



An
Bord
Pleanála

Inspector's Report ABP-303095-18

Development

The proposed development comprises: 2 no. new single storey 2 bed dwelling units (each c. 92.5 sq.m. in size) incorporating a pitched roof, located to the south-east of Herbert Hill House (A Protected Structure), 2 no. new car parking spaces to serve these units, and all associated site development and landscape works, including: altered public lighting, open space, tree planting and fire tender access. This application involves development within the grounds of Herbert Hill House (A Protected Structure). This planning application seeks revisions to previously permitted development under Dún Laoghaire Rathdown County Council (DLRCC) Reg. Ref. D15A/0405 / An Bord Pleanála (ABP) Reg. Ref. PL06D.245456, as amended by DLRCC Reg. Ref. D17A/0071 / ABP Reg. Ref. PL06D.248343. This application site area measures c. 0.09 Ha and forms part of the wider

	permitted development area at this site of c. 1.07 Ha.
Location	Herbert Hill, Sandyford Road, Dundrum, Dublin 14.
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/0872
Applicant(s)	Glenveagh Homes Ltd.
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	Glenveagh Homes Ltd.
Observer(s)	None.
Date of Site Inspection	28 th February, 2019
Inspector	Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located on the edge of Dundrum town centre, approximately 1.7km north of the M50 Motorway and less than 200m east of the Dundrum Shopping Centre, where it occupies a position along the eastern side of Sandyford Road in Dublin 14. The surrounding area is dominated by the nearby shopping centre and multiple examples of modern office / residential / mixed-use accommodation, including several high-rise apartment schemes such as the 'Riversdale' complex to the immediate southeast of the site. The site itself has a stated site area of 0.09 hectares, is irregularly shaped, and comprises the south-eastern extent of a larger landholding which is presently undergoing redevelopment, including the construction of a series of apartment blocks (i.e. 'Glenveagh Herbert Hill') and the renovation / conversion of Herbert Hill House into 2 No. residential units. The subject lands retain a sylvan quality and are dominated by a series of mature trees alongside Sandyford Road to the southwest. They are bounded by a high stone wall and the Luas line to the northeast with a number of mews structures / outbuildings associated with Herbert Hill House to the northwest.

2.0 Proposed Development

2.1. The proposed development involves the amendment of the residential scheme previously permitted on the wider site under PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456 (as subsequently amended by PA Ref. No. D17A/0071 / ABP Ref. No. PL06D.248343) through the construction of 2 No. additional, single storey, two-bedroom, 'mews'-style dwelling houses within the grounds of Herbert Hill House (a protected structure) to the southeast of the main residence alongside the north-eastern site boundary and adjacent to the Luas line. The design of each of the proposed units is based on a contemporary interpretation of the traditional vernacular with an asymmetrical composition, pitched roof construction, and external finishes including selected colour render, brickwork, and a tiled roof. Each of the proposed units will have an approximate floor area of 92.5m² and an overall ridge height of c. 5.065m. Provision has also been made for the inclusion of dedicated on-site car parking. Water and sewerage services will be available from the public mains network via the adjacent apartment scheme presently under construction.

N.B. With respect to the applicant's Part V obligations under Section 96 of the Planning and Development Act, 2000, as amended, it has been indicated that this will be addressed by way of compliance with Condition No. 11 of PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456 and Condition No. 15 of PA Ref. No. D17A/0071 / ABP Ref. No. PL06D.248343.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 31st October, 2018 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 3 No. reasons:

- It is considered that the proposed development by virtue of its proximity to the Protected Structure would have a significant adverse impact on the character and setting of the Protected Structure, would materially contravene Policy AR1 of the County Development Plan 2016-2022, would be contrary to the provisions of Section 13.5 of the Department of Arts, Heritage and the Gaeltacht's 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011) issued to Planning Authorities under section 28 of the Planning & Development Act, 2000 (as amended) and would be contrary to the proper planning and sustainable development of the area.
- The proposed development would further reduce the quantity and quality of public/communal open space available for residents of the proposed development from that permitted on site. To permit the further reduction of open space would be contrary to the provisions of Section 8.2.8.2 (Public/Communal Open Space – Quantity) of the County Development Plan 2016-2022, would reduce the quality of the permitted living environment for future residents of the overall development and would be contrary to the proper planning and sustainable development of the area.
- The development would contravene materially Condition 2 attached to the parent permission on site; PL06D.245456.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context, planning history, and the applicable policy considerations before critically analysing the proposal in light of the rationale for the inclusion of Condition No. 2 in the decision of the Board to grant permission for ABP Ref. No. PL06D.245456 (PA Ref. No. D15A/0405). The report subsequently concludes that the proposed development would adversely affect the setting of Herbert Hill House (a protected structure), would unacceptably reduce the quality and quantity of public / communal open space serving the wider development, and would materially contravene Condition No. 2 of ABP Ref. No. PL06D.245456.

3.2.2. Other Technical Reports:

Drainage Planning (Municipal Services Department): No objection, subject to conditions.

Public Lighting: No objection.

Conservation Division: States that the area proposed for the construction of the new 'mews-style' dwellings was designated as open space pursuant to Condition No. 2 of the grant of permission issued in respect of ABP Ref. No. PL06D.245456 in order to protect the setting of the protected structure on site and to provide for additional communal open space. It is also noted that the Board rejected a modified proposal for Block 'B' in its determination of ABP Ref. No. PL06D.245456. The report thus recommends that permission be refused for the proposed development on the basis that it fails to accord with the requirements of Section 8.2.11.2(ii) and Policy AR1 of the Development Plan as regards development proximate to a protected structure.

Transportation Planning: No objection, subject to conditions.

Parks and Landscape Services: States that the submitted proposal is unacceptable on the basis that it does not satisfy the critical requirements set out in Chapter 8: '*Principles of Development*' of the County Development Plan, with particular reference to the provision of open space / play areas and the retention / protection of mature trees. It is further noted that the subject proposal is contrary to the intent of Condition No. 2 of the grant of permission issued on appeal in respect of ABP Ref. No. PL06D.245456. Moreover, it is considered that the proposed development would

result in the unacceptable reduction of effective and usable open space required to serve the wider development previously approved under PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456. The report thus concludes by recommending that permission be refused on the basis that the loss of communal and public open space consequent on the proposed development would be contrary to the Development Plan as regards the provision of adequate open space and play facilities.

3.3. Prescribed Bodies

- 3.3.1. *An Taisce*: Refers to the grant of permission issued in respect of ABP Ref. No. PL06D.245456 (PA Ref. No. D15A/0405) and the decision of the Board to impose a condition which required the omission of '*the proposed Block B*' and the incorporation of the area released by same into the communal open space in order '*to protect the setting of a protected structure and to provide for additional open space*'. Accordingly, it is submitted that there is no clear rationale as to why the area vacated by 'Block B' should now be occupied by the proposed dwelling units. There are also concerns with regard to the proposal to remove a number of tree specimens that occupy strategic positions within the site and which contribute to the ambience of the protected structure.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. On Site:

PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456. Was granted on appeal on 25th January, 2016 permitting Targeted Investment Opportunities PLC permission for a development consisting of 114 number dwellings located within the grounds of Herbert Hill (a protected structure) comprising of (i) 105 number apartments in a building ranging in height from five to eight stories consisting of 31 number 1 bedroom units, 67 number two bedroom units and seven number three bedroom units, including balconies or terraces, and solar panels on the roof; (ii) three number one bedroom apartments and three number two bedroom apartments arranged in a terrace of three storey duplex blocks, including balconies/terraces (six number

dwellings in total) including solar panels on the roof; (iii) conversion of existing Herbert Hill House to two number two bedroom two storey houses by modifications to the interior including the removal of single storey ancillary accommodation to the house and replacement with a single storey extension of approximately 10 square metres to the side of one house, extending a new roof to link with the retained outbuildings; alterations to internal layouts including installation of new bathrooms and kitchens; comprehensive repair and refurbishment throughout; installation of fire compartmentation; repair/replacement of all windows; removal/repair of external render, natural slate roof, rainwater goods; replacement of polycarbonate sheeting to veranda with glass; replacement of all services, installation of flues and vents; full redecoration; all associated conservation and site works; (iv) conversion of existing outbuildings and stores to provide general storage, bicycle parking and bin storage, including reinstatement of derelict lean-to roof to existing covered area; repair/replacement of all windows/doors; replacement of all services; (v) internal and external modifications to the existing Gate Lodge including the provision of a single storey extension of approximately 16 square metres to provide a single storey one number bedroom dwelling (circa 59 square metres in total); alterations to internal layouts including installation of new bathrooms and kitchens; reconstruction of single storey return of approximately 6 square metres, comprehensive repair and refurbishment throughout; repair/replacement of all windows; removal/repair of external render, natural slate roof, rainwater goods; replacement of all services, installation of flues and vents; full redecoration; all associated conservation and site works; (vi) site development and landscape works, including a substation and switch room (circa 25 square metres); provision of bin stores, the relocation of an existing hexagonal glasshouse, relocation and re-use of garden walls, the demolition of glasshouse (25 square metres), the widening of the entrance to 9.1 metres to allow for footpaths and carriageway involving the removal of existing piers, gates and wheel guards, the lowering of a length of wall to Sandyford Road to provide sightlines, and the provision of new stone splay walls and piers; (vii) vehicular access is provided via the existing access to Herbert Hill off Sandyford Road which is to be widened to 9.1 metres, car parking on site is provided within a basement under the apartment building (105 number spaces) and on surface spaces at a variety of locations within the site (22 number spaces); 131 number bicycle parking

spaces; all on a site of approximately 1.07 hectares within the grounds of Herbert Hill (a protected structure), Sandyford Road, Dundrum, Dublin.

Condition No. 2:

'The proposed Block B, to the South-East of Herbert Hill shall be omitted. The area thus released shall be incorporated into the communal open space serving the scheme. Drawings showing this revision shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: To protect the setting of a protected structure and to provide for additional communal open space'.

PA Ref. No. D16A/0298 / ABP Ref. No. PL06D.246950. Was granted on 21st November, 2016 permitting Targeted Investment Opportunities ICAV permission for a development consisting of 93 number dwellings located within the grounds of Herbert Hill (a protected structure) comprising of (i) 90 number apartments in a building ranging in height from four to seven storey consisting of 15 number one-bed units, 65 number two-bed units and 10 number three-bed units, including balconies or terraces, and solar panels on the roof; car parking on site is provided within a basement under the apartment building (95 number spaces) and on surface spaces at a variety of locations within the site (15 number spaces); 106 number bicycle parking spaces. The following already permitted elements of the development are not amended by this proposal: (ii) conversion of existing Herbert Hill House in to two number two bedroom two storey houses by internal and external modifications with a single storey extension of approximately 10 square metres to the side of one house, extending a new roof to link with the retained outbuildings; (iii) conversion of existing outbuildings and stores to provide general storage, bicycle parking and bin storage; (iv) internal and external modifications to the existing Gate Lodge including the provision of a single storey extension of approximately 16 square metres to provide a single storey one bedroom dwelling (circa 59 square metres in total); (v) site development and landscape works, including a sub-station and switch room (circa 25 square metres), provision of bin stores, relocation and re-use of garden walls, the refurbishment and relocation of existing gazebo, the demolition of glasshouse (25 square metres), the widening of the entrance to 9.1 metres to allow for footpaths and

carriageway involving the removal of existing piers, gates and wheel guards, the lowering of a length of wall to Sandyford Road to provide sightlines, and the provision of new stone splay walls and piers and (vi) vehicular access is provided via the existing access to Herbert Hill off Sandyford Road which is to be widened to 9.1 metres, all on a site of approximately 1.07 hectares within the grounds of Herbert Hill (a protected structure). The development being proposed in this instance amends the scheme previously permitted under planning register reference number D15A/0405 / An Bord Pleanála appeal reference number PL06D.245456 by way of internal modifications to the apartment building to take account of 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines for Planning Authorities. This has resulted in an increase of six apartments within the permitted apartment building envelope and the consequential increase in car and bike parking spaces in the basement of the already permitted scheme, all at Herbert Hill, Sandyford Road, Dundrum, Dublin.

PA Ref. No. D17A/0071 / ABP Ref. No. PL06D.248343. Was granted on appeal on 19th September, 2017 permitting Targeted Investment Opportunities ICAV permission for a development relating to Block 'A' only as follows: A new seventh floor level, setback from the south-east elevation, to accommodate: two number two-bed and two number three-bed units (+four units); alterations to all previously permitted floors (ground to sixth floor level) so as now to accommodate 17 number one-bed units, 68 number two-bed units and two number three-bed units (+three units); the modifications and additional units proposed result in an increase of seven number units overall to the previously permitted scheme (overall 91 number units now proposed in Block A in a building ranging in height from five to eight storey's consisting of a total of: 17 number one-bed units, 70 number two-bed units and four number three-bed units, including balconies or terraces, and solar panels on the roof); alterations at basement level of Block A to include minor changes to the footprint and internal layout to accommodate 91 car parking spaces (an increase of five number car parking spaces), 91 bicycle parking spaces (an increase of five number bicycle parking spaces) and ancillary accommodation; external elevational changes to Block A arising from the revisions noted above. The permitted elements of the development which are not amended by this proposal are: (i) conversion of existing Herbert Hill house into two number two-bedroom two-storey houses by

modifications to the interior including the removal of single storey ancillary accommodation to the house and replacement with a single storey extension of approximately 10 square metres to the side of one house, extending a new roof to link with the retained outbuildings; alterations to internal layouts including installation of new bathrooms and kitchens; comprehensive repair and refurbishment throughout; installation of fire compartmentation; repair/replacement of all windows; removal/repair of external render, natural slate roof, rainwater goods; replacement of polycarbonate sheeting to veranda with glass; replacement of all services, installation of flues and vents; full redecoration; all associated conservation and site works; (ii) conversion of existing outbuildings and stores to provide general storage, bicycle parking and bin storage, including reinstatement of derelict lean-to roof to existing covered area; repair/replacement of all windows/doors; replacement of all services; (iii) internal and external modifications to the existing Gate Lodge including the provision of a single storey extension of approximately 16 square metres to provide a single storey one bedroom dwelling (circa 59 square metres in total); alterations to internal layouts including installation of new bathrooms and kitchens; reconstruction of single storey return of approximately six square metres, comprehensive repair and refurbishment throughout; repair/replacement of all windows; removal/repair of external render, natural slate roof, rainwater goods, replacement of all services, installation of flues and vents; full redecoration; all associated conservation and site works; (iv) site development and landscape works, including a substation and switch room (circa 25 square metres); provision of bin stores, relocation and re-use of garden walls, the refurbishment and relocation of existing gazebo, the demolition of glasshouse (25 square metres), the widening of the entrance to 9.1 metres to allow for footpaths and carriageway involving the removal of existing piers, gates and wheel guards, the lowering of a length of wall to provide sightlines, and the provision of new stone splay walls and piers; (v) vehicular access is provided via the existing access to Herbert Hill off Sandyford Road which is to be widened to 9.1 metres; all on a site of approximately 1.07 hectares within the grounds of Herbert Hill (a protected structure), Sandyford Road, Dundrum, Dublin. This application relates to amendments to the residential development permitted on site under planning register reference number D15A/0405 / An Bord Pleanála appeal reference number PL06D.245456.

5.0 Policy Context

5.1. National and Regional Policy

5.1.1. The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*’ generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and through the promotion of higher densities in appropriate locations. In general, appropriate locations for such increased densities include city and town centres, ‘brownfield’ sites (within city or town centres), sites within public transport corridors (with particular reference to those identified in the Transport 21 programme), inner suburban / infill sites, institutional lands and outer suburban / ‘greenfield’ sites. The proposed development site may be categorised as an ‘inner suburban / infill’ site where the provision of additional dwellings, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

5.1.2. The ‘*Architectural Heritage Protection, Guidelines for Planning Authorities, 2004*’ provide detailed guidance in respect of the provisions and operation of Part IV of the Planning and Development Act, 2000, as amended, regarding architectural heritage, including protected structures and Architectural Conservation Areas. They detail the principles of conservation and advise on issues to be considered when assessing applications for development which may affect architectural conservation areas and protected structures.

5.2. Development Plan

5.2.1. **Dún Laoghaire Rathdown County Development Plan, 2016-2022:**

Land Use Zoning:

The proposed development site is located in an area zoned as 'A' with the stated land use zoning objective 'To protect and-or improve residential amenity'.

Other Relevant Sections / Policies:

Chapter 2: Sustainable Communities Strategy:

Section 2.1: Residential Development:

Policy RES3: Residential Density:

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- 'Sustainable Residential Development in Urban Areas' (DoEHLG 2009).
- 'Urban Design Manual - A Best Practice Guide' (DoEHLG 2009).
- 'Quality Housing for Sustainable Communities' (DoEHLG 2007).
- 'Irish Design Manual for Urban Roads and Streets' (DTTaS and DoECLG, 2013).
- 'National Climate Change Adaptation Framework Building Resilience to Climate Change' (DoECLG, 2013).

Policy RES4: Existing Housing Stock and Densification:

It is Council policy to improve and conserve the housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

Policy RES7: Overall Housing Mix:

It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy.

Policy RES14: Planning for Communities:

It is Council policy to plan for communities in accordance with the aims, objectives and principles of 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual – A Best Practice Guide'. In all new development growth areas, and in existing residential communities it is policy to ensure that proper community and neighbourhood facilities are provided in conjunction with, and as an integral component of, major new residential developments and proposed renewal/redevelopment areas, in accordance with the concept of sustainable urban villages outlined under Policy RES15.

Chapter 6: Built Heritage Strategy:

Section 6.1: Archaeological and Architectural Heritage:

Section 6.1.3: Architectural Heritage:

Policy AR1: Record of Protected Structures:

It is Council policy to:

- i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).
- ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.

- iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011).
- iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

N.B. The property known as 'Herbert Hill House' at Sandyford Road, Dublin 16, has been designated as a protected structure by reason of its inclusion in the Record of Protected Structures contained in Appendix 4 of the County Development Plan (RPS Ref. No. 1362).

Policy AR2: Protected Structures Applications and Documentation:

It is Council policy to require all planning applications relating to Protected Structures to contain the appropriate level of documentation in accordance with Article 23 (2) Planning Regulations and Chapter 6 and Appendix B of the Architectural Heritage Protection Guidelines for Planning Authorities, or any variation thereof.

Policy AR5: Buildings of Heritage Interest:

It is Council policy to:

- i. Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of a streetscape in preference to their demolition and redevelopment and to preserve surviving shop and pub fronts of special historical or architectural interest including signage and associated features.

- ii. Identify buildings of vernacular significance with a view to assessing them for inclusion in the Record of Protected Structures.

Chapter 8: Principles of Development:

Section 8.1: Urban Design:

Policy UD1: Urban Design Principles:

It is Council policy to ensure that all development is of high quality design that assists in promoting a 'sense of place'. The Council will promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013) and will seek to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

Section 8.1.2: Urban Design at the Local Level

Policy UD7: Urban Tree Planting:

It is Council policy to promote urban tree planting throughout the County in accordance with the provisions of 'dlr TREES: A Tree Strategy for Dún Laoghaire-Rathdown 2011 – 2015' and to preserve existing trees where possible and appropriate.

Section 8.2: Development Management:

Section 8.2.3: Residential Development:

Section 8.2.3.1: Quality Residential Design

Section 8.2.3.2: Quantitative Standards:

Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas: (vii) Infill:

New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including

features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

Section 8.2.3.5: *Residential Development – General Requirements*

Section 8.2.8: *Open Space and Recreation*

Section 8.2.11: *Archaeological and Architectural Heritage*

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 3.7km northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 3.9km northeast of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 6.3km southwest of the site.
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 6.5km south-southwest of the site.
- The Knocksink Wood Special Area of Conservation (Site Code: 000725), approximately 8.5km south-southeast of the site.
- The North Dublin Bay Special Area of Conservation (Site Code: 000206), approximately 8.7km northeast of the site.
- The North Bull Island Special Protection Area (Site Code: 004006), approximately 8.7km northeast of the site.

- The Dalkey Islands Special Protection Area (Site Code: 004172), approximately 9.6km east of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 9.9km east of the site.

N.B. This list is not intended to be exhaustive as there are a number of other Natura 2000 sites in excess of the aforementioned distances yet within a 15km radius of the application site.

6.0 The Appeal

6.1. Grounds of Appeal

- Dundrum has been designated as a centre for large-scale urban intensification with much of the development having occurred over the last 20 years whilst there has also been significant investment in public transport in the area. Herbert Hill House (a protected structure) and its garden setting are now an 'island' surrounded and visually overwhelmed by the Dundrum Town Centre development to the south and the construction of multiple storey apartment buildings to the south and northwest. However, notwithstanding the major civil and commercial works which have been completed in the surrounding area, Herbert Hill House retains its peaceful and charming character. The proposed development is consistent with the objectives of the Development Plan which seek the continued intensification of residential and town centre development in the heart of Dundrum.
- The proposed works will not materially impact on Herbert Hill House or its outbuildings and there will be no loss of historic fabric.
- The proposal has been the subject of a carefully considered architectural response to ensure that the historic integrity of the host building is preserved. The scale and height of the single storey mews construction is not overbearing to the historical setting / context of the existing house and does not interrupt the relationship between the main residence and its outbuildings to the rear.

- The setting of Herbert Hill House is presently screened from Sandyford Road by mature tree planting and this will be retained as part of the proposed development in order to ensure that the house remains largely obscured from view.
- The siting of the proposed development alongside the north-eastern site boundary finds historical support by reference to the 1871 and 1910 Ordnance Survey mapping which details the presence of glasshouses at this location. These structures formed an extension of the existing outbuildings and did not visually impact on the landscaped setting of the main house.
- The proposed single-storey mews development will be located 23m behind the principle elevation of the main house and 10m from the rear return. It has been designed as a continuation of the adjacent outbuildings and will not adversely impact on the setting or amenity of the main house.
- The creation of a low pergola along the length of the proposed mews will reinforce and strengthen the sense of a private garden to the main house whilst providing privacy to the new dwellings. The proposed ridge lines will also be below the adjacent two-storey outbuildings.
- At present, works are underway pursuant to ABP Ref. No. PL06D.245456 to convert Herbert Hill House into 2 No. residential units with stores etc. within the outbuildings to the rear of same.
- The overall scale, height and form of the proposed development is not overbearing to the historical setting of the main house or its outbuildings and will have no visual impact on the Sydenham Villas Architectural Conservation Area to the northeast.
- The siting of the proposed development has been carefully considered in order to minimise the impact on the protected structure. The scheme will serve to retain and reinforce the principle aspects of the site to the southeast with its garden features which contribute to the significance of the setting of the protected structure.
- The proposed housing is considerate of the protected structure and the site characteristics having regard to the established context of the property.

- The size and scale of the proposed development achieves a welcome balance between the contemporary buildings and the protected structure thereby ensuring Herbert Hill House remains the primary focal point and that the new construction does not detract from the importance and setting of that building.
- The proposed development will extend perpendicularly to the rear return of Herbert Hill House and thus will not adversely impact on views available from within the main reception and bedroom areas of the house.
- The proposed finishes / materials are of a high quality and complementary to the main house and its outbuildings.
- The proposed development accords with the requirements of the Development Plan (with particular reference to Section 8.2.11.1: *‘Architectural Heritage – Protected Structures (ii) Development in proximity to a protected structure’*) and the *‘Architectural Heritage Protection, Guidelines for Planning Authorities, 2004’*.
- The proposed development is consistent with national planning policy, including the following:
 - ‘Rebuilding Ireland, An Action Plan for Housing and Homelessness, 2016’;
 - The National Planning Framework;
 - The ‘Regional Planning Guidelines for the Greater Dublin Area, 2010-2020’; and
 - The Draft Regional Spatial Economic Strategy for the Eastern and Midland Region.
- The proposed development responds to the chronic shortage of housing in Dublin by providing a modest infill development within an already developing site.
- The subject site is located in Dundrum town centre and is within easy walking distance of a wide variety of amenities / facilities and high quality public transport links, including Dublin Bus and Luas services.

- The proposed development is consistent with the applicable land use zoning objective and the core strategy of the Development Plan in that it comprises a carefully designed infill development adjoining high quality public transport links which will assist in the achievement of national policy objectives.
- The scale of the proposed development is appropriate given the transitional nature of the site.
- The proposed dwellings exceed the minimum standards set out in the Development Plan.
- There are multiple examples within the administrative area of Dún Laoghaire Rathdown County Council of comparable developments having been permitted in close proximity to protected structures. In this regard the Board is referred to its previous determination of PA Ref. No. D17A/0606 / ABP Ref. No. PL06D.249320 (Kilmacud House), PA Ref. No. D15D/0081 / ABP Ref. No. PL06D.245137 (Fernbank House) & PA Ref. No. D10A/0335 / ABP Ref. No. PL06D.238722 (Eaton Brae House).
- Inadequate consideration has been given to the rationale for the proposed development as set out in the 'Planning Application Report' which accompanied the initial application.
- The development originally proposed under PA Ref. No. D15A/0405 included for the construction of a three-storey building known as Block 'B' to the southeast of Herbert Hill House, however, following the decision of the Planning Authority to refuse permission for that application, modifications were subsequently brought forward for consideration as part of a first party appeal which included an amended design for Block 'B'. That appeal was ultimately successful (ABP Ref. No. PL06D.245456), although Block 'B' was omitted in its entirety by way of condition.

The subject proposal has had regard to the foregoing decision to omit Block 'B' and has reduced the bulk of the development accordingly. However, it is considered that the Planning Authority's assessment of the subject application has failed to take due cognisance of the differing site context and recent changes in national planning policy. In this respect it is submitted that there are key design differences between Block 'B' as originally proposed, the

modified design considered under ABP Ref. No. PL06D.245456, and the subject proposal.

The key differences in relation to the proposed development include the following:

- The overall height of the proposal has been reduced to c. 5.065m, a reduction of 3.3m from the modified design of Block 'B' considered under ABP Ref. No. PL06D.245456.
 - The subject proposal is lower than the principal house and relative to the associated outbuildings. Herbert Hill House remains the primary focus of this landscaped area.
 - The proposed mews development is consistent with the outline of glasshouses shown on 1871 and 1910 Ordnance Survey mapping and forms an extension of the existing outbuildings which does not visually impact on the landscaped setting of the house.
 - There are no direct works proposed to the main house or outbuildings which remain as permitted under ABP Ref. No. PL06D.245456.
 - The Burra Charter states that '*new works should be readily identifiable as such but must respect and have minimal impact on the cultural significance of the place*'. Therefore, the proposed mews should be distinguishable from the existing house and it is considered that the aesthetic of the contemporary design proposed will contribute to the enjoyment of the place as a whole.
 - A pergola has been introduced to the front of the mews. This will have 'Wisteria' growing up it with the aim of making the front of the mews feel like part of the garden setting.
- The location of Block 'B' is positioned to the southeast of Herbert Hill House in a location which has been identified by the design team as a 'developable area'.
 - The proposed dwelling houses will be located to the side and rear of the main house (a protected structure) and will not be readily visible from the public realm due to the intervening tree planting alongside Sandyford Road. The

proposed housing is designed to be of a similar scale to the existing outbuildings to the rear of the main house and is in keeping with the character and scale of these secondary buildings. It is further submitted that the subject proposal can be readily assimilated into the landscape of the main house in a manner that will enhance the overall setting and character of the area.

- The suggestion that the proposed development will reduce the quality and quantity of public open space for residents of the permitted scheme and thus fails to accord with the requirements of the County Development Plan is rejected. In this regard the Board is referred to Section 8.2.8.2 of the Plan, including the requirement for an absolute default minimum of 10% of the overall site area for all residential developments to be reserved as public and / or communal open space, in addition to Policy Objective OSR3 which aims to promote public open space standards in accordance with the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*'. The subject proposal achieves the minimum 10% requirement and thus accords with both the Development Plan and Ministerial guidance.
- It is acknowledged that the proposed development, when taken in isolation, will not provide for 15-20m² of public open space per person in accordance with Section 8.2.8.2 of the Development Plan. However, when taken in context, and in combination with the wider development approved on site, it will achieve the necessary open space requirements.
- The Landscape Design Report submitted with the application illustrates the provision of approximately 5,323m² of open space across the entirety of the site. This figure includes for the 2 No. proposed mews units and amounts to 49.9% of the site area which combines the communal open space within Block 'A', the open space between Block 'A' and Herbert Hill House, the garden area of Herbert Hill House, and the trees along the southern and western boundary with their associated root protection area.

Based on the population of the site, the proposed development, when taken in combination with the permitted scheme, requires between 2,338m² and 3,130m² of open space (at a rate of 15-20m² respectively per person). Whilst the wider scheme has sought to provide for the required public open space,

the particular characteristics of the site do not facilitate the adoption of these parameters. Overall, it is arguable that the provision of 49.9% of the site area as open space provides for a unique landscape within an urban context and that the wider scheme achieves a very high level of amenity for its residents.

- From a qualitative perspective, the design of the landscaping proposals is to retain the aspect of Herbert Hill House, to restore the existing gazebo, and to introduce new planting and landscape features that are complementary to the original setting.
- An updated tree protection plan has been provided with the application.
- It is evident from Section 8.2.8.2(iii) of the Development Plan that a financial contribution may be paid in lieu of providing the full quantum of open space. However, it is also noted under this section that:

‘Irrespective of any of the above, the default minimum 10% open space requirement must be provided on site’.

The subject site further benefits from the close proximity of a number of parkland areas, including Airfield.

Whilst the Board could attach a financial contribution in lieu of open space, it has been demonstrated that such a condition is not appropriate given the small scale of the proposal. Based on the foregoing, it is respectfully submitted that the proposed development does not reduce the quantum or quality of the public open space serving the permitted development in the context of the Development Plan. The proposal complies with the Development Plan and will provide for a high quality and well-designed public amenity space for future residents.

- Condition No. 2 of ABP Ref. No. PL06D.245456 was imposed on the basis of the planning policy context at the time i.e. it specified the subject lands to be used as additional communal open space as a consequence of omitting Block ‘B’. It is considered that there are notable differences between Block ‘B’ as previously proposed and the subject proposal which can be considered as having been suitably designed for the area in question.

- In terms of the quantity and quality of open space, the subject proposal exceeds the Development Plan standards given the characteristics of the site.

6.2. Planning Authority's Response

- The Conservation Section has no further comments with regard to the development proposal.
- It remains the position of the Planning Authority that the development would materially contravene Condition No. 2 of the grant of permission issued in respect of ABP Ref. No. PL06D.245456.
- The Parks & Landscape Services Division of the Local Authority would make the following additional comments:
 - The proposal is unacceptable, particularly when considered in the context of the overall site development.
 - With regard to the appellant's reference to Section 8.2.8.2(iii) of the Development Plan and, more specifically, to 'Airfield' (an urban farm) as an example of a proximate '*parkland area*', the Board is advised that 'Airfield' is not a public park / open space and is instead a commercial operation which requires payment for access. Moreover, 'Airfield' is beyond the accessibility (proximity) thresholds set out in the Council's Open Space Strategy (Policy OSR 2 of the Development Plan) with no local or district parks within easy reach (allowing for barriers e.g. the road network) of the application site.
 - There is insufficient justification for the substandard provision (quality, quantity, and accessibility) of communal / public open space. The wider site has already been approved for a high density of development within an urban village setting with limited provision having been made for green space and play areas.
 - The subject proposal does not accord with the development management standards set out in the County Development Plan or the '*Sustainable Residential Development in Urban Areas, Guidelines for*

Planning Authorities', with particular reference to the quality and accessibility of open space.

- Whilst acknowledging the important contribution of the site's sylvan setting, these wooded areas are largely confined to the western and southern site boundaries and are of minimal recreational value. They are essentially 'environmental buffers' and are explicitly excluded from the calculation of open space provision.

Section 8.2.8.3 (Public / Communal Open Space – Quality) of the Development Plan stipulates, inter alia:

' . . . where any open space is to be provided on foot of a planning permission, the space in question should be well overlooked and designed and located to sympathetically complement the layout of the development and should be visible from, and accessible to, the maximum number of dwellings / units within the proposed scheme. Inaccessible, hidden or otherwise backland open space, and narrow linear strips of open space will not be acceptable. Fragmented open spaces within a development layout, which result specifically from the necessity to protect existing site features (for example, a stand of mature trees) may not be included in the calculation of open space requirements, as they are necessary to ensure the protection of existing amenities'.

Therefore, in the overall scheme of the site development, the sylvan tree belts and attendant spaces are not reckonable as usable recreational open space and merely serve as visual and ecological habitats.

- In the event of a grant of permission, the Board should consider imposing the following condition:

'A special contribution of €2,000 per unit in accordance with Section 48(2)(c) of the Planning and Development Act, 2000, as amended, because of the failure to achieve adequate public open space. The contribution is to cover specific exceptional costs in respect of the provision of open space and landscaping works which benefit the

proposed development. The contribution will be used to fund improvements to the existing public realm and open space in and adjacent to Dundrum Village.

Reason: To cover specific exceptional costs in respect of the provision of open space and landscaping works which benefit the proposed development'.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout / impact on built heritage considerations
- Private and public / communal open space provision
- Appropriate assessment
- Environmental impact assessment

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

7.2.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is zoned as 'A' with the stated land use zoning objective '*To protect and-or improve residential amenity*'. It should also be noted that the application site forms part of a larger landholding which was previously occupied by the wider grounds of Herbert Hill House and is presently

being redeveloped for residential purposes pursuant to PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456 (as amended by PA Ref. No. D17A/0071 / ABP Ref. No. PL06D.248343). Moreover, the site is located within walking distance of significant public transportation infrastructure, such as the Luas and Dublin Bus services, whilst it is also within a comparatively short distance of Dundrum historic village centre and the (relatively) new Dundrum Shopping Centre as well as local schools, places of worship, places of employment and other amenities. In this respect I would suggest that the proposed development site can be considered to comprise a potential infill site situated within a mixed-use area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

7.2.2. Further support is lent to the proposal by reference to Policy RES4: '*Existing Housing Stock and Densification*' of the Development Plan, which aims to increase housing densities within existing built-up areas having due regard to the amenities of established residential communities, wherein it is stated that the Planning Authority will actively promote and facilitate the development of mews buildings and other infill accommodation which is in harmony with existing buildings. These policy provisions are further supplemented by the guidance set out in Section 8.2.3.4: '*Additional Accommodation in Existing Built-up Areas*' of the Plan which details the criteria to be used in the assessment of proposals which may involve infill development.

7.2.3. Therefore, having considered the available information, including the site context, planning history, and land use zoning, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of adjacent development and built heritage considerations.

7.3. **Overall Design and Layout / Impact on Built Heritage Considerations:**

- 7.3.1. By way of background, I would advise the Board that the proposed development site forms part of a larger parcel of land and that the subject proposal involves the amendment of the residential scheme previously permitted within the confines of the wider site under PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456 (as subsequently amended by PA Ref. No. D17A/0071 / ABP Ref. No. PL06D.248343). In this regard it is of particular relevance to note that the siting of the proposed dwelling houses broadly corresponds with that area which was vacated through the omission of 'Block B' and designated as open space pursuant to Condition No. 2 of the grant of permission issued in respect of ABP Ref. No. PL06D.245456 in order to protect the setting of Herbert Hill House (a protected structure) and to provide for additional communal open space. In the interests of clarity, I would advise the Board that whilst the initial development proposal considered under PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456 included for the construction of a three-storey apartment building (Block 'B') to the southeast of Herbert Hill House, a first party appeal against the decision of the Planning Authority to refuse permission for that scheme was accompanied by modified proposals which sought to replace the aforementioned three-storey construction with a revised two-storey arrangement. However, in its decision to grant permission for the wider development, the Board determined that the omission of 'Block B' in its entirety was necessary to protect the setting of the protected structure and to provide for additional communal open space. Accordingly, in light of the foregoing, it is necessary to consider whether or not the subject proposal would have an adverse impact on the setting of the protected structure.
- 7.3.2. Whilst I would acknowledge that the reduced size, scale and height of the proposed single-storey 'mews'-style dwelling houses would likely have less of an impact on the character and setting of Herbert Hill House than the two / three-storey proposals previously rejected by the Board in its assessment of ABP Ref. No. PL06D.245456, I am inclined to suggest that the rationale for the omission of 'Block B' in the first instance was from a desire to retain some aspect of the original garden setting for the protected structure (balanced against the need to accommodate the development of the wider grounds given their central location and proximity to local services and public transport). In my opinion, the proposed development would serve

to undermine the likely reasoning behind the omission of 'Block B' in ABP Ref. No. PL06D.245456 and would unacceptably compromise the setting of the protected structure and its relationship with the remaining garden area (notwithstanding the considerable changes to the site context consequent on the construction of the wider development approved under ABP Ref. Nos. PL06D.245456 & PL06D.248343).

7.4. **Private and Public / Communal Open Space Provision:**

7.4.1. **Private Open Space:**

7.4.2. The proposed development provides for the construction of 2 No. two-bedroom dwelling houses and in this respect I would advise the Board that Section 8.2.8.4: '*Private Open Space – Quantity*' of the Development Plan states that the provision of 48m² of private open space behind the front building may be acceptable for 2-bedroom dwellings in cases where it can be demonstrated that good quality usable open space can be provided on site (*N.B.* Any provision of open space to the side of dwellings will only be considered as part of the overall private open space calculation where it comprises useable, good quality space. Narrow strips of open space to the side of dwellings will not be included within the calculation).

7.4.3. In the subject instance, it is apparent from a review of the submitted plans and particulars that each of the proposed 'mews' dwellings will be provided with significantly less private open space than the minimum requirement set out in the Development Plan. In this regard I would refer the Board to the submitted ground floor plan which details that House / 'Mews' No. 1 will be provided with only 17.9m² of private open space in the form of an enclosed front garden area whilst House / 'Mews' No. 2 will be served by a similar front / side garden arrangement extending to 32.4m² in area. Moreover, contrary to the recommendations of Section 7.8 of the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*' which states that all dwelling houses should be provided with an area of private open space '*behind the building line*', the positioning of these spaces primarily to the front of the properties compromises the privacy of same. Whilst I would acknowledge that some screening of these gardens will be provided by the pergola / terrace feature proposed along the frontage of the units, I would nevertheless have reservations that the spaces will not enjoy a sufficient level of privacy / amenity given their visibility from within adjacent communal areas, including

the public / communal open space located to the southwest which is intended to serve the occupants of the wider housing scheme permitted under PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456 (as amended by PA Ref. No. D17A/0071 / ABP Ref. No. PL06D.248343).

7.4.4. Whilst the Development Plan states that a relaxation in the applicable private open space standard may be considered in instances where an innovative design response is provided on site, and although the need to respect the character and setting of Herbert Hill House serves to constrain the developability of the subject lands, in my opinion, the deficiencies in the private open provision are such that the proposal will not provide for an adequate level of residential amenity for the future occupants of the proposed houses.

7.4.5. Public / Communal Open Space:

7.4.6. In terms of public / communal open space provision, at the outset I would refer the Board to the '*Landscape Design Report*' provided with the application which states that '*the overall open space calculations for this development are based on the relevant applications for the main house and apartment block, D15A/0405, ABP Ref. PL06.245456 and D17A/0071 respectively*'. This report subsequently details the provision of 928m² of public open space and 2,294m² of communal open space within the wider site area, although an additional 2,139m² has been identified as '*open space within tree root protection area*'. Notably, the '*Planning Application Report*' submitted by the applicant further serves to clarify that '*the open space provision in this case is the same as that granted on the site by the Planning Authority and the Board, apart from the changes arising from this planning application*' (N.B. The footprint of the subject housing broadly corresponds with that of 'Block B' which was omitted previously omitted by the Board in its determination of PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456).

7.4.7. In their previous assessment of ABP Ref. No. PL06D.245456 the reporting inspector would appear to have been satisfied that approximately 25% of the site area was to have been allocated as public open space and that this accorded with the minimum requirement of the Dún Laoghaire Rathdown County Development Plan, 2010-2016 (i.e. 25% of the total site area in respect of the development of 'institutional lands'), however, in its decision to grant permission the Board imposed a condition

(Condition No. 2) which sought the omission of 'Block B' to the southeast of Herbert Hill House with the area vacated by same to be incorporated into the communal open space serving the scheme. Notably, the reason for the imposition of this condition referenced the provision of 'additional communal open space' which would seem to suggest that the Board was not entirely satisfied with the open space arrangements as proposed on site. It is of further relevance to note the attachment of Condition No. 3 in the decision to grant permission for ABP Ref. No. PL06D.245456 which stated that the developer would be required to pay a development contribution in the event of a shortfall in communal open space below the provisions of the development plan.

7.4.8. At this point it should be noted that the current Dún Laoghaire Rathdown County Development Plan, 2016-2022 reiterates the provisions of its predecessor as regards the minimum quantitative standard of public open space required for the residential development of 'institutional lands'. However, in accordance with Section 8.2.8.2: *'Public / Communal Open Space – Quantity: (i) Residential / Housing Developments'* of the Development Plan, the residential development of 'non-institutional' lands is required to provide open space at a rate of 15 sq.m - 20 sq.m. per person with the lower quantity of open space (i.e. at a rate of less than 20m² per person) only considered acceptable in instances where exceptionally high quality open space is to be provided on site whilst any such development proposal may also necessitate the payment of a financial contribution as set out in Section 8.2.8.2 (iii) of the Plan (*N.B.* An absolute default minimum of 10% of the overall site area for all residential development is required to be reserved for use as public open and/or communal space irrespective of the aforementioned occupancy parameters).

7.4.9. Whilst I am hesitant to apply current development management standards to the development already approved on site, having regard to the permitted schedule of accommodation, I would estimate that the scheme presently under construction would necessitate the provision of 3,160m² of open space (on the basis of 82 No. units with 2 or fewer bedrooms and 10 No. 3 bedroom units, inclusive of the gate lodge and the conversion of the main house). Given that the proposed 'mews' dwellings would require the provision of a further 60m² of open space, it could be argued that the wider scheme necessitates 3,220m² of open space and, therefore, the overall development, inclusive of the proposed dwellings, provides for adequate

public / communal open space on the basis of the figures set out in the 'Landscape Design Report' provided with the application (although I would concede that the aforementioned calculations have been made on the basis of the occupancy rates applicable to 'normal' residential development as opposed to that on 'institutional lands').

- 7.4.10. On balance, I am inclined to suggest that there will be sufficient public / communal open space remaining within the confines of the wider development permitted under ABP Ref. No. PL06D.245456 (as amended by ABP Ref. No. PL06D.248343) to accommodate the subject proposal, however, such a conclusion does not remedy the previous determination by the Board in its assessment of ABP Ref. No. PL06D.245456 that there was such a deficiency in open space provision on site as to warrant the omission of 'Block B' to the southeast of Herbert Hill House with the area vacated by same to be incorporated into the communal open space. Furthermore, the inclusion of a condition in that decision which required the payment a development contribution in the event of a shortfall in communal open space would seem to reiterate the seriousness of the concerns held by the Board as regards the adequacy of the open space provision (notwithstanding the omission of 'Block B').
- 7.4.11. Given that the only explanation for the imposition of Condition Nos. 2 & 3 in the Board's determination of ABP Ref. No. PL06D.245456 was to ensure the provision of adequate open space to serve the permitted development, and noting that the subject proposal would broadly correspond with the footprint of 'Block B' which was omitted in order to provide for additional communal open space to serve the wider scheme, it would seem reasonable to conclude that the proposed development would materially contravene Condition No. 2 of the grant of permission issued in respect of ABP Ref. No. PL06D.245456. In this regard, whilst I would acknowledge that the applicable development management standards in the current Development Plan for the area would seem to suggest that the proposed development could be accommodated on site without unduly impacting on open space provision serving the wider scheme, I am inclined to suggest that a further consideration is the context within which ABP Ref. No. PL06D.245456 was assessed and whether it is now appropriate to supersede same.
- 7.4.12. On the basis that the Board has previously deemed it necessary to omit development from that area sought to be occupied by the subject proposal in order

to provide for sufficient open space to serve the wider scheme permitted under ABP Ref. No. PL06D.245456, and as additional apartment units have already been permitted on site in the absence of any further public / communal open space provision under ABP Ref. No. PL06D.248343, I am inclined to conclude that the loss of open space consequent on the subject application would be at variance with the rationale previously employed by the Board with regard to the development of this site and thus would unacceptably reduce the amount of open space on site in material contravention of Condition No. 2 of ABP Ref. No. PL06D.245456.

7.5. **Appropriate Assessment:**

- 7.5.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.6. **Environmental Impact Assessment (Screening):**

- 7.6.1. Having regard to the nature and scale of the proposed development, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real 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.

8.0 **Recommendation**

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. It is considered that the proposed development, by virtue of its design, siting and proximity to Herbert Hill House, would materially and adversely affect the character and setting of the protected structure and would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the planning history of the site, in particular, the quantum of accommodation on the site and the use of this part of the site as open space serving the overall development as granted by PA Ref. No. D15A/0405 / ABP Ref. No. PL06D.245456, as amended by PA Ref. No. D17A/0071 / ABP Ref. No. PL06D.248343, it is considered that the proposed development would seriously injure the residential amenity of the future occupants of the permitted development by reason of loss of open space. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development would, by reason of the loss of communal open space, and due to its adverse impact on the setting of a protected structure, contravene materially a condition attached to an existing permission for development namely, condition number 2 attached to the permission granted by the Board on the 25th day of January, 2016 under appeal reference number PL06D.245456.

Robert Speer
Planning Inspector

10th April, 2019