achieve a fall. The combination of the height of the proposed buildings together with the increase in site levels would render the new development unduly dominant in relation to the existing houses to the west (Cherrygarth) and north (Trees Road Lower). The proposed level changes also have implications for the stability of existing boundary walls, including those granite walls dating from the eighteenth/nineteenth centuries running along the rear boundaries of Cherrygarth. The possibility of surface water seeping onto adjoining properties is also a substantial risk
- 6.1.15. **Disproportionate Impact of Drainage Considerations** - The site falls from north-west to south-east and the natural flow for drainage purposes is with this fall. There are drainage connections potentially available in Woodlands Avenue and in the Dublin Road, downhill of the site. Both these options apparently have constraints, for different reasons. But, rather than seeking to address these constraints, it has been proposed to direct the drainage uphill into Cherrygarth. To achieve this result, it is proposed to build up the site by up to 3m on the eastern and southern boundaries, in order that the new drainage scheme can run into Cherrygarth. The levels along the boundary to Cherrygarth would be raised by about 2m, it appears (see section drawings), although the information provided with the planning application is not very

clear. Such approach effectively is working against the natural topography of the site and would cause many other problems. We consider that the more natural options for drainage, in the direction of Woodlands Avenue and the Old Dublin Road, should be fully examined.

- 6.1.16. **Open Space** - Agree with the analysis of the planning authority in relation to the adequacy of the open space proposed to serve the new development. The main public open space is formed of areas around the apartment blocks. The fragmented layout of this space is such that it is of limited utility for any purpose. Of possibly greater significance is that over 50% of the open space consists of the roof of the underground car park, making it suitable only for either a hard surface or very high maintenance planting. A further of open space is to the rear of the duplex units along the northern site boundary, to the rear of the Trees Road houses. This area would be of little utility as an open space serving the public and is more suitable to use for private gardens.
- 6.1.17. **Waste and Refuse** - The plan for construction and demolition does not contain any estimate of amounts of construction and demolition waste to be reused on site or to be removed. This will be a large generator of movements by heavy goods vehicles. The absence of information on this point is a significant handicap to any decision on the planning application. The arrangements for storage of household waste, upon completion of the development, also entail placing a waste storage facility immediately to the rear of No. 1 Cherrygarth. This is entirely inappropriate in relation to protection of the amenity of that house.
- 6.1.18. **Access** - Insufficient consideration was given to alternative access probabilities to the site of the proposed development, including via Woodlands Avenue and/or the Old Dublin Road. Instead, all the traffic is to be directed through the existing Mount Merrion housing area and ultimately into Cherrygarth. The access proposals have been examined by Dr. Martin Rogers, Chartered Civil Engineer and Town Planner. Dr. Rogers has found that there has been an underestimate of trip generation from the proposed houses and duplexes. The junction of Trees Road and Cherrygarth will be subject of above threshold traffic flows whereby a ghost-island junction is required. Sightlines along Trees Road, at the junction with Cherrygarth, for traffic entering Trees Road, are deficient. Therefore, the proposed development would endanger public safety by reason of traffic hazard. A copy of his report is attached

for the consideration of the Board. The narrowness of the proposed access point from Cherrygarth, combined with the applicant's proposal to construct a new narrow frontage house in the small remaining space, has resulted in the junction radius on the southern corner of the new access with Cherrygarth being substandard. The layout within the site is not satisfactory in terms of parking and circulation, as indicated in the Transportation Planning Section report of DLR.

- 6.1.19. **Construction Impacts** - There has been inadequate consideration of the impact of constructing the development, including a substantial basement floor, including in terms of excavation of materials, possible rock breaking and impacts on hydrology. There is entirely inadequate information in respect of the amount and type of material to be excavated or imported. The traffic generated by construction activities for the proposed development is given quite insufficient consideration in the application. This point was identified in the report of the Transportation Planning Section of DLR Council.
- 6.1.20. **Contrary to Development Plan Policy** – Submitted that the proposal does not accord with the foregoing. There has been no analysis of the future needs of the two schools on the overall Oatlands lands as required by the Development Plan. We note the planning authority dismissed the relevance of this issue, on the basis of there being no objection from the Department of Education. But we consider that both the planning authority and the applicant ought to have given this important point further consideration, given the clear strictures of the relevant section of the Development Plan. In addition, it is noted that the Development Plan requires the making of a “*masterplan*” in respect of development of Institutional Lands. This requirement has not been addressed in any meaningful way.
- 6.1.21. The site is subject of a Development Plan objective “*to protect and preserve trees and woodlands*”. But, this objective cannot be met, if the current proposal proceeds. This point was a major reason for refusal of the application and the planning authority has indicated that the development would materially contravene the relevant section of the Development Plan.
- 6.1.22. The main justification for seeking development at this density appears to be the location of the site in relation to the bus services on the N11 road. A further justification given by the planning authority, in the planning report, to favour high

density development on the site is that it is near the Stillorgan Shopping Centre. We submit that these reasons are not sufficient to support the extent of physical intervention into the existing environment now proposed.

- 6.1.23. **Inadequate Drawings** - Given the sensitivities of the location and the substantial changes to ground levels proposed, the drawings submitted with the application are inadequate to properly convey the impacts. There is a need for clearer and more detailed long sections through the site and adjoining properties, including finished floor levels of existing and proposed residences, as also showing existing and proposed ground levels on the site.
- 6.1.24. **Public Notice** - Disagree that that the phrase "*all associated site development works above and below ground*" is an adequate description of the considerable regrading of the ground levels on the site, raising the levels by c.2-3m.
- 6.1.25. **Conclusion** – The Board asked to refuse permission for this proposed development because of its excessive scale, adverse impact on the amenities of property in the vicinity and the traffic related issues cited above, as well as the reasons concerning protection of trees and provision of open space, cited by the planning authority.
- 6.1.26. The appeal was accompanied by the following:
- Assessment of Traffic Issues associated with proposed development prepared by Dr Martin Rogers in respect of traffic impacts

6.2. Applicant Response

- 6.2.1. The First Party response to the third party appeal has been prepared and submitted by Brock McClure Planning and Development Consultants and may be summarised as follows:
- 6.2.2. **Density** - The specific attributes of the site have determined that it is suitable for a higher density than the typical 35 units per hectare. This is a well-connected, infill site that is well served by public transport from the N11 QBC and surrounding amenities. The higher density proposed on the subject site was agreed with the planning authority as an appropriate level of development for this location.
- 6.2.3. **Heights and Changes to Ground Levels** - With regard to the proposed heights we submit that the subject proposal of 2-4 storeys is suitable for the site and is

appropriately designed to limit amenity impacts on the surrounding area. The site will be well screened through the retention of existing mature trees where possible further limiting the visual impact of the apartment block. Having regard to the Dun Laoghaire Rathdown policy on building height we submit that the proposed development should be acceptable with regard to building height and is not excessive given that it is located within 500m of the N11 QBC. The site is 1.12 hectares in area and therefore is suitable for defining its own building height context.

6.2.4. With regard to the reference to eighteenth/nineteenth century walls this has been identified as not of any particular heritage merit and in any case will not be immediately impacted by the proposed development. The changes in levels occur on the south-eastern end of the site at a remove from existing houses. The proposed drainage network will appropriately attenuate any surface water to eliminate any impact on surrounding properties.

6.2.5. **Disproportionate Impact of Drainage Considerations** - As set out in the original planning application documentation, a number of options were considered for the provision of drainage to the subject site. The drainage strategy for the site was agreed in consultation with Dun Laoghaire Rathdown County Council and Cherrygarth was identified as the only feasible outfall from the site due to capacity constraints to the east.

6.2.6. **Open Space** - The appellant's assertion that the open space around the apartment block is unusable is unfounded. The open space will be appropriately landscaped to allow children to play safely and for the enjoyment of residents. The open space area to the rear of the duplex units will be over 11 metres in width including the patio area and will be a highly usable and safe space for residents.

6.2.7. **Waste and Refuse** - Construction management, by its nature can vary from site to site and the exact parameters of what level of waste will be generated from the subject site during construction is difficult to accurately predict at this stage. Having said that, the applicant has provided a construction management plan as part of the application package with a best estimate and outline of what the construction process will entail.

6.2.8. The management of the domestic waste within the development has been well reconciled by the design team with enclosed bin storage provided at two locations at

ground level and an additional facility within the basement level for the apartment blocks. Basement storage of waste is a common practice in apartment buildings and the pick-up vehicle does not require access to the basement as bringing the wheelie bins to the top/or bottom of the ramp is also a common occurrence in developments of this nature.

6.2.9. **Access** - Detailed investigation has been undertaken regarding access to the site. No. 2 Cherrygarth was purchased in order to provide an acceptable access as the existing accesses were not acceptable to the planning authority. O'Connor Sutton Cronin have provided a comprehensive response to the queries raised in the third party appeal in relation to access. The trip generation figures used to assess the traffic impact of the subject proposal have been robustly calculated and provide an accurate indication of the levels of traffic that can be expected to and from the site.

6.2.10. **Construction Impacts** - An updated construction management plan was submitted as part of our first party appeal on this case. The construction management practices proposed are in line with best practice methodologies and will be appropriately adhered to as the development progresses.

6.2.11. **Development Plan** - The third party appeal refers to section 8.2.3.4(xi) – Institutional Lands which states the following:

“A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands”.

6.2.12. 25% of the subject site is dedicated to open space provision despite the need for tree retention and the high density required on this infill site. The 25% provision should be sufficient to maintain the open space character of the site with development proposals built around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary.

6.2.13. The open space is broken down into a number of areas within the site to provide usable spaces for all occupants of the development. Due to the constraints related to the density and height requirements for the subject site it is not possible to provide the open space as one unified portion. Division of the open space throughout the site

assists with a breakdown of the massing of the proposed built form and provides access to open space for all occupants of the site.

6.2.14. **School Expansion** - The subject proposal is considered sufficiently removed from the existing school buildings and is not required for the future expansion of the school facilities. The site has been vacant for a number of years and is no longer required for institutional uses. We submit that had the site been required by the Department of Education for the purposes of providing facilities for the school the site would have been purchased when it was for sale. We therefore concluded that the subject site no longer forms part of the “Institutional” lands and should not be stringently subject to the specific requirements of the Institutional policy such as the need for a masterplan as part of any development proposal. However, having considered the 3rd party appeal a general masterplan for the site has now been prepared by Ferreira Architects.

6.2.15. **Inadequate Drawings** - Submitted that the drawings are adequate to visually represent the features of the proposed development and provide sufficient details in relation to how the visual impact of the development will be managed.

6.2.16. **Public Notice** - The site notice and associated newspaper notice includes for the appropriate brief description of the subject proposal. Finished floor levels have been indicated on all relevant drawings. The issue of raising ground levels is one which the applicant drew attention to in the planning report, and therefore has been adequately addressed in the application documentation.

6.2.17. The submission was accompanied by the following:

- Site Masterplan by Ferreira Architects
- Letter from Department of Education stating that the Department has no ownership of nor control of the lands which are now in the ownership of New Generation Homes
- Letter from Rob Goodbody, Historic Building Consultant with regard to the existing wall that concluded that the wall is not of such significance
- Report from OCSC Consulting Engineers

6.3. Planning Authority Response

6.3.1. DLRCC set out following response to both appeals:

6.3.2. *First Party*

- It is an objective indicated on Map 2 of the County Development Plan 2016 – 2022 “to protect and preserve Trees and Woodlands” at this location. The application made effectively no attempt to retain any reasonable number of trees
- At pre-application consultation stage the requirement for a tree survey in accordance with BS 5837:2012 was clearly outlined and it was stated that the tree survey should inform the site layout rather than vice versa.
- The revised “Appropriate Assessment” (pages 14 – 18) is considered inadequate
- The response regarding the potential for the access laneway along the northern boundary of the school grounds for pedestrians and cyclists is not considered reasonable.

6.3.3. *Third Party*

- The subject site is not affected by any protected structure or recorded monuments as outlined in Map 2 of the County Development Plan 2016 – 2022.
- To permit a density of less than 50 residential units per hectare at this location within 500m of a QBC and less than 1km from a District Centre would be contrary to the provision of Policy RES3 of the County Development Plan 2016 – 2022 and would be an inefficient and unsustainable use of land.
- The proposed structures, in terms of height and scale, are considered to be consistent with the Building Height Strategy as per Appendix 9 of the County Development Plan 2016 – 2022, achieve the required separation distance from boundaries and will have no / negligible shadowing impact on any third party property.

- Though further information was recommended on a number of aspects by the Transportation Section the Planning Authority has no concern with the principle of the vehicular access off Cherrygarth Road.

6.4. Observations

- 6.4.1. There are numerous observations to the appeal submitted on the file. Please refer to Appendix 1 for a list of all observers. The issues raised may be summarised as follows:
- 6.4.2. **Density** - The hyper density of c.60uph proposed would constitute medium rise development as per appendix 9 of the Dun Laoghaire Rathdown Building Height Strategy survey. This is nearly double the density level of 35uph recommended for suburban locations. It is clear that the Planning Authority's insistence on a density of around 60 residential units per hectare, combined with an ill-advised approach to drainage and consequent raising of the ground level, has resulted in a highly unsuitable development proposal. Having regard to the constraints of the site and environs the site is unsuitable for the density proposed
- 6.4.3. **Height** - The existing suburban character of the area is typically low rise i.e. less than three storeys. The area consists of single storey bungalows on Cherrygarth and two storey semi-detached houses on Trees Road. The mix of three storey units and 4 storey apartment blocks is incompatible with the prevailing character of the area which is primarily low rise/low density. The proposed development by reason of its scale, height and character would be visually obtrusive and out of character with the established pattern of development in the area.
- 6.4.4. **Access / Traffic** - To access the site, the applicant proposes to destroy a 300-year old wall which is part of our historical heritage. The application makes no reference to this wall or to its preservation. Normal access to this site is through Woodlands Avenue through which the applicant has a right of way. The traditional access was by way of the laneway which exits alongside Thornhill Lodge on the Old Dublin Road.
- 6.4.5. **Trees** - A significant number of specimen mature trees on the site are planned to be removed to facilitate this development. It is an objective of the County Development Plan 2016 – 2022 to protect and preserve Trees and Woodlands at this location as

identified on Map 2 of the plan. The proposed site layout does not facilitate or satisfactorily address the retention of these trees. The development would materially contravene an objective of the County Development Plan and would adversely affect the sylvan character of the site and affect the residential and visual amenity of future occupants of the proposed development and would be contrary to the proper planning and sustainable development of the area.

- 6.4.6. **Open Space** - Open space requirements of 25% has not been achieved.
- 6.4.7. **Entrance Width** - The width of the proposed entrance through demolition of No. 2 Cherrygarth is too narrow to facilitate waste collection and emergency vehicles such as fire tenders.
- 6.4.8. **School Amenity** - Part of the lands acquired by the applicant includes tennis courts alongside the Oatlands Primary School which are used as a play area every day by the school. These plans remove an amenity which is essential to the normal operation of that school. The proposed works will adversely affect the school and colleges ability to expand and cater for additional growth and demand and facilities but will directly overlook and casts a significant shadow over existing school facilities. The prospect of the Oatlands schools loosing playground amenity space is very concerning. These schools are already short of appropriate space and the further removal of playground space is completely unfair on the schools and students
- 6.4.9. **Infrastructure** - There is already a severe shortage of places in local crèches, pre-schools and after school facilities in the area with many children unable to get a place. Meanwhile this development proposes to take land away from an existing primary school to build more houses rather than use the land to expand the existing school. Further many medical centres in the Stillorgan and Mount Merrion are are no longer accepting new patients or medical cert holders.
- 6.4.10. **Traffic Impact** - The traffic impact report submitted as part of the applicant's submission uses assumptions, which are dubious and should not be accepted. The access junction to Trees Road will become unworkable and dangerous due to the volume of traffic exiting onto Trees Road at peak times. The traffic issue on Trees Road, The Rise and South/North Avenue needs to be improved and with an additional 100 vehicles exiting to Trees Road from Cherrygarth this will add to the current issue. The build-up of traffic at the Cherrygarth/Trees Road junction will

cause serious risks for children crossing Trees Road to attend Scoil Teresa and children coming from Mount Merrion to attend St. Lawrence's NS. This will result in severe traffic congestion at the junction of Cherrygarth and Trees Road Lower. It is doubtful whether the road network is adequate for the additional traffic generated by the development.

- 6.4.11. **Construction** - During construction tens of thousands of cubic metres of material will be removed from the site to facilitate construction of underground car parks. An enormous amount of material will have to be moved onto the site in order to raise the levels by over 2 metres. This will result in noise, dust and serious health impacts for residents and damaged roads. Proposed change to ground level is well in excess of 3 metres at certain locations. Section drawings are notable for their lack of information on the issue. Photomontages are not convincing in conveying the considerable change to ground levels. Construction Management Plan is generic and does not address the question of how much material is to be removed from or brought onto the site and the impact of related truck movements.
- 6.4.12. **Drainage** - Concern regarding drainage proposals. Special financial contribution should be payable to finance drainage upgrade in wider area and therefore facilitate an alternative approach.
- 6.4.13. **Heritage** – The development will result in the destruction of a 300-year-old wall.
- 6.4.14. **Flooding** - No information in relation to protection of the structural stability of granite rubble stone walls along boundary in respect of preventing surface water ingress from new perched water table. Gardens at risk of flooding
- 6.4.15. **Parking** - Inadequate provision of car parking (5 spaces to serve 63 units)
- 6.4.16. **Design** - No effort made to incorporate existing monastery building. Inappropriate use of Oatlands Secondary and primary school's campus.
- 6.4.17. **Child Protection with current planning application** – This site is adjacent to two schools and a Montessori / Childcare facility. Concern that resulting development will give tenants / owners a view of the children school yard.
- 6.4.18. **Pre Planning** - The circumstances surrounding the pre-planning element leading to this application appeal to be less than transparent. The excessive number of pre-planning meetings facilitated by the planning department in this planning application

and the widely held view within the community that significant aspects of this application were approved by the authority prior to application degrades the process.

6.5. Further Responses

- 6.5.1. Mount Merrion Residents Association (Third Party) submitted the following:
- 6.5.2. The essence of the first party appeal is that the planning authority imposed certain requirements on the applicant, in relation to the design, density and drainage of the development, but then erred in refusing permission. But, we contend that if there is an error in the decision of the planning authority, it lies in the said decision not setting out more comprehensive reasons for refusal.
- 6.5.3. It is clear that the planning authority's insistence on a density of about 60 residential units per hectare, combined with an ill-advised approach to drainage and consequent raising of the ground level, has resulted in a highly unsuitable development proposal. The revised scheme, submitted with the appeal, reduces the number of residential units from 63 to 56, but makes little material difference.
- 6.5.4. Notwithstanding that the design appears to have evolved as a "direct result of instructions by the local authority to increase densities and to alter site levels to discharge drainage towards Cherrygarth", the resultant development proposal is highly inappropriate for this site.
- 6.5.5. The statement in the first party appeal that the site has to be raised by "approximately 2m in parts" understates the extent of alteration of site levels, as the proposed change to ground level is well in excess of 3m at certain locations. The section drawings submitted with the planning application are notable for their lack of information on this issue and the revised section drawings, by O'Connor Sutton Cronin, submitted with the applicant's appeal, are not much of an improvement in terms of showing the relationship to existing nearby residential property.
- 6.5.6. The problems described in the OCSC report – surcharging of the foul sewer in Dublin Road and the need for wayleaves for the surface water drainage – could be overcome.
- 6.5.7. On behalf of the Mount Merrion Residents Association, Mr. T. McKenna, Chartered Consulting Engineer, investigated the possibilities and found there are potential

alternatives for drainage, as discussed in attached letter from Mr. McKenna. He points out that an upgrading of the drainage system in the area could be achieved, thereby facilitating a more sensible approach to the issue. If necessary, a special financial contribution could be payable on new planning permissions in the area, to finance the implementation of such alternative approach.

- 6.5.8. The first party appeal discusses the absence of any pedestrian link through Oatlands College – for “operational reasons”. But to avail of any such link would be difficult, given the proposal to raise ground levels on the site. Indeed, a pedestrian would need a ladder to climb down from the raised plateau of the development site along its eastern boundary.
- 6.5.9. In general, the montages give little impression of the considerable changes to ground levels now proposed. The montages are especially unconvincing in respect of the considerable change in levels along the eastern boundary, which would also require “guarding” or some form of wall or fence to prevent people falling off the edge.
- 6.5.10. The revised Construction Management Plan is almost entirely generic and contains no specifics. It does not address the question of how much material is to be removed from or brought onto the site and the impact of related truck movements. There are tables of material types with no quantities. One table dealing with C&D waste arising, appears to bear the name of another project (Stanford House).
- 6.5.11. Having regard to the constraints of the site and environs, the density remains excessive. As noted by the applicant’s planning consultant, the revised design option does not significantly alter the layout and nature of the proposed development. Our original criticisms of the scheme, as submitted for planning permission, apply equally well to the revised proposal.

7.0 **Assessment**

- 7.1. The application as submitted to DLRCC was for permission for the following:
- demolition of the former Oatlands Monastery building (c.1,682 sqm) and other derelict buildings on the site (c.101 sqm),

- the demolition of the existing single storey dwelling at No. 2 Cherrygarth (c.157 sqm) and
- the construction of 63 residential units.
- the development will be accessed through a new entrance at No. 2 Cherrygarth.

7.2. The applicant in their appeal against the decision of DLRCC to refuse permission submitted an alternative proposal further reducing the number of trees to be removed from the site. The revised proposal results in a reduction of 7 residential units from the site but allows the retention of additional trees on site. The applicant states that *this scheme also has drawbacks related to usable open space and level differences on the site. Should the Board be so minded to grant permission for a revised scheme, the revised proposal is an option that could successfully address all site constraints albeit at a reduced site density.* Accordingly, this assessment is based on the amended plans received by DLRCC on 28th June 2016 as amended by further plans and particular received by the Board on 7th September 2016 for 56 residential units.

7.3. The submissions from both the appellant and the observers have raised the issue of pre-application consultation with the local community. However, as this form of consultation is not a statutory requirement, it is considered that this is a matter between the applicant and the local community.

7.4. Concerns raised regarding the adequacy of the public notices are also noted. However, it is not for An Bord Pleanála in this instance to determine whether the application was in breach of the Planning and Development Regulations. I would point out for the purpose of clarity that the current development before the Board represents a separate and distinct application which is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application. Further I am satisfied that my site inspection of the appeal site and environs is adequate for the carrying out of my assessment of this appeal.

7.5. Having regard to the information presented by the parties to the appeal and in the course of the planning application, the planning history pertaining to the site and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle & Policy Considerations
- Tree Conservation & Material Contravention
- Construction Impact & Methods
- Access & Traffic Impact
- Screening for Appropriate Assessment
- Development Contribution(s)

7.6. **PRINCIPLE / POLICY CONSIDERATIONS**

- 7.6.1. The appeal site is located in a section of land directly west of Oatlands College (education) and is bound by residential properties on two sides. Under the provisions of the Dún Laoghaire-Rathdown County Council County Development Plan 2016 – 2022 the appeal site is wholly contained within an area zoned “A” where the objective is to protect and improve residential amenity and where residential development is open to consideration. Having regard to the zoning objective for the sites I am satisfied that the principle of developing residential units at this location is acceptable.
- 7.6.2. In addition to the proposal to develop a mix of residential units houses at this location the proposed development also comprises the demolition of the former Oatlands Monastery building (c.1,682 sqm) and other derelict sheds and storage units on the site (c.101 sqm), a section of the boundary wall together with the demolition of the existing single storey dwelling at No. 2 Cherrygarth (c.157 sqm).
- 7.6.3. According to Rob Goodbody, Historic Building Consultant for the applicant the wall is not and never was the boundary of the Mount Merrion Estate. The report further states that this wall was built as a boundary wall between two properties, probably in the late 18th century. The report concludes that the scheme will necessitate the removal of a section of this boundary wall to facilitate access, while the greater part

of the wall would remain in place. However, I agree with the applicant that the wall is not of such significance that would preclude the level of intervention proposed. The report recommends that following the removal of the section of wall that the two broken ends be finished off with the construction of stone piers, using the rubble granite salvaged from the removed section. These piers could be square or circular in plan and would serve to provide a good quality appearance to the margins of the remaining section of wall. Should the Board be minded to grant permission it is recommended that a condition of this nature is attached for agreement with the local authority.

- 7.6.4. None of the structures to be demolished including the wall are listed in the record of protected structures and neither are they located within a designated conservation area. Further, neither the monastery building, the outbuildings or the single storey dwelling fronting onto Cherrygarth have, in my view, any distinctive architectural merit and I do not consider that they contribute beneficially to the area in terms of visual amenity, character, or accommodation type. Accordingly, there is no objection to the proposed demolition of any of these structures.
- 7.6.5. With regard to density I would set out the following. Policy RES 3 of the Development Plan states that “where a site is located circa 1 kilometre pedestrian catchment of a rail station, LUAS line, BRT, Priority 1 Quality Bus corridor and / or 500 metres of a Bus Priority Route, and / or 1 kilometre of a Town district centre, higher densities at a minimum of 50 units per hectare will be encouraged” the appeal site is located within 500m of the N11 QBC and is proximate to the Stillorgan Shopping Centre, a designated Town and District Centre.
- 7.6.6. The applicant proposes 56 residential units on a 1.12 ha site providing a density of 50 units per hectare. This is considered to be fully in accordance with the density parameters set out in Policy RES3. I do not consider that the proposed development is of excessive density and I would strongly discourage a further reduction in density at this location given the location of the subject site to the N11 QBC and the Stillorgan District Centres. However, I note the concerns of the third party appellant and the observations as submitted by the observers to the appeal regarding the suitability of the site for a lower density development particularly having regard to the density of adjoining property. It is my view that such an approach is an

unsustainable use of serviced urban lands where the overall objective is to maximise land uses.

- 7.6.7. It is evident that proximity to the N11 QBC and Stillorgan District Centre was a significant factor in the assessment of the application and determining what is considered to be the appropriate density at this location. As set out in the Development Plan the question of density plays an important part in ensuring that the best use is made of land intended for development. Overall I am satisfied with the density proposed at this location.
- 7.6.8. With regard to private and public open space I would set out the following. Overall I am satisfied that the private open space provided within the amended scheme achieves the minimum area required. However, as documented previously the site is located in an area where it is an objective 'to protect and/or provide for Institutional Use in open lands' as per Map 2 of the County Development Plan 2016-2022. This requires a minimum 25% public open space to be provided, or a population based equivalent, whichever is the greater, in order to maintain the open character of the site. Having regard to the amended plans and reconfigured public opens space it is evident that these changes represent a significant improvement from the original layout. Overall I am satisfied that the amended scheme provides the quantity of public open space required by the County Development Plan 2016-2022.
- 7.6.9. The Height Strategy in Appendix 9 of the Development Plan sets out the circumstances in which tall buildings could be accommodated within the built environment. In general, taller buildings are directed towards Sandyford, Dun Laoghaire, the N11 corridor (i.e. directly adjacent) and suburban infill sites (generally prominent corner sites). Although a general height of 2 storeys applies to areas such as Mount Merrion, buildings up to 3-4 storeys could be considered in certain circumstances, such as prominent sites within 500m walkband of N11, provided that there is no detrimental effect on the existing character and residential amenity. However, as the maximum height cannot apply in every circumstance, 'Upward' and 'Downward Modifiers' are used to justify increased height. The proposed development would have to meet more than one upward modifier, such as the creation of urban design benefits, significant enhancement of public realm, provision of new facilities in culture, education, leisure or health, or where the existing built

environment of topography would permit higher development without damaging the appearance or character of the area.

7.6.10. In this case the higher elements of the development are located away from the western and northern residential boundaries. I am satisfied that the proposed development is consistent with the principle 'to promote higher densities and allow for increased building heights around public transport nodes and centres of activity' and also 'to encourage higher densities and also to allow for increased building heights at appropriate locations along public corridors'.

7.6.11. It is not considered that undue overlooking will occur from the proposed development and the required separation distances have been achieved where required. Further I agree with the Local Authority Planner that having regard to the relatively limited height of the dwellings and apartments (maximum four storeys), the separation distances to both the site boundaries along the western and northern boundaries and the additional set back distances to adjoining dwellings (in particular to the north) it is considered that there will be no undue overshadowing on any adjacent property as a result of the proposed development.

7.6.12. This is a serviced, residentially zoned site within walking distance of public transportation infrastructure services on the N11 / Stillorgan Road QBC. It is also within reasonable walking distance of Stillorgan village centre and is proximate to schools, places of worship, places of employment and other amenities. I am also satisfied that the scheme (as amended) provides a reasonable housing mix and is consistent with the requirements of the Development Plan in this regard. Further and as documented above I am also of the view that the proposed height and density could be achieved on this site without compromising amenities of adjoining properties. While the proposed scheme before the Board is a clear densification of residential use at this location overall I consider the proposed demolition buildings and wall together with the proposed densification of residential development at this location to be acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

7.7. TREE CONSERVATION

7.7.1. Dun Laoghaire Rathdown County Council (DLRCC) in their decision set out the following reason for refusal:

It is an objective of the County Development Plan 2016-2022 'to protect and preserve Trees and Woodlands' at this location as identified on Map 2 of the Plan. The proposed site layout does not facilitate or satisfactorily address the retention of these trees and does not provide quality usable public open space areas. The development would therefore materially contravene an objective of the County Development Plan 2016-2022, would adversely affect the sylvan character of the subject site, would adversely affect the residential and visual amenity of future occupants of the proposed development and would be contrary to the proper planning and sustainable development of the area.

- 7.7.2. There are no Tree Preservation Orders on this site as may have been applied under the "Planning and Development Act". However, as outlined in the decision there is a specific objective to protect and preserve trees and woodlands on the site, as set out in the County Development Plan. The applicant states that any trees removed are of low significance and cannot be avoided when trying to achieve appropriate density for the subject site. It is stated that trees to be removed to facilitate development works would be likely to require removal in future years anyway, due to issues such as overhang, damage to boundary walls, leaf shedding and noise and to other disturbances caused by roosting birds. It is further stated that the extent of trees that could be retained was severely curtailed by the requirement of the DLRCC drainage department to raise the levels of the site.
- 7.7.3. The updated Arboricultural Report prepared by The Tree File Ltd, Consulting Arborists and submitted with the first party appeal reiterates that the retaining of required development densities, that encompasses necessary associated engineering, including the provision of services and drainage including SUDs as well as DMURS compliant access road and their associated parking means that there is a huge demand on site for space. Additionally, and in respect of the refusal to allow the servicing of the site to the south-east and the woodlands estate, requires that all services must access the substantially raised levels of available connections in the Cherrygarth estate, a factor which requires that the gravity fed systems are elevated across the subject site, thus requiring that overall site levels are raised up substantially. It is stated that it must be appreciated that a particularly large proportion of the site area must be modified or otherwise converted, thereby removing the primary requirement for tree retention, that being the conservation and

non-modification of existing ground conditions. In light of the above, the trees considered suitable for retention with any degree of expected sustainability are limited to the south western boundary, however it is noted that they exist within the confines of what will be private open space. Accordingly, any assertion towards retention will be dependent upon the desires of the new owners / occupants towards tree retention over time.

7.7.4. The applicant states that the amended proposals put forward with the appeal reduce the need for ground modification and subsequent loss of trees. The revised proposals consist of:

- Attenuation moved to beneath access road of development away from originally proposed location beneath proposed open space, reducing the need for ground modification and removal of trees in this area but contrary to Council Road Department Requirements
- Reduction of number of duplex units from 24 to 20 and subsequent reduction in size of duplex block along northern boundary resulting in retention of additional trees
- Reduction of number of apartments in Block F from 16 to 14 and reconfiguration of apartment blocks F and G in terms of location and layout to reduce footprint and further reduce the number of trees removed
- Removal of 1 4/5 bed unit from western boundary resulting in the retention of additional trees and
- Remove 9 car parking spaces from underground car park to further reduce the need for ground modification in the proposed open space area

7.7.5. It is evident that the objective to protect and preserve trees and woodlands at this location appears to relate to the presence of trees on the sites. However, as observed on day of site inspection the quality of trees on the appeal site is for the most part generally poor. Further it is evident that the need to carry out substantive site clearance and ground modification on the site results in the loss of many trees. I agree with the applicant that the reason for refusal, having regard to the amended plans, is not justified in the context of the quality of trees proposed removal. Having considered the amended plans submitted with the appeal I am satisfied that the matters outlined in the refusal have been addressed. However, Dún Laoghaire-

Rathdown County Council in their reason for refusal stated that the proposed development would materially contravene a development objective contained in the Development Plan namely to protect and preserve Trees and Woodlands' at this location.

7.7.6. Section 37(2)(b) of the Planning and Development Act 2000 (as amended) where it provides that where a planning authority refuses planning permission for a proposed development on the grounds that "it materially contravenes the development plan, the Board may only grant permission" where it is considered that:

- the proposed development is of strategic or national importance,
- there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan

7.7.7. In this instance the objectives in the development plan are clearly set out, the proposal does not constitute a development of strategic or national importance and there are no relevant regional planning guidelines or similar guidance documents to which regard must be had. Accordingly, it would appear that none of the specified special circumstances necessary to enable the Board to consider making a grant of permission in this case are applicable with the exception of conflicting objectives. The applicants position is essentially that the development is not in contravention of the zoning objective for the site as the reason for refusal is not justified in the context of the quality of the trees proposed for removal and that there are competing objectives for the site.

7.7.8. As set out previously the site is within 500m of a QBC and is therefore suited to densities of more than 50 per hectare. The open space requirements for "institutional" lands require 25% open space in contrast to the 10% typically required

for residential development sites. It is stated that drainage discharge from the site must be to Cherrygarth due to capacity constraint at Woodlands Avenue. Added to this there is an objective to protect and preserve trees on site. Overall I agree with the applicant that all these competing objectives may give reason to a materially contravention of the development plan in order to develop the subject site for housing supply at this location. Having regard to the particular circumstances pertaining to this site together with the Development Plan objectives and policies for the site I am satisfied that the amended plans are acceptable and that to permit the loss of trees and woodlands as proposed would not materially contravene the Development Plan.

7.8. CONSTRUCTION IMPACT & METHODS

- 7.8.1. The applicant states that the amended proposals put forward with the appeal reduce the need for ground modification and subsequent loss of trees. It is acknowledged that there are significant construction works required to facilitate this development and that there will be general disruption in the area in terms of construction related noise and general disturbance during the construction phase. While this impact is considered an inconvenience it is also considered to be short term in nature and therefore acceptable. However, I share the appellants and observers concerns with regard to the overriding proposal to import fill material to raise the site levels in order to meet the DLRCC drainage requirements that the site is drained via Cherrygarth.
- 7.8.2. The statement in the first party appeal that the site has to be raised by “approximately 2m in parts” may understate the actual extent of alteration of site levels, as the proposed change to ground level appears to be in excess of 3m at certain locations. The section drawings submitted with the planning application and details accompanying the appeal are notable for their lack of information on this issue.
- 7.8.3. The Construction and Demolition Waste Management Plans available to view on the appeal file are non-specific and provide no information with regard to the volume of fill material required to achieve the finished level, the source of this fill and the transport movements associated with these works. It is my view that these details together with vehicular movements should be incorporated into a revised detailed Construction Management Plan.

7.8.4. While conditions may be attached to any grant of permission in relation to construction management, construction phasing, traffic management I do not consider it appropriate to condition the works pertaining to this scheme in this instance. Neither do I consider the foregoing matters to be a point of detail but rather they are of a fundamental nature to the overall merits of the scheme. Refusal is recommended.

7.8.5. Overall I am not satisfied, that there is sufficient information in relation to construction management to adequately consider the proposed scheme at this time. Refusal is recommended.

7.9. ACCESS / TRAFFIC IMPACT

7.9.1. I have noted the reports (as amended) on file from the applicant and the planning authority together with the appeal and observations.

7.9.2. The receiving environment is urban in nature. The main transportation artery in the area is the Stillorgan Road while the remaining links generally serve as local access routes. Access to the site will go through Number 2 Cherrygarth which is proposed to be demolished. It is proposed to provide a new junction on the east side of Cherrygarth, a local access road which it is stated experiences very low levels of traffic on a daily basis. This new junction will operate under a simple priority configuration with single lane approaches and “minimal impact to the existing carriageway”. It is stated that the new junction on Cherrygarth proposed to facilitate the development will experience extremely low traffic volumes on all approaches and so will have no issues in terms of capacity, queuing or delay.

7.9.3. It is my view that the proposed access provides for the most direct and appropriate access option to the site in contrast to connecting through the school lands. The access route also delivers on connectivity of the proposal to Trees Road Lower and the N11 QBC ensuring that access to the site is separated from the educational uses associated with Oatlands College and potential conflicts at peak times. As set out previously this is a serviced infill site that is suitable for development. Having regard to the information on file including the Traffic Impact Assessment submitted with the application I am satisfied that it has been shown that the proposed development will have a negligible effect on the operation of the links and junctions locally

7.10. SCREENING FOR APPROPRIATE ASSESSMENT

7.10.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site (South Dublin Bay SAC)00210) and the South Dublin Bay (Sandymount Strand) and River Tolka SPA (004024)) it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site. An appropriate assessment (and submission of a NIS) is not therefore required.

7.11. DEVELOPMENT CONTRIBUTION(S)

7.11.1. Dun-laoghaire Rathdown County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 13th May 2013. The proposed development does not fall under the exemptions listed in either scheme. Having regard to the stated development contribution scheme it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

7.11.2. In relation to the Section 49 Supplementary Development Contribution Schemes (Glenamuck District Distributor Road Scheme and surface Water Attenuation Ponds, and Extension of LUAS Line B1 – Sandyford to Cherrywood) it is noted that the subject site is located outside the catchment area of both.

8.0 Recommendation

8.1. Having considered the contents of the application, the provision of the Dun Laoghaire Rathdown County Development Plan 2016-2022, the provisions of government guidance, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The Board is not satisfied, that there is sufficient information in relation to proposals to alter the ground levels within the site in order to meet the drainage requirements of Dun Laoghaire Rathdown County Council available on file in relation to sources, nature and type of infill material to be used together with haulage routes to adequately assess the impact of this application. It is considered, therefore that to permit the proposed development would be contrary to the proper planning and sustainable development of the area.

Mary Crowley,
Senior Planning Inspector
25th January 2017

10.0 Appendix 1

10.1. Observers to An Bord Pleanla

- 1) Nuala Hooper
- 2) Conal Hooper
- 3) Peter J. Clarke
- 4) Alison Byrne
- 5) Robert and Niamh Leeney and Others
- 6) An Taisce
- 7) Fiona Palmer
- 8) Woodlands (Stillorgan) Residents Association
- 9) Chris and Orlaith Connaughton
- 10) John and Margaret McNally
- 11) Martine and Patricia Ryan
- 12) Pádraig MacGrory
- 13) Michael and Joyce Neary
- 14) T. J. Murray and Others
- 15) Breda and Michael Walton and Dorothy Martin
- 16) Margaret Tucker
- 17) Louis Ramsey
- 18) Marty Tobin
- 19) Ellis Lawlor and Paul Fogarty
- 20) Jim Murphy and Jackie Gilroy
- 21) Michael A. Carroll
- 22) Cllr. John Kennedy
- 23) Cllr. Liam Dockery
- 24) Aisling Kennedy
- 25) Pauline Gallagher
- 26) Mary Kelleher and Others
- 27) Sara Hollwey & Derry Deasy

- 28) Anne Aitken
- 29) Anne Plunkett
- 30) Donal Kavanagh
- 31) Karen Poff
- 32) Cyril Prout and Joan Flannery
- 33) Gerry Dunnion
- 34) Joan and Ciara O'Neill
- 35) Anne Tiernan
- 36) Cormac and Delia Leonard
- 37) Tom and Maura Fahey
- 38) Dolores and Niall Powderly
- 39) Margaret Hutchinsun
- 40) France Carr
- 41) Robert McDonnell
- 42) Tim and Mary Hayes
- 43) James and Breda Nix
- 44) Shane Ross TD
- 45) Karl and Anne-Marie Murray and Others
- 46) Conal and Stephanie Kennedy
- 47) Denis Ryan
- 48) Brendan Meehan
- 49) Bernadette and Stewart Doyle
- 50) Nioclás O'Donoghue
- 51) John Fahy
- 52) Liam Prendiville
- 53) Nora Costello and David Walsh
- 54) Gerard Meehan and Bairbre O'Neill
- 55) Richard Conroy and Lelia Thornton
- 56) Josepha Madigan TD

- 57) Frank and Ann Lynch
- 58) Former Senator Mary White
- 59) Des Smyth
- 60) Cllr. Deirdre Donnelly
- 61) Dr Shoana Quinn and Victor Hrymak
- 62) G and A Poppinga
- 63) Charles and Clare Kally and Others
- 64) Dr Patrick Quinn and Marion Quinn
- 65) John and Rosemary Dooley
- 66) Patrick Smith
- 67) Raymond and Jessica Kinane and Others
- 68) Cllr. Barry Saul
- 69) John and Marian Moyney
- 70) James and Hanna Cullen
- 71) Yvonne and Kevin Fahy
- 72) Darragh Kelly and Cliona Caslin
- 73) Michael Caslin and Shane Kelly
- 74) Frank and Rachael McKeown
- 75) Dan McQuillan
- 76) Fiona Slevin and Colleen Steemers
- 77) Michael Slevin, Vera and Helena Greif
- 78) Mary and Tom Martin
- 79) Mount Merrion Residents Association