



An
Bord
Pleanála

Inspector's Report PL06D.248082

Development	Residential development of 69 units comprising 17 no. houses and 52 no. apartments with all associated site works (Protected Structure)
Location	Site at Lisieux Hall, Murphystown Road, Leopardstown, Dublin 18
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D16A/0547
Applicant(s)	Ketut Ltd.
Type of Application	Planning permission
Planning Authority Decision	Grant permission s.t. conditions
Type of Appeal	Third Party
Appellant(s)	Gallops Residents Association Leopardstown Heights Residents Association
Observer(s)	None
Date of Site Inspection	9 th June, 13 th June 2017
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1. The appeal relates to the site of Lisieux Hall, a substantial private house which is a 19th Century Protected Structure with associated landscaped grounds, on Murphystown Road in Leopardstown. Lisieux Hall is an 'island site' enclosed by a stone /masonry wall (average height of 2.5m) and is bounded by Kilgobbin Road to the West, Murphystown Road to the North, Murphystown Way to the East and Ballyogan Road to the South. The Protected Structure is located at the southern end, close to Kilgobbin Road. The grounds include mature gardens, stables and a tennis court adjacent to the house with a long driveway leading from Murphystown Road. There are two large areas of open parkland on either side of the driveway and there is a walled garden at the southern end of the eastern parkland. There are a considerable number of large, mature trees within the grounds. The site (red line) comprises the northern part of the grounds (two areas of parkland and the walled garden), with an area of approx. 1.18ha, and the southern section (blue line) comprises the main house, stables, lodge and tennis grounds. There is a second existing entrance to Lisieux Hall from Ballyogan Road to the south.
- 1.2. The area surrounding the site has undergone many changes in recent times. The Luas Greenline runs along Ballyogan Road and continues past the site to the east, along Murphystown Way. In general, the area surrounding the lands consists of suburban housing estates. Kilgobbin Road is a narrow road which retains some of its original rural character adjacent to the site, but its junction with Murphystown Road has been upgraded to a roundabout. The lands on the western side of Kilgobbin Road comprise a public parkland serving Sandyford Hall housing estate.
- 1.3. The site is accessed by means of a formal gated entrance from Murphystown Road. The stretch of road adjoining the site has a roundabout junction at either end, but there is no access onto the western roundabout (with Kilgobbin Road). There are several commercial units on the northern side of the road with double yellow lines along the roadway. At the time of my inspection, there were a number of cars illegally parked along the roadway.

2.0 Proposed Development

- 2.1. It is proposed to construct 69 residential units on the site, comprising 52 no. apartments and 17 no. houses (as originally submitted). This will consist of a block of apartments on each of the parkland areas on either side of the driveway to the house fronting onto Murphystown Road; a courtyard housing scheme of 10 semi-detached houses within the site of the walled garden; and a row of 6 houses backing onto Kilgobbin Road. A further detached house, referred to as a “gate lodge” or “entrance cottage”, would be constructed to the east of the proposed entrance. The development would be accessed from Murphystown Road to the north, via the existing entrance, which is within the cul-de-sac. It is proposed to retain the existing tree-lined avenue leading to the house and most of the mature trees, together with part of the parkland area to the west of the avenue.
- 2.2. The 17 no. houses range in size from 73sq.m to 209sq.m. The entrance cottage is single storey and the houses alongside the western boundary are 3-storey 4-bed. The houses within the walled garden are laid out in the form of four short terraces and comprise 3-storey 3-bed semi-detached units. The proposed apartment blocks are 4 storeys with a setback penthouse level and basement parking. Block A (2,765m²) is to the west of the entrance and Block B is located to the east of the entrance. Each block contains 26 apartments, 8 of which are 1-bed, 16 of which are 2-bed and 2 of which are 3-bed.
- 2.3. The layout includes a central area of open space to the south of Block A and to the east of the terraced houses as well as a number of pockets of open space which are centered around the retained mature trees on site. A play area (85m²) is also included. Car parking (92 spaces) is provided in the form of basement parking (50) surface parking (26) and domestic garages (16). There is undercroft/basement parking serving the apartment blocks, 26 for Block A and 24 for Block B, with ramped access to each from the avenue close to the entrance. The access to Block B is in front of (south of) the apartment block. In addition, motorcycle parking (4) and bicycle parking (100) are provided across the site.
- 2.4. It is noted that the scheme was subsequently amended following a FI request. The revised scheme (22/12/16) reduced the overall number of units to 66, with the

omission of 3 no. units from the walled garden. The amendments will be summarised in the following section.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to grant permission subject to 37 conditions. These were generally of a standard type apart from the following:-

Cond 2 No gates at entrance

Cond 9 Conservation specialist to oversee development within and adjacent to the walled garden

Cond 11 Access to Murphystown Road in accordance with Option 2 – provision of setback and footpath prior to first occupation.

Cond 12 Submit survey drawings and methodology for taking down and rebuilding wall on Murphystown Road

Cond 21 Tree bond

Cond 22 Qualified arboricultural consultant for the duration of the project

Cond 29 Financial contribution toward extension of Luas Line B1 (Sandyford to Cherrywood).

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.1.1 The report generally reflected the decision of the planning authority. It was noted that the site is zoned Residential A, and that there is a six year road objective for Kilgobbin Road (Mount Eagle to Ballyogan Road). It was considered that the proposed development was acceptable in principle but that given that the site forms part of the grounds of Lisieux Hall, a sensitive design response is required. However,

the density at 58/ha was considered appropriate given the location within walking distance of 2 Luas stops. Although the number of one-bed units exceeds the CDP standards, it was considered that this is acceptable given the nature of the existing development nearby which would include a considerable number of larger family homes.

3.2.1.2 The proposed apartments were assessed under Sustainable Urban Housing – Design Standards for New Apartments (2015) and it was considered that the proposed development met or exceeded all of the standards. The only issue related to Apt. no. 44 (GF Block B) which overlooks the access ramp to car park in terms of availability of light and noise. Issues were also raised regarding private open space for some of the dwelling houses in terms of size and/or overlooking. These concerns related particularly to the houses within the walled garden and the proposed ‘gate lodge’. The height of the apartment blocks was considered acceptable and is in compliance with 2 upward modifiers due to proximity to public transport and site size. The main area of concern related to the scale, height and extent of development within the walled garden.

3.2.1.3 The concerns raised by the Conservation Officer (see 3.2.2.1 below) in relation to impact on the walled garden were considered to merit a request for revisions to the design. It was considered that there would be no significant impact on the Protected Structure itself or on the mature trees in the parkland setting. Concerns raised by the Transport Section (see 3.2.2.2 below) were also considered to be of significance in terms of inadequacies in the parking provision and concerns regarding pedestrian routes and access to/through the site.

3.2.2. Other Technical Reports

3.2.2.1 Conservation Officer (05/09/16) – It was acknowledged that the proposal would sever the lands from the Protected Structure, which is contrary to the Architectural Heritage Guidelines, but the retention of a substantial portion of the site would continue to provide a setting for the PS. However, access to the PS should be from Ballyogan Road. It fails to respect heritage value and sensitive character of

walled garden due to excessive scale, height and extent. A Visual Impact Assessment (carried out by a Historic Landscape and Garden Consultant) is therefore required. Revised proposals also required incorporating reduction in number and height of units within walled garden and revised, more informal, layout and avoid overlooking of rear gardens from Block B. Engineer's Report also requested re potential impact of excavation for underground car park on walls enclosing walled garden.

3.2.2.2 Transport Section (15/09/16) – The potential to improve cycle/pedestrian access and safety was recognised. Concern was expressed regarding the lack of a footpath and poor sightlines on Murphystown Road. A need for improved sightlines and a setback of the boundary wall was identified in order to facilitate pedestrian access to the Luas along this road. Concerns were raised regarding width/size of parking spaces, manoeuvring areas and the continuity of footpaths within the development. The overall parking space provision represents a shortfall of 13 spaces and many are substandard. Although well served by public transport, the shortfall is likely to have an adverse impact on the surrounding road network. The proposed surface water attenuation within the road was considered to be unacceptable. A series of FI items were requested which generally reflected the matters discussed above. The Area Planner's report, (pg. 14) indicated that many of the items requested could be addressed by means of condition. However, the AP disagreed with the request to relocate the proposed attenuation system such that it would not be sited underneath the access road. It was considered that this was unreasonable given the site's sylvan character and the need to protect mature trees. It was therefore considered that the attenuation should be shared between the open space and the hard surfaces.

3.2.2.3 Parks & Landscape Service Report (08/09/16) – Given the site constraints with mature trees, walled garden and Protected Structure, it was generally considered that the proposal had been well thought out and respectful of the setting of the PS. The retention of so many of the mature trees was welcomed, as was the inclusion of generous and appropriately located and designed open space. A number of conditions were recommended.

3.2.2.4 Housing Report (24/06/16) – it was acknowledged that it is proposed to transfer 5 units and was confirmed that the proposal is capable of complying with requirements of Part V/CDP/Housing Strategy subject to agreement being reached on land values and development costs. It was pointed out that this arrangement is subject to planning permission, funding being made available and agreement on costs. Thus it was requested that should PP be granted, a condition be attached requiring the developer to enter into an agreement under Part V.

3.2.2.5 Drainage/Water Services (02/09/16) – concerns raised regarding drainage of green roofs, the location of attenuation storage under the roads, a conflict with an infiltration trench, the proposed SUDs measures and the use of permeable paving behind houses. FI was required in respect of these matters including submission of revised proposals for the attenuation storage system.

Irish Water (04/09/16) – A number of items to be provided prior to construction.

3.2.3 Third Party Observations

3.2.3.1 An Taisce (22/08/16) has raised no objections to the proposed development.

3.2.3.2 28 no. third party submissions were received by the P.A. The main concerns are summarised in the Area Planner's report (pages 2-3) and fall into the following main topic headings:

- Scale and impact on amenities – excessive density; height and inappropriate to character of area.
- Protected Structure - adverse impact on setting of Protected Structure; request to restrict access to PS to existing entrance from Ballyogan Road.
- Landscape and open space – loss of trees and insufficient open space provision.
- Traffic and parking – traffic congestion; insufficient parking; lack of capacity in local road network; request to re-open Murphystown Road – Kilgobbin Road; Luas cannot cope with peak demand.

- Access – negative impact on pedestrian and vehicular environment; lack of footpath to east of entrance, safety concerns for school children walking; Leopardstown Heights could be used as rat-run.
- Construction – insufficient detail re construction parking, impact of excavation works on neighbouring properties; lack of detail re construction noise.

3.3 FI Request

A request for FI was issued on the 16th September 2016 in respect of the matters raised in the planning and technical reports as highlighted above.

3.4 Response to FI request

3.4.1 A response to the FI request was received on 22nd December 2016. The main elements of the response may be summarised as follows:-

Item 1 Development within the walled garden – revised drawings were submitted in which the number of units was reduced from 10 to 7 and the height of the units was reduced from 3 storeys to 2 storeys.

Item 2 Structural and visual impact of undercroft car park access – the proposed access ramp has been moved further west.

Item 3 Residential amenity of Apt. No. 44 – the proposed access ramp has been moved further to the west.

Item 4 Separation distance between Block A and House No. 17 – Unit 17 set back to increase separation distance by 4.375m and rear garden has been increased in width.

Item 5 Private open space for gate lodge – gate lodge has been redesigned to provide private open space to west rather than east of building to address overlooking concerns.

Item 6 Access from Murphystown Road – Option 1 proposes redesign of entrance with improved vehicular, pedestrian and cycle access without

setting back wall (Drg. No. 1784-C-16). Option 2 indicates realignment of boundary wall to accommodate a 1.8m wide footpath (Drg. D1784-C-17).

- Item 7 Adequate space for vehicular and pedestrian movement** – Additional turning movements proposed (Drg. 1784-C-11) which prevents conflict with pedestrians.
- Item 8 Car parking Dimensions for car parking spaces** – revisions shown on Drg. No. D1784-C-01 and D1784-C-11 Rev B.
- Item 9 Measures to prevent cars overriding footpaths** – provision of 0.3m buffer clearance and 75mm kerb at front of perpendicular parking spaces (Drg. D1784-C-01 Rev C)
- Item 10 Street lighting** – revised lighting design submitted
- Item 11 Cycle parking** – location of 14 no. visitor cycle spaces and two sheltered bicycle stands are shown on Drg. PS00-00 Rev B.
- Item 12 Motor cycle parking** – 2 spaces provided in each of the basements (Blocks A and B respectively).
- Item 13 Green roofs and SUDs** – the green roof has been increased to 306m² on each apartment block. This represents approx. 72% of the roof space. A detailed response to the issues raised regarding SUDs is also included.
- Item 14 Foul drainage** – revisions shown in Drg. D1784-C-04.
- Item 15 Taking in charge** – it is not proposed that any of the development will be taken in charge.

3.4.2 The FI was generally considered by the Planning Dept. to be satisfactory and did not warrant the publication of new notices. The A. P. report noted that all internal departmental reports in response to the FI stated that there was no further objection

subject to conditions. It was stated, however, that the Transport Dept. had indicated that Item 6, Option 1 was unacceptable and that Option 2 was preferred.

3.4.3 No additional submissions were received from third parties.

4.0 Planning History

4.1 There is no recorded planning history associated with the appeal site.

5.0 Policy Context

5.1 Residential Density Guidelines 2009

These guidelines seek to provide for the development of sustainable neighbourhoods which have

- high quality, attractive and safe environments with a distinct sense of place and a quality public realm;
- a diverse range of household types and age groups, with a high degree of social integration;
- an efficient use of land which minimises transport demand, (particularly the need to use cars), the use of energy and the emission of greenhouse gases.

5.2 Sustainable Urban Housing Design Standards for New Apartments DoECLG 2015

These guidelines take precedence over the policies and objectives of the DLR Development Plan. They seek to ensure appropriate standards for apartment design to meet the accommodation needs of a variety of household types and sizes. They also seek to ensure the affordability of construction and that the supply will be forthcoming.

5.3 Architectural Heritage Protection Guidelines for P.A.s (2011)

These guidelines specify that development within the 'attendant grounds' of a Protected Structure must not damage important views to or from the PS, nor should it obscure or change 'distant views of important architectural or natural landmarks'.

5.4 Dept. of Transport Smarter Travel: A Sustainable Transport Future 2009-2020

This policy document sets out a range of policy measures designed to encourage smarter travel, deliver alternative ways of travelling, improve the efficiency of motorised transport and ensure integrated policy delivery. The central aim of the strategy is to support sustainable travel patterns, which necessitates the development of sustainable, compact urban and rural areas which discourage dispersed development and long commuting. It includes key goals and national targets for 2020 including the reduction in greenhouse gas emissions from the transport sector, a reduction in the share of journeys to work by car to 45% of total journeys to work and a 10% share of all journeys to be by cycling.

5.5 Design Manual for Urban Roads and Streets 2013

These statutory guidelines focus on the role and function of streets within urban areas where vehicular traffic interacts with pedestrians and cyclists. The manual generally seeks to achieve better street design in order to encourage more people to choose to walk, cycle and use public transport by making the experience more pleasant and safer, and thereby promoting more healthy lifestyles. It outlines practical design measures to support and encourage more sustainable travel patterns in urban areas. These include guidance on materials and finishes, street planting, design and minimum width of footways (including minimum widths, verges and strips), design and location of pedestrian crossings, kerbs and corner radii and shared surfaces.

5.6 Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is zoned 'Residential A', the Zoning Objective for which is to Protect and/or Improve residential amenity. There is a Protected Structure 'Lisieux Hall', on the lands which will form the adjoining site to the south. There is a six year roads objective for Kilgobbin Road (Mount Eagle to Ballyogan Road). Extracts from the Development Plan 2016-2022 are attached.

5.6.1 Chapter 2, Sustainable Communities Strategy, includes policies which seek to increase housing supply, ensure an appropriate mix, type and range of housing and promoting the development of balanced sustainable communities. Relevant policies include **RES3** which promotes higher residential densities in the interests of promoting more sustainable development whilst ensuring a balance between this and ensuring the reasonable protection of residential amenities and established character of areas. **RES4** encourages the densification of existing housing stock to retain population levels **RES7** encourages the provision of a wide variety of housing and apartment types and **RES8** seeks to provision of social housing. Other policies which relate to sustainable land use and travel include **ST2** – Integration of Land Use and Transportation Policies, **ST19** - Travel Demand Management and **ST27** Traffic & Transport Assessment and Road Safety Audits.

5.6.2 Chapter 4 – Landscape and Heritage – policy **LHB 6** seeks to preserve views and prospects of special amenity value. Lisieux Hall is a Protected Structure. Relevant policies include **AR1** which seeks to protect structures from works that would negatively impact their special character and appearance.

5.6.3 Chapter 8 contains the **urban design policies and principles** for development including public realm design, building heights strategy, car parking. Development Management **8.2.11.2** provides more detailed guidance on development affecting Protected Structures

5.7 Natural Heritage Designations

The closest European sites would be as follows:-

South Dublin Bay SAC (5km to North-East)

South Dublin Bay and River Tolka SPA (approx. 5km to North-East)

Wicklow Mountains SAC (approx. 6km to South-West)

Wicklow Mountains SPA (approx. 6km to the South-West)

Rockabill & Dalkey Islands SAC (approx. 8km to East) and

Dalkey Islands SPA (approx. 8km to the East).

6.0 Grounds of Appeal

6.1 The first party appeal is against the decision to refuse permission. The grounds of appeal can be summarised as follows:

- 1. Building height strategy** – The CDP standard is for 3-4 storey buildings even in close proximity to the Luas. Reference is made to the Building Height Strategy, (Policy UD6 in CDP), and specifically to the need to comply with more than one ‘upward modifier’. It is not accepted that the proposal qualifies for two upward modifiers as the “overall positive benefits of the proposed development” is not of “such significance” to justify the additional height, and it is submitted that the presence of the Protected Structure is a ‘Downward Modifier’. Thus the only ‘upward modifier’ of relevance is proximity to the Luas, which it is considered has no capacity to absorb further development.
- 2. Scale, height and density of development is excessive** – The introduction of 2 no. 5-storey apartment blocks into this area which is characterised by 2-storey family housing is completely inappropriate and would seriously detract from the character and amenities of the area. The scale and bulk of the apartment blocks is excessive and would have a serious negative effect on the visual amenity of the area as well as overshadowing and overlooking. The ground level of the site of the proposed apartment blocks is approx. 3m higher than Murphystown Road, which means that the 5 storeys would have an effective height, in visual terms, of a 6-storey building. The proposed buildings should therefore have a maximum height of 3-storeys. The viewpoints for the photomontages are unrepresentative.
- 3. Conservation issues** – proposal would have an adverse impact on the setting and character of Lisieux Hall (PS) and of the walled garden. Access to the PS should be from Ballyogan Road.

4. **Parks/landscaping** – there are many mature trees on site which could be used to great effect to screen the development. However, it will result in the loss of a significant quantum of trees which will have a visual and ecological impact on the area. The viability of the retention of some of the trees, which are located in the private rear gardens of some of the proposed dwellings, is unrealistic as once ownership changes, the new owners will be free to do as they like with the trees. The construction period also poses a threat to the retention of trees on the site.
5. **Ecology** – the planning application failed to include an ecological impact assessment. Thus the grant of permission without such an assessment information would be premature. It is submitted that it is reasonable to assume that there could be bats in the old buildings, mature trees and within the walled garden. However, no bat survey has been conducted and the P.A. did not require this as a condition prior to commencement of development. Notwithstanding this it is requested that should the Board grant permission that conditions ensuring the protection of trees and the carrying out of an ecological assessment be attached to any such permission.
6. **Traffic and transport issues** – the scale and density of the development will undoubtedly contribute to the existing traffic and parking congestion in the area especially in The Gallops and Leopardstown Heights. The Gallops is already landlocked by the Luas and there are long queues of traffic in the mornings to exit the estate via two exit points (serving 700 houses). Construction is also underway at Clay Farm on Ballyogan Road with a further 400(plus) houses to exit onto Murphystown Way. The implicit assumption that the Luas can cater for all additional development is completely out of touch with reality. The Luas is already at capacity and the roads in the area are hugely congested also.
7. **Access to development** – it is suggested that access to the development be relocated to Kilgobbin Road or Murphystown Way, as Murphystown Road is wholly incapable of absorbing the level of development traffic proposed.

Furthermore, there is already an excessive amount of traffic exiting Murphystown Road onto Murphystown Way and the existing mini roundabout is unable to cope with existing traffic levels and must be improved prior to commencement of the development. Concern expressed that traffic exiting Murphystown Road onto Murphystown Way, (via signalled junction which also serves Leopardstown Heights), already results in queues, which have less priority than Luas. Thus there is a fear that traffic from development would use adjacent housing estate to access road network instead. One suggestion was to move the bollards on Murphystown Road to the east of the entrance, thereby creating access from Kilgobbin Road whilst retaining pedestrian element of Murphystown Road. The alternative would be to create a new access directly onto Kilgobbin Road or Murphystown Way.

8. **Public realm – pedestrian and vehicular environment** – the proposed option 2 involving the setting back of the wall would endanger a fine mature oak tree (2467). This does not appear to have been addressed by the P.A. and no further arboricultural impact report was submitted. This proposal would have a detrimental effect on the setting and character of the protected structure and on the parkland setting and character of the area.
9. **Inadequate car parking** – The proposed development is seriously deficient in terms of parking provision (a detailed analysis provided in appeal by Leopardstown Heights). There is no meaningful justification for the failure to meet the car parking standards, aside from the proximity to the Luas and cycle facilities on Murphystown Way. However, the location of the site in the outer suburbs and outside the M50 means that there will always be a dependency on cars. The P.A. has not adequately assessed this issue. The surrounding estates currently experience significant parking congestion due in part to the proximity to the Luas. Commuters prefer to park in the residential estates than to pay for the park and ride. The lack of adequate parking to serve the development will exacerbate this problem with cars parking on the congested

residential estate roads. This is both hazardous and a nuisance. Given the size of the site, surely sufficient parking could be provided on site or, failing that, the number of units should be reduced? Should the Board grant permission, a condition prohibiting the conversion of garages should be attached.

10. **Miscellaneous** – proposal is likely to have a negative impact on dwelling house recently permitted on Murphystown Road D15A/0568. Appellant not aware of any letter of consent for proposed road works at Murphystown Road.

6.2 Planning Authority Response

The P.A. responded to the grounds of appeal on 24th March 2017 by stating that the Board should have regard to the detailed assessment in the Planner's Report. The decision to grant permission subject to conditions was reaffirmed. The following additional points were made:

- CDP parking standards – the shortfall is noted as 17 spaces (13 identified and Bays 20-23 are substandard), but also note that CDP allows for reduction in certain circumstances and site specific locations. Cond 16 (PA decision) requires 1 space per unit plus visitor parking. Transport section acknowledges impact on residential streets but notes competing priorities in respect of surface parking (having regard to DMURS) and that basement parking is not always economically feasible. However, considers that a shortfall can also be a demand management tool.
- Access to site – there are no plans to provide vehicular access to Kilgobbin Road, but there is potential to improve accessibility and safety for pedestrians and cyclists.
- Tree protection – given the restrictions and requirements for density on the site, the proposed layout which includes the retention of the majority of trees on the site is welcomed. The comment regarding difficulties retaining trees in rear gardens is noted but efforts to retain them is nonetheless welcomed.

- Building height – it is considered that the site has the capacity to absorb the development as proposed without unduly detracting from the character of the area or from residential amenities. There are generous separation distances between the apartment blocks and existing houses (at least 40m). The site is also surrounded by roads. The site meets two ‘upward modifiers’ including its ability to contribute to higher densities in an area with exceptional public transport accessibility and as the site size exceeds 0.5ha, it can also set its own context for development.

6.3 First party response to grounds of appeal

6.3.1 BMA Planning, on behalf of the First Party, responded to the grounds of appeal on 27th March 2017. The response is principally in the form of a rebuttal of the grounds of appeal and no further revisions to the scheme are proposed. The response included a further set of A4 sized photomontages and a submission from the applicant’s engineers which addressed the issues raised under the headings of traffic, parking and road infrastructure. The main points may be summarised as follows:-

6.3.2 Density, height and design - The proposed development is wholly consistent with the CDP policies and objectives which seek to promote consolidation and densification of the urban area, particularly on lands with good access to public transport. The proposed development also fully complies with the Sustainable Urban Housing: Design Standards for new apartments Guidelines (2015). The site is a significant infill site within 500m of two Luas stops. The design is of a very high quality and is respectful of the siting in close proximity to the Protected Structure at Lisieux Hall in respect of height, scale, density and design.

6.3.3 Car parking - Parking provision is considered appropriate in the context of the site’s size and location close to 2 Luas stops. It is also close to local shops (Sandyford Hall) and the cycle facilities in the vicinity are of high quality. It is disputed that there is a shortfall as the provision for apartments is 1.1 spaces/unit (standard 1.3/unit)

and for houses is 1.9 spaces/unit (standard 1.9/unit). Visitor spaces will be managed on site. Leopardstown Heights is too remote for spill-over parking and there are double yellow lines on Murphystown Road.

- 6.3.4 Impact on road network - A traffic survey was submitted with the application and the traffic analysis found that the proposal would contribute only 20 trips to the network during peak hour. Pedestrian environment will be enhanced by the proposed development. Alternative (new) access from Kilgobbin Rd or Murphystown Road would be more hazardous as these roads experience much higher volumes of traffic.
- 6.3.5 Murphystown Road roundabout - The Murphystown Road catered for a much greater volume of traffic prior to the installation of the Luas line as it was a through road. It is acknowledged that the current roundabout with Murphystown Way experiences queuing in the mornings, but this is not unusual in urban areas. It is not anticipated that the proposed development would contribute to any significant increase in queuing at the roundabout.
- 6.3.6 Tree retention and ecology – it is not in the applicant’s interest to lose any more trees than is necessary to develop the scheme. Condition 21 of the PA decision requires a tree bond to be lodged to ensure the retention and protection of trees on the site. There is no evidence of bats on the site. Screening for appropriate assessment was also carried out and it was found that there was no need for AA.
- 6.3.7 Impact on Lisieux Hall – there will be no negative impact on the setting of the PS. The application was accompanied by a Report and assessment by Arc Architectural Conservation Consultants.
- 6.3.8 Letter of consent for proposed works to public road – the proposed works in question were requested by the PA, (and included in condition 11 of PA decision), and as such, a letter of consent is not required.

6.4 Response to circulation of First Party and Planning Authority Responses to grounds of appeal of 27th March 2017

6.4.1 The Gallops Residents Association

- 6.4.1.1 First party failed to address the issue of the elevation of the site which effectively increases the height of the apartment blocks to 6 storeys. The photomontage from Glencairn Heath is selective in that it only shows the impact of the proposed 2-storey houses within the walled garden and ignores the impact of the 5-storey apartment block. It is requested that the Board seeks this additional information.
- 6.4.1.2 The appellant takes issue with most of the content of the Muir Associates Limited response to traffic congestion issues. However the points made generally reiterate those made in the grounds of appeal and restate the case for an alternative access to the site from either Kilgobbin Road or Murphystown Way. Criticism was made of the reliance on a traffic survey undertaken during the evening period as the congestion problem is at its worst in the morning peak. It is stated that in the AM peak, there can be 30 cars queuing for 200 metres down Glencairn Road, as well as on feeder roads on the estate. The proposed development will exacerbate this situation by increasing demand on the Murphystown Road/Way junction. It is considered that neither the applicant nor the P.A. has adequately addressed the grounds of appeal and refusal is sought.

6.4.2 Leopardstown Heights Residents Association

- 6.4.2.1 Points made in the grounds of appeal regarding inadequate levels of car parking and the existing parking problems in the area were reiterated and further analysed. The issue remains a serious concern and it is requested that the Board refuse permission on these grounds. The comments made by the first party's traffic engineers regarding the impact on traffic congestion and rat-running as well as on the Murphystown Road/Way junction are strongly refuted. Points relating to the pedestrian and vehicular environment were also reiterated and it is requested that a pedestrian crossing be provided on Murphystown Road.

6.4.2.2 The appellant remains convinced that the height and scale of the development is excessive and that it does not qualify for special treatment in terms of the CDP Height Strategy. No views are provided in terms of updated photomontages from Murphystown Road, which is a significant omission. Concerns regarding the potential for additional loss of trees post construction, the lack of an ecological impact assessment (with particular reference to bats) and the failure to secure a letter of consent for the realignment of the wall outside of the red line boundary are reiterated. It is considered that neither the applicant nor the P.A. has adequately addressed the grounds of appeal and refusal is sought.

6.4.3 Transport Infrastructure Ireland

6.4.3.1 It is stated that TII has no record of receipt of referral of the planning application from the P.A. despite the scale of the development and its proximity to the Luas Green line. The applicant should ensure that there is no adverse effect on the operation or safety of the Luas.

6.4.3.2 The development shall comply with the 'Code of Engineering Practice for works on, near or adjacent to the Luas Light Rail system.' A works Permit will be required from the Luas Operator under the Light Railway (Regulation of Works) Bye-Laws 2004 due to the proposal to carry out works in close proximity to the Luas Overhead Conductor System and proposals to erect hoardings and scaffolding close to the LRT infrastructure. Prior consultation with Transdev will also be required.

6.4.3.3 The site lies within the area where a Section 49 Levy is applicable in respect of Luas Line B1.

6.4.4 First party response to Planning Authority's observations on grounds

6.4.4.1 The P.A. support for the scheme is welcomed. Reference is made to the Muir Associates Traffic Engineers Report and a summary of the main findings is provided. This reiterates the information provided in the response to the grounds of appeal.

The first party's position that the proposed development fully complies with the policies and objectives of the CDP are restated.

6.4.4.2 The first party's responses to the grounds regarding building height and tree retention are reiterated. It is reaffirmed that the proposed development is in compliance with CDP policy and that the conditions of the P.A. decision will ensure that trees within the site are protected and retained.

7.0 Assessment

7.1 The main issues arising from this appeal are considered to be as follows:

- Density, height and scale of development
- Impact on Protected Structure, Landscape and Trees
- Traffic impact on adjoining network and road safety
- Adequacy of parking
- Ecological impacts and bats
- Other issues
- Appropriate assessment

7.2 Density, height and scale of development

7.2.1 Building Height Strategy

7.2.1.1 The Building Height Strategy in Appendix 9 of the CDP 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 2-3 storeys applies to suburban areas (such as Leopardstown), buildings up to 3-4 storeys could be considered in certain circumstances, such as prominent or corner sites adjacent to public transport

nodes, 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 on sites of greater than 0.5ha, sites within 500m walkband of high capacity public transport or where the existing built environment of topography would permit higher development without damaging the appearance or character of the area.

7.2.1.2 It is considered that the site qualifies for at least two upward modifiers, i.e. proximity to the Luas (2 stops within walking distance), and the size of the site (1.18ha, which is more than double the 0.5ha threshold). In addition, it is considered that the built environment within which the site is located is one that would allow for increased height in a way that would be contextually acceptable and would not be unduly out of scale with the surroundings. This is partly because of the island nature of the site and its sense of enclosure with high stone walls and a substantial number of mature trees of a significant scale. It is further considered that the fact that where visibility is high, the context is one of a broad view over a wide and busy road or across a park, and where views are short, the screening effect of trees is very evident.

7.2.2 Density and scale

7.2.2.1 The appellant and the P.A. are both of the view that the site is of a sufficient scale to differentiate it from the surrounding townscape, and as such it can set its own density/scale. Given that the site has road frontage on three sides, each of which is defined by high masonry/stone walls, this view has some merit. However, the remaining boundary is with the retained Protected Structure within its own landscaped gardens, and the need to respect the character and setting of this PS is a constraint. There are also many outstanding mature trees on the site which are an asset, but also need to be protected as much as possible. It is further acknowledged that the surrounding area is largely characterised by low rise, low

density suburban housing estates, and that the density and scale of development also needs to respond to the character of the surrounding area.

7.2.2.2 Policy RES3 of the CDP seeks to promote higher densities subject to achieving a balance between the reasonable protection of amenities and character of an area and the need to provide sustainable development on residentially zoned and serviced lands. The site area is 1.18ha and it comprises a large expanse of relatively flat land in the midst of a residential area, which is zoned for 'Residential development' and is well serviced. It is an island site which is enclosed and screened by a combination of masonry walls and extensive, mature vegetation. It is also easily accessible by several modes of public transport and the M50 and is close to local amenities. Thus in principle, the site is ideally located to absorb development with an increased density in accordance with the national and local policy framework and is well placed to deliver sustainable residential development.

7.2.2.3 The proposed density is 56 dwellings/ha (reduced from 58 dw/ha), which is in accordance with the 50+ dw/ha recommended in the Sustainable Urban Housing Guidelines and the CDP. The site coverage envisaged is quite low for a site of this size, as the higher density is achieved principally by means of the proposed apartment blocks served by underground parking. It is noted that these apartment blocks are sited at the furthest distance possible within the site from the Protected Structure and on either side of the existing driveway, which is to be retained. The siting and proposed footprints also enable the majority of the mature trees to be retained alongside the driveway and the external masonry walls, as well as along the new southern boundary with the retained Protected Structure. The proposed open spaces also seek to retain much of the structural form of the parkland setting of the protected structure.

7.2.2.4 It is noted that the height, mass and bulk of each of the buildings is relieved to some extent by both the provision of two separate blocks and by the proposed recessed fifth floor. However, it is considered that the impact of the scale of these

buildings is further reduced by the siting and orientation of the apartment blocks close to the northern boundary, behind the stone wall and several large mature trees. At its northern end, the site is bounded by the narrow Murphystown Road, which is occupied on its northern side by commercial buildings which front directly onto the street. Thus the full principal elevations of the apartment blocks would mainly be seen from relatively obscure angles and from within the site. The western side of Kilgobbin Road is an open space/park and the proposed apartment blocks, when viewed from Sandyford Hall, would be largely screened by trees forming a backdrop to the park. The houses on the eastern side of Murphystown Way are separated by at least 40m, with a main road and Luas line in the intervening space. The retention of the existing wall and most of the mature trees, together with the siting of the taller buildings at the northern extremity of the site would mitigate the visual impact of these buildings to a considerable degree.

7.2.2.5 It is acknowledged that the scale and height of these buildings would introduce a new element into the built form of the area, but it is considered that the siting of such buildings within a relatively secluded site which is well screened by means of mature trees and high stone walls and which is set back from existing residential development allows for the development to be absorbed into the area with a minimum of detriment to visual amenity. I would agree with the Area Planner's assessment that the proposed development is unlikely to result in any significant loss of residential amenity by reason of overlooking or overshadowing, due to the distances from neighbouring residential properties and intervening screening.

7.2.3 Visual impact

7.2.3.1 The grounds of Lisieux Hall form part of the traditional demesne landscape but the area within which the site is located is one which has undergone much change in recent years, particularly with the advent of the Luas. The more recent development is principally in the form of 2-storey housing estates with a generally universal appearance and character, which are separated from each other by main roads, masonry walls and mature vegetation. The topography of the area is

generally flat which results in views and vistas which form an important part of the overall character. However, the main views of the site are from the east (The Gallops and along Murphystown Way) and the west (Sandyford Hall and the junction of Kilgobbin Rd/Murphystown Road).

7.2.3.2 It is considered that the photomontages provide a reasonable interpretation of the likely impact of the proposed development on the visual amenities of the area, although I would accept that some of the vantage points are not entirely representative of the worst case scenario. The view from Glencairn Heath excludes the proposed apartment blocks at the right of the picture and the views along Murphystown Way are taken from points along the road from which the impact would be less intense. It is considered that the view from the junction of the Gallops housing estate and Murphystown Way and just to the north of this would have been better view points. Notwithstanding this, it is considered that Murphystown Way is robust enough to absorb the development as proposed and that the impact of the proposed apartment blocks is mitigated by the orientation of the buildings and level of screening, as discussed previously.

7.2.3.3 The viewpoints from the west are considered to be fairly representative and show that the development would be largely screened by vegetation and the stone wall. There are no viewpoints included from Leopardstown Heights (to the north). It is noted, however, that views from this area are largely confined to the southern entrance to the housing estate. At present this view is dominated by the extensive mature treeline along the northeastern boundary. Although some trees will be removed to make way for the development, the majority of the most significant ones will be retained and I note that there are additional trees on the public green area in front of the site which add to the vegetative screening at this location. The proposed setting back of the wall to the east of the entrance (Option 2) would not have any additional impact on any significant trees and the angle of the wall at this point is such that there would be very little visual impact.

7.2.3.4 Given the large separation distances and the established treelines, most of which will be retained, it is considered that the proposed development, having regard to the design, siting and layout will contribute to the creation of new localised high points which would be acceptable in the context of the site.

7.2.4 Urban design

7.2.4.1 It is considered that the manner in which the proposed development addresses the adjoining streets and surrounding development results in a reasonable quality urban design. It is acknowledged that the site is highly constrained in terms of its location within the grounds of a Protected Structure, the parkland setting with a strong presence of a significant number of mature trees and the existing boundary enclosures, all of which make significant contributions to the character of the area. The applicant has also described the site as having a complex geometry with three separate character areas within the site.

7.2.4.2 Having regard to these constraints, it is considered that the design and layout are generally appropriate in urban design terms. It is acknowledged that it is difficult to create a sense of place whilst preserving the features that make up this character, but it is considered that an appropriate balance has been struck in this instance. The retention of the boundary walls reduces the opportunity for creating strong permeability and results in a somewhat inward looking development. However, the height and elevational treatment of the apartment blocks help to overcome this somewhat and the screening effect of the retention of the walls and trees compensates for the lack of integration with the adjoining streets. The permeability could, however, be improved by means of the introduction of pedestrian gates on the Kilgobbin Road frontage to encourage greater connectivity with the local shops and amenities at Sandyford Hall. This matter could be addressed by means of a condition, should the Board be minded to grant permission.

7.3 Impact on the Protected Structure

7.3.1 Setting of Lisieux Hall (P.S.)

7.3.1.1 The P.A. had acknowledged that the proposed development would sever the lands from the Protected Structure, which is contrary to the guidance in the Architectural Heritage Protection Guidelines, but it was considered that the retention of a substantial portion of the lands would continue to provide a setting for the Protected Structure. I would agree with this view. I note that the presence of the P.S. within the overall area is mainly evident from the high masonry/stone walls which encircle the curtilage of the P.S., together with the formal entrance from Murphystown Road and the substantial mature trees. The house itself is only visible from Kilgobbin Road from where it is glimpsed and largely hidden behind the boundary walls and mature vegetation. Within the walled site, the structural form of the site is largely defined by the long, tree-lined driveway which is flanked on either side by large expanses of parkland and closer to the P.S., the walled garden and stable block. It is noted that the parkland is mainly bordered by the mature trees rather than peppered by them. The trees generally follow the line of the external walls apart from those alongside the driveway, within the walled garden and along a line between the P.S. and the parkland. The majority of trees within the walled garden are not of any great significance.

7.3.1.2 The proposed development seeks to place one apartment block within each of the parkland areas, but sited such that they would retain the majority of the most significant trees, and to retain the driveway, formal entrance and the external walls. It is further proposed to site a short row of houses (6) close to the western boundary with Kilgobbin Road, which would be within the larger of the two parklands, and to site seven houses (reduced from 10) within the walled garden. It is considered that the proposed layout would retain the key features of the lands which provide the structural form of the setting for the Protected Structure. The

introduction of two 5-storey buildings would undoubtedly alter the character of the site, but it is considered that this is preferable to a larger number of low-rise units as the proposed built form facilitates a layout which is more respectful and sensitive to the setting of the P.S.

7.3.1.3 The retention of the external walls and mature large scale trees is considered, however, to be essential to the preservation of the character of the P.S. Concern has been expressed by the appellants that the revised proposal (Option 2, Drawing No. D1784-C-17, which had been requested/preferred by the P.A.), is likely to undermine the protection of the significant mature trees along the inside of the wall along Murphystown Road to the west of the entrance. (Note - Option 1 would not require the setting back of the wall). It is noted from the submitted drawings for Option 2, however, that the proposed set back would have no significant impact on the setting of the protected structure or visual amenity of the area as the existing tree no. 2472 would be retained and the realignment of the wall would be minimal. The retention and reinforcement of the tree line dividing the retained gardens of the P.S. from the proposed development is also of critical importance. I would also agree with the P.A.'s view that access to the retained P.S. should be from Ballyogan Road and that this access should be restricted to that serving Lisieux Hall only. Should the Board be minded to grant permission, it is considered that these matters should be addressed by means of appropriately worded conditions.

7.3.2 Impact on walled garden

7.3.2.1 The placement of houses within the walled garden is considered acceptable in principle as the Historic Landscape Report identified that much of the individual walls that enclose the garden are not original and that the gardens contain little historic planting. However, it was accepted that the gardens do provide a sense of enclosure within the grounds of the P.S. I would concur with the P.A. that the original layout and density of the proposed dwellings within the walled garden would have been inappropriate and that the revisions to the number, height and

layout would significantly reduce the impact of the proposed development on the character and setting of the P.S. The revised layout is more formal and retains the sense of enclosure of the walled gardens. It is considered that the reduced height, combined with the revised layout, would result in an acceptable form of development within the walled garden.

7.3.3 Landscape and trees

7.3.3.1 The majority of the trees to be felled are located along the driveway and within the walled garden, but these trees are generally of a domestic garden nature with the parkland trees largely retained. However, there are a number of trees inside the northern boundary wall which are also proposed to be felled. The trees adjacent to the eastern end of the northern boundary wall are of poor quality and/or of low significance in terms of their amenity value. However, the trees adjoining the western section of this wall are of more significance in terms of their visual amenity value. The Arboricultural Report indicates that these trees are mainly Sycamores which are relatively young and have sustained some damage. However, it is proposed to retain the magnificent Oak (2467) and the pair of Scots pines (2463/4) and to provide some replacement planting along this boundary. It is further proposed to retain a strategically located group of trees in the north-western corner of the site which would be of considerable amenity value in terms of softening and screening the development.

7.3.3.2 The appellants have expressed concern about the reliance on the retention of trees within some of the rear gardens as a mitigation measure for the screening of the development. There is only one location where this is likely to arise, which is the row of 6 houses backing onto Kilgobbin Road. It is noted that the trees to be retained are generally of a small scale and are not significant individually. Their retention would clearly be of benefit to the visual amenity of the area. However, I note that the views of the site from the west are mainly from Sandyford Hall which are obtained over a park with an abundance of trees. Thus the loss of some of

these individual trees in the future would be regrettable, but would not be of great significance.

7.3.3.3 It is noted that the P.A. decision has included a range of comprehensive conditions relating to the protection and retention of trees and to the landscaping of the site, including a requirement to pay a tree bond and the employment of both a qualified arborist and a landscape architect to oversee the works on site (Conditions 21, 22, 23 and 24). Should the Board be minded to grant permission, it is considered that similarly worded conditions should be attached to any such permission.

7.4 Traffic impact and road safety

7.4.1 Traffic impact on adjoining road network

7.4.1.1 The appellants are concerned about the impact of the additional traffic generated by the proposed development on the surrounding road network and in particular, on the Leopardstown Heights housing estate to the north and to the Gallops estate, which is on the eastern side of Murphystown Way. It is stated that there are long queues at the Murphystown Way and The Gallops junction in the mornings and that the roundabout at Murphystown Way and Murphystown Road junction is incapable of absorbing the additional traffic. It was requested that the Inspector visit the area during the morning rush hour to observe the congestion as the survey and analysis carried out by the applicant was based on afternoon traffic.

7.4.1.2 I inspected the area in the vicinity of the site on Tuesday 13th June at 8 am and observed the junctions adjacent to and in the vicinity of the site. Queues do form at the junction of The Gallops where it exits onto Murphystown Way. However, the queues dissipated quite quickly and new ones formed and dissipated in quick succession. This is a signalised junction and it is on the opposite side of Murphystown Way to the development site. The roundabout junction at Murphystown Road/Way serves as a local access only as Murphystown Road is a

cul-de-sac and the only other area served is Leopardstown Heights. The junction with Murphystown Way is via a small roundabout and a signal controlled junction. I observed this junction several times during the peak hour and noted queues of just one or two cars at most.

- 7.4.1.3 The submission by the applicant estimates that the proposed development would add less than 2.5% trips during the peak hour onto the network. It is noted that the planning authority Transport Dept did not raise objections to the traffic impact of the proposed development. I would agree with this view and consider that the likely impact of the proposed development on the surrounding road network is unlikely to be significant. I see no justification for requiring the provision of an alternative access to/from Kilgobbin Road, which is a narrow and busy road, or to/from Murphystown Way, which is a busy link road to the motorway. Murphystown Road is a quiet road which provides local access only and the additional traffic is unlikely to result in any significant increase in congestion. Observations in relation to the capacity of the Luas are considered to be outside of the remit of the Board.

7.4.2 Pedestrian environment

- 7.4.2.1 The site of the proposed development is located at a point of high pedestrian movement, due principally to its proximity to the Luas stops along Murphystown Way. The site is also close to uses which generate a high level of pedestrian activity such as the park and neighbourhood centre at Sandyford Hall, which is accessed by means of a busy roundabout junction at Kilgobbin Rd/Murphystown Rd. However, vehicular access is not permitted from the roundabout to the road serving the site. The submissions indicate that the semi-pedestrianisation of Murphystown Road has been achieved relatively recently. I noted from my morning peak hour inspection that the route is heavily used by pedestrians, and that the general area seems to have a high footfall leading towards Murphystown Way. However, the road is not entirely pedestrianised and serves a number of commercial operations as well as Lisieux Hall. The commercial operations tend to

result in illegal parking of vehicles on the double yellow lines along this road (as observed on the visit of 9th June), which hinders pedestrian movement and safety. The footpaths are very narrow and are not continuous. Thus the proposed development would give rise to additional traffic movements which could endanger pedestrians.

7.4.2.2 The proposed pedestrian improvements shown in Options 1 and 2 would (D1784-C-16/17) address these concerns. The P.A. prefers Option 2, which would require the slight realignment of the wall to the east of the entrance in conjunction with footpath build-outs on either side of the entrance. This option would not result in the narrowing of the road carriageway to the east of the entrance, whereas, Option 1 would reduce it from 6.6-7.3m to 6.1-5.1m. It is considered that the design and layout of Option 2, which would be in accordance with the guidance contained in DMURS, would be of benefit to the pedestrian environment, particularly given the very high footfall at this location.

7.4.2.3 The submitted drawings also indicate that the entrance will comply with the necessary sightlines, and that turning movements within the development will comply with the P.A. requirements. It is considered that the design and layout of the proposed development would be in accordance with the principles in DMURS which seek to ensure the creation of safe and attractive streets. As stated previously, I would accept that the revised proposals for improvement of the pedestrian environment at/close to the entrance would be appropriate in terms of visual amenity and impact on the historic setting of the P.S. However, the access to/from the retained Protected Structure should be restricted to the existing entrance from Ballyogan Road.

7.5 Adequacy of car parking provision

7.5.1 The appellants have stated that the streets in the vicinity of the site, and Leopardstown Heights estate roads in particular, experience significant parking congestion and illegal parking, due mainly to the proximity of the area to the Luas.

There is concern that the proposed development is not adequately served by on-site parking and as such, will result in an exacerbation of on-street parking in the area. The proposed parking provision is 86 spaces, of which 50 are to be contained in the two underground car parks (one under each apartment block) and accessed separately from the internal access road, with 9 additional surface parking spaces. The proposed parking provision for the apartments falls short of the requirement in the CDP (72) by 13 spaces. The parking provision for the housing would be in the form of 13 no. domestic garages and 14 no. surface parking spaces. This parking provision complies with the CDP policies and standards for domestic houses.

7.5.2 It is noted that the Transportation Dept. of the P.A. had indicated that there is a shortfall of 17 spaces. However, this was based on a combination of the 13 spaces required by Table 8.2.3 of the CDP and an additional 4 no. spaces (20-23) which were considered to be sub-standard. The P.A. attached a condition to its decision requiring the provision of a minimum of one space per unit and acknowledged that there are difficulties in schemes of this density accommodating the full amount of parking spaces at surface level whilst also ensuring that such spaces do not dominate the environment to the detriment of the public realm and open space. It was also stated in the P.A.'s response to the grounds of appeal (24/03/17) that such shortfalls could also be considered as demand management measures in certain circumstances.

7.5.3 The applicant states that the CDP standards amount to an average requirement of 1.3 spaces per apartment and 1.9 for houses, and it is submitted that the parking provision results in an average of 1.1 per apartment and 1.9 per house. It is further submitted that given the proximity to the Luas (3 minute and 2 minute walk time to the closest stops respectively) and bus routes; to the fact that the Luas runs every 4-10 minutes; the proximity (3 minute walk) to the shops at Sandyford Hall; and to the presence of high quality cycle lanes leading to the site would result in a development which would encourage more sustainable travel patterns.

7.5.4 It is acknowledged that the parking shortfall could potentially have an adverse impact on adjoining streets and estates which could have a negative impact on residential amenity and road safety. However, it is unlikely that the Gallops estate would be impacted in this way as it is on the far side of a busy road with signalised junctions. The impact on Leopardstown Heights, although more likely, is also considered to be somewhat remote as it is not immediately adjacent to the site and given that the proposed development is enclosed by walls. The impact on Sandyford Hall estate is also less likely due to the distance and nature of the road layout between it and the site. Kilgobbin Road and Murphystown Way are busy trafficked roads with no opportunity to park on or adjoining the carriageway. The most likely overflow area is Murphystown Road, which has double yellow lines on both sides and is a cul-de-sac. It is considered control of street parking is a matter for the local authority. Notwithstanding this, however, I would agree with the P.A. condition 16, which requires the provision of a minimum of one parking space per unit in addition to the proposed visitor parking spaces.

7.5.5 Given the constraints and sensitivity of the site, including the need to respect the setting of the P.S. and to preserve as many of the mature trees as possible, it is considered that the maintenance of good quality open space and public realm areas with good and safe pedestrian movement areas both within and adjoining the site are of critical importance. Thus any further significant enlargement of the underground car park could prove to be detrimental to the maintenance of the open space areas and significant trees. These factors, combined with the objective to provide for higher densities for residential development in appropriate areas, and the proximity of the site to high quality public transport mean that reduced parking standards could be considered acceptable in this instance, subject to a requirement of one space per unit as a minimum. This approach would be consistent with the policies of the P.A. contained in 8.2.4.5 of the CDP.

7.6 Ecological impact

7.6.1 The site is not located within any ecologically designated areas and no evidence has been provided by any party as to the evidence of bats on the site. It is intended to retain the majority of the trees on the site and as such, should any wildlife of conservation concern (including bats) be present, it is considered that the changes to the biodiversity within the site will not be very significant. It is considered therefore that there is no requirement for an ecological impact assessment in this instance.

7.7 Other matters

7.7.1 Land ownership

7.7.1.1 The observers have raised concerns regarding land ownership of the road where the proposed realignment of the wall on Murphystown Road is proposed to be carried out. The first party has pointed out that this realignment arose from a request by the planning authority and is contained in Condition 11 of the P.A. decision. Thus there is no requirement to furnish a copy of a letter of consent in this instance. It is further considered that the onus is on the applicant to ensure that sufficient legal interest exists in order to be in a position to implement any planning permission. I would refer the Board to Section 34(13) of the Planning and Development Act 2000 (as amended) which states that “a person shall not be entitled solely by reason of a permission under this section to carry out any development”.

7.7.2 Impact on Dwelling permitted under D15A/0568

7.7.2.1 Concern has been raised in respect of the impact of the proposed development on the residential amenities of a dormer dwelling which was the subject of a recent grant of planning permission (D15A/0568). I have reviewed the said permission on the P.A. website and note that this is for a dormer dwelling on the north-western corner of Old Murphystown Road and Kilgobbin Road. It is noted that the western

edge of Block A would be located opposite the permitted entrance driveway of the dormer dwelling, approx. 10m from the boundary, with the dwelling itself located to the west of the driveway. The permitted dwelling would be located behind a wall with the dormer window at the front facing the road.

7.7.2.2 It is considered that neither the western nor the northern elevations of the apartment block would directly overlook this dwelling and that the proposals to plant trees in the north-western corner of the appeal site would mitigate any overlooking to some extent. Notwithstanding this, it is considered that there is likely to be a degree of overlooking from the roof terrace garden at Level 04 on the north-western corner of Block A, but that this could be addressed by means of appropriate screening. Should the Board be minded to grant permission, a condition to this effect should be attached to any such permission.

7.8 Appropriate Assessment

7.8.1 I would refer the Board to Section 5.7 above in which I have set out the closest Natura 2000 sites, which are between 5 and 8 km from the site of the appeal. Having regard to the nature and scale of the proposed development and the nature of the receiving environment in a serviced and built-up area, (as described above), it is considered that no Appropriate Assessment issues arise. It is considered, therefore, that the proposed development would not be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1 I recommend that planning permission should be granted for the reasons and considerations as set out below.

9.0 Reasons and Considerations

9.1 Having regard to

- the residential zoning for the site as set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022,
- to the proximity of the site to high quality public transport corridor and to the proposals for improved pedestrian and cycling permeability
- to the scale and nature of the proposed development and to the nature and character of the site which contains a protected structure and mature trees and of the surrounding environment,

it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area or adversely affect the character and setting of the Protected Structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) No gates shall be erected at the entrance to the development.
 - (b) A pedestrian gate shall be provided onto Kilgobbin Road.
 - (c) Screening shall be provided to the roof terrace at the northwestern end of Level 04 of Block A to prevent overlooking to the north.
 - (d) The glazing within the two bathrooms on the front elevation of the gate lodge shall be manufactured opaque or frosted glass and shall be permanently maintained.

The revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the residential and visual amenities of the area, traffic safety and the sustainable development of the area.

3. A minimum of one parking space shall be provided for each residential unit hereby permitted, which shall be sold off in conjunction with the residential unit and not let or sold separately. The layout of the parking areas at surface level and underground shall comply with the detailed requirements of the planning authority. Details of all car parking allocation, including visitor spaces, shall be submitted with updated taking in charge plans to the planning authority for agreement in writing prior to the commencement of development.

Reason: In the interest of the residential and visual amenities of the area, traffic safety and the sustainable development of the area.

4. The access onto Murphystown Road shall be constructed in accordance with Drawing No. D1784-C-17 (Option 2). The realignment of the existing boundary wall to the east of the vehicular entrance and the provision of a 1.8 metre wide footpath adjacent to the southern edge of the public road shall be carried out at

the applicant's expense and shall be available for public use prior to the first occupation of the residential development. The design and layout of the junction of the proposed entrance and public footpath shall comply with the detailed requirements of the planning authority. Prior to the commencement of development detailed plans and particulars shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of pedestrian and road safety.

5. Access to Lisieux Hall and its associated grounds shall be from the existing entrance on Ballyogan Road only and shall be restricted to serve Lisieux Hall only. The existing tree line along the southern boundary with Lisieux Hall shall be retained and reinforced, details of which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of architectural heritage and road safety.

6. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of each house and each apartment in the proposed development shall be restricted to a single dwelling house (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of protection of residential amenity.

7. No access shall be permitted to any of the flat roofs or green roofs at Level 05 of Blocks A and B save for maintenance.

Reason: In the interest of public safety and protection of residential amenity.

8. Prior to commencement of development, the developer shall provide the following for the agreement of the planning authority

- (a) Survey drawings and a methodology for the taking down and rebuilding of the stone boundary wall along Murphystown Road to the east of the entrance.
- (b) The appointment of a conservation expert, who shall manage, monitor and implement works on the site including the demolition and reconstruction of the boundary wall and all works within and adjacent to the walled garden in order to protect the walls and ensure adequate protection of the historic fabric during those works.
- (c) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and in the “Architectural Heritage Protection Guidelines for Planning Authorities” (Dept. of Arts, Heritage and the Gaeltacht, 2011).
- (d) The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

9. 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.

10. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority prior to the commencement of development and shall be carried out within the first planting season following substantial completion of the external construction works. This scheme shall include the following

- (a) A scaled landscape masterplan with cross-sections showing the general layout and hard and soft landscape treatment of all external areas/spaces, boundaries, structures and features.
- (b) The retention of the large mature trees along the northern boundary and in the north-west corner of the site adjoining the western boundary.
- (c) Proposed location of trees and other landscape planting including details of proposed species and settings.
- (d) Details of all hard surface finishes, including samples of proposed paving materials, kerbing and road surfaces.
- (e) Details of proposed play equipment and street furniture, including bollards, lighting fixtures and seating.
- (f) Details of all boundary treatments at the perimeter of the site including heights, materials and finishes.
- (g) A timescale for the implementation of all proposals, including the specified maintenance operations.

Reason: In order to screen the development and assimilate it into the surrounding townscape and in the interest of visual amenity.

11. 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. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

12. Prior to commencement of development, the developer shall provide the following for the agreement of the planning authority

- (a) A schedule of landscape maintenance which shall cover a period of at least three years and shall include details of the arrangements for its maintenance.
- (b) The appointment of a landscape architect/designer who shall manage and implement the landscaping scheme and maintenance schedule.
- (c) The appointment of a qualified arborist for the entire period of construction to monitor works on the site and to ensure the implementation of all the recommendations in the tree reports and plans.

Reason: In the interest of visual amenity.

13. Prior to the commencement of development or any related construction activity or tree felling on site, the applicant shall lodge a tree bond to the value of €50,000 with the planning authority to ensure the protection of trees on and immediately adjacent to the site.

Reason: In the interest of visual amenity.

14. All trees within and on the boundaries of the site shall be retained and maintained, with the exception of the following
- (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
 - (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.
 - (c) Retained trees shall be protected from damage during construction works. Within a period of six months following the substantial completion of the development, any planting which is damaged or dies shall be replaced with others of a similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interest of visual amenity.

15. 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 the commencement of development and shall include prior consultation with Transport Infrastructure Ireland in respect of the interfaces between the site and the Luas Light Rail System. 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.

16. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

17. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Policy Document (September 2011 – updated April 2013) and Taking in Charge Procedure Document. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

18. 100 no. bicycle parking spaces and 4 no. motorcycle spaces shall be provided within the site. The layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interests of sustainable transportation.

19. 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 house.

Reason: In the interests of amenity and public safety.

20. 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.

21. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car parking areas shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

22. Proposals for an estate/street name, house 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 numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interests of urban legibility.

23. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot and for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

24. 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 social and affordable housing in accordance with the requirements of section 96 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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 for the area.

25. 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, public open space 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.

26. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

27. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution

Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Mary Kennelly
Planning Inspector

21st June 2017