



An  
Bord  
Pleanála

## Inspector's Report ABP 302818-18

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<b>Development</b>	Construction of two storey dwelling.
<b>Location</b>	Rear of Hamilton Lodge (A Protected Structure Ref. RPS 374), Mount Merrion Avenue and South Hill Avenue, Blackrock, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D18A/0611.
<b>Applicant</b>	David Keogh.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	1. Ann Devlin, James Devlin, Anna Devlin & Nicholas Devlin. 2. Clodagh Moreland.
<b>Observers</b>	None.

**Date of Site Inspection**

16<sup>th</sup> January 2019.

**Inspector**

Dáire McDevitt

## **1.0 Site Location and Description**

- 1.1 Hamilton Lodge is located on the northern side of Mount Merrion Avenue and forms the corner with South Hill Avenue. The area is a mature suburb in south county Dublin c 1.5km southwest of Blackrock village, consisting of a mixture of house types, design and scale ranging from detached, semi-detached, terraced houses to apartment blocks of varying architectural periods. Mount Merrion Avenue forms part of the N31 and connects to the Stillorgan Road (N11).
- 1.2 The site with a stated area of c. 0.078 hectares is the former rear garden of Hamilton Lodge (Record of Protected Structures No.374). Hamilton Lodge is one of a pair of Regency villas, paired with Oak Lodge (RPS No. 364) to the north, with semi-detached coach houses. Hamilton Lodge, dating from the c1800s, marks the entrance to South Hill Avenue.
- 1.3 The site is bounded by Mount Merrion Avenue to the south and South Hill Avenue to the east by stone rubble walls with a render finish to the roadside edge. At present the site is accessed by foot along the side of Hamilton Lodge. The entrance to Hamilton Lodge is on the corner of the junction of Mount Merrion Avenue with South Hill Avenue, the current proposal include a new vehicular and pedestrian entrance off Mount Merrion Avenue. There is a pedestrian signalised crossing on Mount Merrion Avenue beside the entrance to Hamilton Lodge.

## **2.0 Proposed Development**

- 2.1. Permission is sought for a part single storey, part two storey contemporary style flat roofed house in the original rear garden of Hamilton Lodge, a protected structure, which is in separate ownership.

The house has a gfa of c.320sq.m. A mixed pallet of finishes and materials is proposed comprising of brick to the ground floor and a mixture of render and cement fibre boards to the first floor. The flat roof over the first floor to be clad in zinc.

A detached single storey plant room is also proposed in the north eastern section of the site.

Vehicular and pedestrian entrances are proposed off Mount Merrion Avenue.

A timber fence is proposed over the existing stone wall to increase the height of the boundary with Oak Lodge to c. 2m.

The application includes the following documentation:

- Design Report.
- Report on the Architectural/Historic Significance of Hamilton Lodge (a protected structure) on the junction of South Hill and Mount Merrion Avenues and Observations on the Impact of the current proposal.
- 3D views.
- Architectural visualisations.
- Tree Survey Report and Tree Protection Plan.

## **2.2. Further Information (31<sup>st</sup> August 2018)**

- Details of boundary treatment for the side (northeast) and rear (northwest).
- Details and elevations for plant room, this includes details of proposed plant and associated noise levels.
- Revised public notices.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Grant permission subject to **14** conditions. These include:

#### **No. 3**

*Development described in class 1 or 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling without a prior grant of planning permission.*

**Reason:** *In the interest of protecting the special character.*

#### **No. 4**

*Refers to external finishes (materials, colours and textures) to be agreed with the Planning Authority.*

**No. 8**

*Only one of the existing verge trees (identification Ref. T645) on Mount Merrion Avenue shall be removed, at the applicants own expense, in order to provide adequate visibility from/to the proposed new vehicular entrance, and no additional verge trees shall be removed, without the written agreement of the Planning Authority (Traffic Section Municipal Services Department).*

*Reason: In the interest of road safety and visual amenity.*

**No. 9**

*Refers to a special contribution under section 48(2)(c) of €500. This is required due to the lack of a suitable location in the immediate vicinity of the removed tree (identification ref. T645) where a replacement tree could be placed.*

**No. 10**

Refers to the relocation of an existing 'traffic lights ahead and speed limit' sign to adjacent to the existing access to No. 123 Mount Merrion Avenue.

**3.2. Planning Authority Reports**

**3.2.1. Planning Reports (16<sup>th</sup> August 2018 and 25<sup>th</sup> September 2018).**

This formed the basis of the Planning Authority's decision. The proposal was considered acceptable following the submission of further information that addressed outstanding issues relating to access/signage, boundary treatment and the plant room. Points of note raised in the reports include:

- The principle of the development was considered acceptable.
- The proposal complies with Section 8.2.3.4 (v) relating to infill developments and section 8.2.3.4 (vii) relating to development within close proximity of protected structures.
- The proposed site plan is considered a rational response to the site and its setting. It was also noted that the building line of the dwelling would align with the building line of Hamilton Lodge.

- The proposal would not have a serious negative impact on the adjacent protected structure or their setting.
- The design and scale of the proposal is acceptable.
- Overlooking of opposing windows does not arise. Limited overlooking of adjoining private amenity space.
- The proposed house, by virtue of its positioning on site, would not give rise to serious overshadowing impacts.
- The proposed development would not be overbearing when viewed from adjoining properties or the adjoining public roads due to the siting of the house within the site, the orientation and relationship with adjacent properties. It does not detract from the streetscape.
- There is no objective in the current County Development Plan to protect trees or woodlands on the site.
- Noise levels emanating from the proposed development would not detract from the adjoining residential amenities.

**Appropriate Assessment Screening Report** (15<sup>th</sup> August 2018) concluded that it was clear from the location, nature and size of the project that there would be no likely significant effects on a Natura 2000 site as there are no pathways including hydrological/hydrogeological links from the proposed development site to the identified Natura 2000 sites.

### **3.2.2. Other Technical Reports**

**Transportation Planning Section** (14<sup>th</sup> August 2018 & 25<sup>th</sup> September 2018).

The report concluded that the requirement set out in the national guidance for a planning authority to refuse permission for a new access onto a national route does not apply in this instance on the basis that the Mount Merrion Avenue section of the N31 National Route has a 50km/h speed limit, 3 no. separate signal controlled pedestrian crossings and 1 no. signal controlled junction, and a large amount of existing individual vehicular entrances along the road.

No objection following the submission of further information that addressed outstanding concerns relating to access and traffic management signage.

Conditions were recommended relating to access, traffic management, and removal of verge trees along Mount Merrion Avenue and a special contribution of €500 to be levied in lieu of a replacement tree.

**Drainage Division** (24<sup>th</sup> July 2018). No objection.

**Conservation Officer** (20<sup>th</sup> September 2018). No objection on built heritage grounds.

Points of note included:

- The scale, height and massing of the proposed dwelling, its separation distance from the protected structure together with its contemporary design were considered acceptable and accord with section 8.2.11.2 (iii).
- The proposal complies with Section 8.2.11.2 (iii) of the Development Plan and section 13.5 of the Architectural Heritage Protection Guidelines and addresses the previous built heritage concerns under the earlier proposal (2017 application for 2 houses), and it was concluded that the development would not result in any negative impact on the setting of the protected structures.

### **3.3. Prescribed Bodies**

**Irish Water** (27<sup>th</sup> July 2018). No objection.

### **3.4. Third Party Observations**

Submissions from the appellants were received by the planning authority at application stage (initial and subsequent further information). The issues generally reflect the grounds of appeal and shall be dealt with in more detail in the relevant section of this report.

## **4.0 Planning History**

**Application site:**

**Planning Authority Reference No. D17A/0479** refers to a 2017 decision to refuse John Flood permission for 2 no. two storey houses with individual entrances off the public road. Permission refused for 4 reasons relating to: 1) Traffic safety and non-compliance with policy for Motorways and National

routes. 2) Overbearing and overpowering impact due to the design, scale and height of the proposal that would have a detrimental impact on the character and setting of the protected structures. And the removal of the original boundary wall would result in the loss of an original feature/fabric of the protected structure.3) Overdevelopment of the site and overlooking of adjoining property and 4) Excessive removal of trees would be contrary to section 8.2.8.6 of the Development Plan

### **Hamilton Lodge.**

**Planning Authority Reference No. D01A/1233** refers to a 2001 grant of permission for alterations to Hamilton Lodge.

**Planning Authority Reference No. D98B/0160** refers to a 1998 grant of permission for an extension.

## **5.0 Policy Context**

### **5.1 Dun Laoghaire-Rathdown County Development Plan 2016-2022**

- Land Use Zoning Objective 'A' *To protect or improve residential amenity.*

### **Built Heritage**

**Appendix 4** includes the Record of Protected Structures & Architectural Conservation Areas. The Record of Protected Structures does not define the curtilage for the Protected Structures at Hamilton Lodge.

The structures of most relevance in this instance are those immediately adjoining the application site:

- Hamilton Lodge (RPS No.374).
- Oak Lodge (RPS No.364)

### **General Development Management Standards:**



**Section 8.2.11.2 (iii)** refers to development management standards for development within proximity to a Protected Structure and the requirement to protect its setting and amenity.

**Section 8.2.3.4(vii)** refers to infill sites. Such proposals shall be considered in relation to a range of criteria including respecting the massing and height of existing residential units.

**Section 8.2.8.4 (i)** sets out the private open space requirements for private houses.

**Section 8.2.8.4 (ii)** refers to separation distances and the standard garden depth of 11 metres.

**Section 8.2.4.9 (i)** refers to the minimum width of 3m and maximum of 3.5m required for vehicular entrances.

## **5.2 Guidelines**

### **Architectural Heritage Protection Guidelines 2011 (DAHG)**

These provide guidance on architectural heritage protection.

### **Spatial Planning and National Roads Guidance for Planning Authorities (2012), Department of Environment, Community and Local Government.**

**Section 2.5** sets out the required Development Plan policy on access to National roads.

*Section 2.5 of the Guidelines states that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kph apply. The proposal, if approved, would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads.*

## **5.3 Natural Heritage Designations**

There are no relevant sites in the immediate vicinity.

The nearest designated sites are:

- South Dublin Bay and River Tolka SPA (site code 004024) c. 1.2km from the site.
- South Dublin Bay SAC (site code 000210) c. 1.2km from the site.

## **5.4 Environmental Impact Assessment Screening**

**5.4.1** Having regard to the nature and scale of the development which consists of a new dwelling in a built up suburban area there is no likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

Two third party appeals were lodged:

1. This appeal was lodged by four parties:

- Ann Devlin, Oak Lodge, South Hill Avenue, Blackrock, Co. Dublin (adjoining the site).
- James Devlin, 11 Sion Hill Avenue, Harolds Cross, Dublin 6W.
- Anna Devlin, 25 Fitzwilliam Street Upper, Dublin 2.
- Nicholas Devlin, 25 Lad Lane, Dublin 2.

2. Clodagh Moreland, Biscayne, South Hill Avenue, Booterstown, Blackrock, Co. Dublin (to the north of Oak Lodge).

There is an overlap and reiteration of issues throughout both of the appeals.

Each appeal is summarised below.

**6.1** The appeal by **Ann Devlin & Others** is summarised as follows:

### **6.1.1. Design & Architectural Heritage:**

- Hamilton Lodge forms part of a series of six houses, five of which are on the Record of Protected Structures.

- Reference to a report by the Conservation Division on a previous application on the site that was refused permission in 2017 and serious concerns noted at the time relating to the impact on adjoining protected structures.
- Any development should in terms of design, form, scale, height, proportion, siting and materials relate to, and compliment the special character of the adjoining protected structures.
- The proposal would detract from the character and setting of Hamilton Lodge, a protected structure. It results in no rear amenity space being retained by the main house.
- The proximity of the proposed development to Mount Merrion Avenue would have a negative impact on the streetscape and the existing built environment.

#### **6.1.2 Impact on adjoining properties**

- The height, bulk and massing of the proposed development would have a significant negative impact on the private open space and the amenity of Oak Lodge (where the appellants grew up). The development is incompatible with Hamilton Lodge, a protected structure, and would be detrimental to the local amenity. It does not correspond with the concept of 'sensitive infill' as outlined in the current County Development Plan.
- The proposed combination of roof type, cubic shape and height fails to comply with the requirements for infill housing as set out in the County Development Plan.
- The bulk of the proposed house is disproportionate to the site size and would produce an unreasonable and intrusive impact on the amenity of Oak Lodge. The location of the development at the edge of the site at the boundary with Oak Lodge is unfair and disproportionate attempt to maximise the scale of the proposed development at the expense of the amenity of Oak Lodge

- The proposal would have a negative impact on Oak Lodge, Hamilton Lodge and the surrounding area. And, therefore, would be inconsistent with the provisions of the current County Development Plan.

### **6.1.3 Traffic**

- The reason for refused on traffic ground in 2017 still stands:
 

*Transportation Planning consider that the proposed two no. new vehicular entrances onto Mount Merrion Avenue are not in accordance with Transport Infrastructure Ireland's policy and the Department of Environment, Community and Local Governments' Spatial Planning and National Roads Guidelines for Planning Authorities' (2012) to protect all National routes from frontage access and the proposed 2 no. vehicular entrances onto Mount Merrion Avenue are not in accordance with the current Dun Laoghaire Rathdown County Development Plan 2016-2022 Policies ST26 (Motorways and National Routes) to provide, protect and maintain the Country's National Road network for the safe and efficient movement of people and goods both within and through Dun Laoghaire Rathdown. The proposed development, by itself or by the precedent that the grant of permission for it would set for other relevant development, would adversely affect the use of Mount Merrion by traffic.*
- The proposal would constitute a traffic hazard. Traffic lights have recently been installed between the entrance to Hamilton Lodge and the entrance to the proposed new house. Furthermore, the proposed entrance is not adequately recessed in order to provide adequate sightlines.

### **6.1.4 Trees**

- The considerations in respect of trees are inadequate. The quantity of trees to be removed is not consistent throughout the documentation submitted.
- Concerns that the construction works would result in damage to trees within the curtilage of Oak Lodge.

### **6.1.5 Plans & Particulars**

- The plans do not clearly indicate the location of the proposed development within the site or its relationship with the existing built environment.
- The details contained in the design report are vague when it comes to heights and boundary distances.

**6.2** The appeal by **Clodagh Moreland** is summarised as follows:

#### **6.2.1 Architectural Heritage**

- No report from the Conservation Officer to assist in the assessment of the application. The appellants have referenced the Conservations Officer's comments on the previous application (2017) which noted that a sensitive approach would be required that respects and enhances the setting and amenities of the existing protected structures.
- The proposal has not regard to or recognition on the site's original function as a garden forming an intrinsic part of the curtilage of Hamilton Lodge. Therefore would detract from the character and setting of Hamilton Lodge and set an undesirable precedent that would ultimately seriously damage the established character of the area
- The excessive height of the proposed plant room would obstruct views.

#### **6.2.2 Impact on adjoining properties**

- A diminution in residential amenities of adjoining properties as a result of the impact of the plant room (noise and views).

#### **6.2.3 Traffic**

- The opening of a new entrance would result in a serious obstruction for road users (pedestrians, cyclists and vehicles). The proposed development as granted planning permission would adversely affect the safe and efficient movement of traffic on a national route (Mount Merrion Avenue).

#### **6.2.4 Trees**

- The significant quantum of tree removal would have an adverse impact on the established character of the Protected Structure and the wider area, along with resultant impacts on trees where the proposal encroaches on tree root protection areas.

#### **6.2.5 Planning History**

The current proposal has not addressed/overcome the four reasons for refusal under Reg. Ref. D17A/0479 relating to:

- 1) Traffic safety and non-compliance with policy for Motorways and National routes.
- 2) Overbearing and overpowering impact due to the design, scale and height of the proposal that would have a detrimental impact on the character and setting of the protected structure. And the removal of the original boundary wall would result in the loss of an original feature/fabric of the protected structure.
- 3) Overdevelopment of the site and overlooking of adjoining property.
- 4) Excessive removal of trees would be contrary to section 8.2.8.6 of the Development Plan

#### **6.3 Applicant Response**

This is mainly in the form of a rebuttal to both appeals. Points of note include:

- Reference to a Conservation report dated 20<sup>th</sup> September 2018 which concluded that “the development complies with Section 8.2.11.2 (iii) of the current County Development Plan and section 13.5 of the Architectural Protection Guidelines and addresses previous built heritage concerns expressed under the earlier application, and concur with the conclusion that the development would not result in any negative impact on the setting of the Protected Structure.’
- The Conservation Report submitted with the application attempted to address all aspects, including impact from Oak Lodge. As access was not

available to the applicant, a computer generated model was used to create the view from Oak Lodge.

- The building line of the proposal was derived by continuing the building line of Hamilton Lodge, and the Gate Lodge to the west along Mount Merrion Avenue.
- The proposal would not result in a significant increase in overshadowing from that currently experienced due to the extensive tree coverage and would not seriously injure the residential amenity of adjoining properties, Oak Lodge in particular. The montages shows trees in full foliage as photographs were taken in June.
- The new development would be screened from Oak Lodge by the party wall structures 'existing stables' and by existing trees and ground planting.
- To clarify the extent of tree removal, the applicant has stated that 12 trees within the site will be removed and 1 small tree from the grass verge to the front of the site to accommodate the proposed vehicular access. Of these 12 trees, 11 are category C and 1 is category U. The appellants have referred to the removal of 16 trees. There is a grouping of 4 trees in the northern corner of the site that will be removed, this are Acer Palmatum and their removal is not considered significant by the applicant.
- The main impact on Hamilton Lodge would be the reduction in the available garden areas and enclosure of the ancillary out building from the development site. It is noted however that this section of the garden is quite separated from the existing house. The walled garden and yard area will be retained on all sides of the protected structure.
- The height of the plant room projects c. 300mm above the height of the boundary wall, not 1.2m as stated by the appellant.
- Mount Merrion Avenue has a designated speed limit of 50kmh. There are numerous existing individual vehicular entrances off Mount Merrion Avenue where the footpaths/grass verges allow for adequate sightlines. The Traffic and Transport Division considered that the provision of a vehicular entrance onto Mount Merrion Avenue at this point would be

acceptable on the basis that the Mount Merrion Avenue section of the N31 National Route has a 50km/hour speed limit, 3 no separate signal controlled pedestrian crossings and 1 no. signal controlled junction, and a large number of existing individual vehicular entrances along the road.

The proposal for a new single family dwelling was carefully considered and it seeks through addressing conservation concerns to limit the impact as far as possible on the protected structure and its immediate surroundings. The proposal would be complimentary and sympathetic to the surrounding context and scale. It would enhance the architectural character of the area and would provide a development worthy of its location.

#### **6.4 Planning Authority Response**

The Board is referred to the previous Planner's Report. It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

#### **6.5 Observations**

None.

#### **6.6 Prescribed Bodies.**

The appeal was referred to the **Department of Culture, Heritage and The Gaeltacht.**

No response received.



## **7.0 Assessment**

Two third party appeals have been lodged. There is a series of overlap and reiteration in the issues raised in the grounds of both appeals, I therefore propose to assess the issues by topic. The issue of appropriate assessment also needs to be addressed. The main issues are:

- Design & Architectural Heritage
- Impact on adjoining properties.
- Traffic/Access.
- Other
- Appropriate Assessment.

### **7.1 Design & Architectural Heritage**

- 7.1.1 Permission is sought for a contemporary style part single storey part two storey house in the former rear garden of Hamilton Lodge which runs parallel to Mount Merrion Avenue.
- 7.1.2 A common thread through the appeals has been the issue of Architectural Heritage, whether the proposal would detract from the character and setting of Hamilton Lodge and Oak Lodge in particular.
- 7.1.3 The application site is within the curtilage of a Protected Structure (Hamilton Lodge, RPS Ref. No.374), occupying its original rear garden. The site also adjoins Oak Lodge (RPS ref. 364). The two are part of a pair of regency style villas with semi-detached coach houses along South Hill Avenue. The proposed development includes works to the original boundary wall of Hamilton Lodge along Mount Merrion Avenue. The Conservation Division noted no objection to opening a new entrance at this location.

- 7.1.4 The bulk of the application site is physically separated from the two adjoining protected structures, Hamilton Lodge and Oak Lodge, by mature boundaries. Access at present is via Hamilton Lodge, however the site (former rear garden) is in separate ownership. In my view the siting of the proposed house within the site and the retention of mature trees where possible will not detract from the character and setting of these protected structures. Having regard to the nature of the site and its current relationship with Hamilton Lodge I am satisfied that the principle of developing this site is acceptable subject to compliance with development management standards and creates an acceptable relationship between the new dwelling and Hamilton Lodge and Oak Lodge.
- 7.1.5 The site is sensitive due to its location along Mount Merrion Avenue adjoining Hamilton Lodge and Oak Lodge, both of which, as highlighted previously, are on the Record of Protected Structures. The applicant has attempted to address the sensitivities and constraints of the site through the use of a contemporary design solution. There is a clear distinction between the old and the new. The effect is not to jar with the character of the existing built environment but to add a contemporary element that enhances the architectural grain of the area. In this instance, I am satisfied that the proposal is an appropriate design intervention at this location as it adequately address the sensitives of the area which is unique due the variety of house types that exist, ranging from detached houses on large sites, protected structures of varying styles and periods, terraced two storey, detached two storey and modern interventions in the form of dwelling and apartment blocks. This variety lends the site suitable for a modern intervention that would contribute to and add to the narrative of the streetscape while at the same time retaining its character.
- 7.1.6 Hamilton Lodge and its gardens are enclosed and contained within stone walls and mature vegetation, resulting in no views into the site from outside this boundary at ground level. At the time of inspection I noted that there were limited intermittent views of Oak Lodge due to boundary treatment, extensive tree converge within the curtilage of Oak Lodge and the relationship of the structures to each other. In my view, the proposed development in terms of siting, design and overall form would not detract from the architectural

composition of Hamilton Lodge or adjoining structures, in particular the appellant's house, Oak Lodge.. Furthermore, I consider the provision of a plant room, while projecting c. 300mm above the boundary wall with Oak Lodge and the first floor element of the house visible from Mount Merrion Avenue, its design and use of materials has cognisance of the importance of this streetscape and adjoining protected structures and would not form a discordant feature which would detract from the architectural grain of the area. On the southern side of Mount Merrion Avenue, opposite its junction with South Hill Avenue are the 'Villa Nova Flats', a three storey flat roofed part redbrick part render development. The Council's Conservation Officer concluded that the proposed development would not have a negative impact on the setting of the protected structures and had no objection to the proposed development on built heritage grounds.

7.1.7 It is my considered opinion that the proposed infill dwelling would be of an appropriate design idiom and scale, would replace a former domestic garden, and would enhance rather than detract from the amenities of the area. I am satisfied that the overall scale, massing, form, height and design of the dwelling is satisfactory in terms of protecting the character and setting and amenities of the adjoining protected structures. I am satisfied that the proposal complies with policy Section 8.2.11.2 (iii) of the Development Plan.

7.1.8 The appellants have raised concerns that the proposal in its current form would constitute overdevelopment of the site due to its scale. I consider the proposal broadly in compliance with the County Development Plan Standards and does not constitute overdevelopment.

## **7.2 Impact on adjoining properties**

7.2.1 The appellants raised concerns that the proposal would result in overlooking, overshadowing and have an overbearing impact on adjacent properties, in particular Oak Lodge.

7.2.2 Section 8.2.8.4 (ii) of the County Development Plan refers to the usual requirements for a minimum separation distances of 22 metres between

opposing rear first floor windows. The separation distance as set out in the Plan refers to opposing first floor windows which is not an issue in relation to Oak Lodge to the north or the adjoining property to the west. There is c.23.9m between the first floor opposing windows at Hamilton Lodge, this complies with the requirements of Section 8.2.8.4 (ii) of the current Plan.

7.2.3 I am also satisfied that direct overlooking of the private amenity space of adjoining properties, in particular Oak Lodge and Hamilton Lodge, is not a significant issue due to existing boundary treatment, the layout and orientation of the properties and their relationship to the proposed dwelling. I am, therefore, satisfied that the proposal will not result in overlooking of Oak Lodge or Hamilton Lodge and would not seriously injure the residential amenities of these properties and the appeal should be not be upheld on these grounds

7.2.4 The Proposal complies with the standards for private open space as set out in Section 8.2.8.4 of the Development Plan. Ample private amenity space is retained by Hamilton Lodge. I am of the view that the overall quality and quantity of private open amenity, which is provided for future residents of this dwelling and that retained by Hamilton Lodge would be acceptable and not out of context given the grain of development in the area.

### **7.3 Access and Traffic**

7.3.1 Concerns have been raised by the appellants in relation to the opening of a new vehicular access onto Mount Merrion Avenue, a national route. The site is bounded by a priority bus corridor and adjoins pedestrian signalised junction. The Council's Transportation Division concluded that the requirement for a planning authority, under national guidance, to refuse permission for a new access onto a national route does not apply in this instance on the basis that the Mount Merrion Avenue section of the N31 National Route has a 50km/h speed limit, 3 no. separate signal controlled pedestrian crossings and 1 no. signal controlled junction, and a large amount of existing individual vehicular entrances along the road.

7.3.2 While I recognise that Mount Merrion Avenue is a busy road within a suburban setting. In my view the proposal for a new entrance to serve a single residential unit where traffic movements would be minimal would not create a traffic hazard. The access arrangements, are in my view, satisfactory having regard to the level of traffic and the speed of the vehicles travelling along this section of Mount Merrion Avenue. The Conservation Division and Transportation Planning Section noted no objection to opening a new entrance at this location.

7.3.3 In my opinion, the proposed development would generally accord with the provisions of the County Development Plan. The Planning Authority raised no objection on traffic grounds and if the Board is of a mind to grant permission, I am satisfied that outstanding requirements could be dealt with by condition.

7.3.4 I, therefore, consider that the grounds of appeal in relation to this matter should not be upheld.

#### **7.4 Other issues.**

7.4.1 The Observers have raised concerns that the proposal requires the removal of mature trees within the site and trees along the roadside verge to facilitate the proposed entrance. There are no TPOs attached to these trees, the submission of a tree survey and a Tree Protection Plan is noted. The removal of trees to facilitate the construction of the dwelling is noted and considered acceptable. I consider that any outstanding issues relation to landscaping and tree protection or removal can be required by condition if the Board considers granting permission.

#### **7.5 Appropriate Assessment**

7.5.1 Having regard to nature and small scale of the development and the location of the site in a fully serviced built up area, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

Having regard to the sensitive location of the site adjacent to protected structures, the nature, scale and design of the proposed dwelling and the provision of the Dun Laoghaire County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed dwelling would integrate in a satisfactory manner with the existing built development in the area, would not detract from the character or setting of nearby Protected Structures, would not create a traffic hazard and would adequately protect the residential amenity of adjacent property. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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

**Reason:** In the interest of protecting the character of the Area.

3. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of

the proposed dwelling house without a prior grant of planning permission.

**Reason:** In the interest of residential amenity

4. A comprehensive landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

This scheme shall include the following:-

- (a) A detailed tree Survey and Arborist Report for the entire site.  
Identified trees shall be fenced off and protected during the construction of the development and shall be retained thereafter.
- (b) Details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for steps, footpaths, kerbing and boundary treatments within and bounding the development;
- (c) Proposed locations of new trees and other landscape planting in the development, including details of proposed species and settings;
- (d) The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme

**Reason:** In the interest of protecting the character of the area.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity

6. 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

7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

8. Access arrangements shall comply with the detailed standards for Planning Authorities for such works.

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

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Dáire McDevitt  
Planning Inspector

24<sup>th</sup> January 2019



