



An
Bord
Pleanála

Inspector's Report

ABP-308150-20

Development	Reconfiguration and redesign of permitted housing units to provide an increase from 9 houses to 15 houses.
Location	Site of c.1.30ha, Thornhill House, CherryGarth, Mount Merrion, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0432
Applicant(s)	Oak View Property Developments Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V Refusal
Appellant(s)	Oak View Property Developments Ltd.
Observer(s)	<ol style="list-style-type: none">1. Mount Merrion Residents Assoc.2. Jim Murphy and Jackie Gilroy3. Liam and Michele Prendiville4. Drs. Robert and Paula McDonnell

5. Tom and Mary Martin
6. Gerard Dunnion

Date of Site Inspection

7th May 2021

Inspector

Susan McHugh

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	12
3.4. Third Party Observations	12
4.0 Planning History.....	12
5.0 Policy Context.....	15
5.1. Development Plan.....	15
5.2. National Policy	16
5.3. Natural Heritage Designations	17
5.4. EIA Screening	17
6.0 The Appeal	17
6.1. Grounds of Appeal	17
6.2. Planning Authority Response	20
6.3. Observations	21
6.4. Further Responses.....	22
7.0 Assessment.....	22
8.0 Recommendation.....	38
9.0 Reasons and Considerations.....	38
10.0 Conditions	39

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 1.39ha is located within an established residential area in Mount Merrion, Blackrock, Co. Dublin. The site is proximate to the Quality Bus Corridor (QBC) along the N11, Stillorgan Shopping Centre.
- 1.2. Adjoining residential development along Trees Road Lower is characterised mainly by two-storey semi-detached houses. Residential development along Cherrygarth is characterised by low-density, low rise housing, set within generous sized plots.
- 1.3. The landholding includes Thornhill House, a Protected Structure with associated out-buildings, which is located in the north western part of the site. The overall site is bounded on the northern and western sides by the back gardens of adjacent dwellings fronting Trees Road Lower and South Avenue. The site bounds Cherrygarth Road along the eastern and southern boundaries.
- 1.4. The gradient of the subject site slopes gently from north west to southeast.
- 1.5. An existing area of public open space is located along the eastern side boundary between the existing remains of a walled garden and Cherrygarth Road. A number of mature trees on site include a large oak, beech and sycamore.
- 1.6. The site is currently accessed via a single entrance from Cherrygarth, via Trees Road Lower. Building works have commenced on site, with the basement of the permitted apartment block situated inside the eastern boundary to the site currently under construction.

2.0 Proposed Development

- 2.1. This is an application for permission for the following:
 - reconfiguration and redesign of permitted housing units under P.A. Reg. Ref. D17A/0240; ABP PL06D.300244.
- 2.2. It is proposed to provide an increase from;
 - 9 No. houses (comprising 4no. four bed and 5no. five bed units) to
 - 15 No. houses (comprising 3no. three bed and 12no. four bed units).

- 2.3. The development will also include reconfiguration of the internal road layout, relocation of ESB substation, amendments to hard and soft landscaping, boundary treatment works and all associated works above and below ground.
- 2.4. No works are proposed to Thornhill House (RPS No. 936).
- 2.5. The application for the proposed development was accompanied by the following;
- Planning and Environmental Report
 - Traffic and Transport Assessment Report
 - Engineering Assessment Report
 - Preliminary Construction Management Plan
 - Arboricultural Impact Assessment and Tree Root Protection Plan
 - Arboricultural Tree Survey Report
 - Illustrations for proposed development
 - Part L and NZEB Compliance Report
 - Landscape Design Report
 - Architectural Design Statement
 - Outline Architectural Heritage Impact Assessment
 - Product Catalog – Underground Stormwater Chamber

3.0 **Planning Authority Decision**

3.1. **Decision**

Dun Laoghaire Rathdown County Council (DLRCC) decided to **refuse** permission for the above described development for two no reasons.

1. 'Due to the layout, design, loss of open space and the loss of trees, it is considered that the proposed development would adversely affect the character, setting and amenity of the Protected Structure; materially contravening Policies AR1, RES3, and Section 8.2.11.2 (iii) 'Development in Proximity to a Protected Structure' of the Dun Laoghaire Rathdown County

Development Plan 2016-2022. The proposed development is, therefore, contrary to the proposed planning and sustainable development of the area.

2. It is considered that the applicant's approach to the southwest corner of the site, where future development is being inferred but not proposed on land that is conditioned open space, represents a piecemeal approach to the development of this site which should be dealt with in a comprehensive manner. As such, the proposed development is, therefore, contrary to the proper planning and sustainable development of the area.'

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 14/08/2020)

Basis for planning authority decision includes;

Site Layout and Design

- *Dwellings on the northern boundary* - Proposed 16.2m to the east/side of Thornhill House compared to permitted 22m. Parking and communal green are proposed between dwelling no. 9 and Thornhill House.
- Concern in relation to the formalised nature of development now proposed along the northern boundary, which has resulted in the omission of an area of open space and retention of a group of mature trees which the permitted road previously curved around.
- Proposed 5.8m closer to the eastern elevation of Thornhill House which is now proposed to be adjoined by a road, 5 no. parking bays and a communal green adjacent to unit no. 9.
- Notes that the landscape masterplan identifies the southern boundary of communal green to be enclosed by a hedgerow which would effectively close it off from the development with no passive surveillance from the western gable of unit no. 9.
- Notes in Outline Architectural Heritage Impact Assessment that the applicant intends to submit a future planning application for the conversion of the western return of the house and the outbuildings to the north, as

well as courtyard houses to the south of Thornhill House. This area identified on the site layout (Drawing PP.02) is labelled 'No works are proposed to open space in front of 'Thornhill House'. It appears that the communal green and additional 5 no. parking bays adjacent to unit no. 9 are associated with the future development. This land is conditioned open space' under the terms of Condition 2 of the board's decision under ABP-300244-17.

- *Dwellings on the southern boundary* - Notes extent of development has increased towards the south western corner of the site, no units proposed directly opposite Thornhill House, concerns in relation to the western gable treatment of no. 15 which adjoins the open space opposite Thornhill House. Notes limited passive surveillance of the open space to the south west of the units.
- *Substation* – Proposed to relocate the permitted substation from the north eastern corner of the site to the south eastern corner of the site in an area of open space. Notes that under the permitted application the substation was located behind a boundary wall at the main entrance to the development and was not visible. Note no drawing detailing the substation has been submitted. Concern that the proposed location of the substation has the potential to negatively impact on the visual amenities of Cherrygarth, given its positioning adjacent to the road and obstructing the view of the open space when viewed from the south east.
- *Boundary treatment* – Notes no details submitted recommends further information.
- *Protected Structure* - Notes linear and formalised nature of development proposed, increased proximity to Thornhill House and over provision of parking spaces, consider the development would adversely affect the character, setting and amenity of the protected structure.
- *Density* - Proposal seeks to increase no. of units from 48 to 54. Notes density referred to by the applicant as 52 units per hectare excludes the area around Thornhill House in the calculation resulting in a site area of 1.04ha. Taking the site area of 1.39ha results in an overall density of 38.8 per ha. Density of

38 units per ha acceptable in principle given nature of the site including 'F' zoned land, the protected structure and trees to be retained.

- *Housing Mix* – Variety of housing units provided and acceptable.
- *Development Standards* – Notes Housing Quality Assessment submitted assessed against Table 5.1 in Quality Housing for Sustainable Communities.
 - Notes that for house Types B and C the main bedroom marginally fails to meet the minimum area of 13sqm but given the overall size of these house types are in excess of the minimum overall size is acceptable. Internal areas accord with standards as set out in Quality Housing for Sustainable Communities.
 - *Private Amenity Space* - Concern raised regarding the usability of the open space proposed for house no.1 and 2.4m high boundary wall surrounding the south facing court and the visual impact it would have on the entrance to the site. Proposed unit would constitute overdevelopment at the entrance to the site and should be reduced in size. All other dwellings proposed exceed the private open space requirements set out in Section 8.2.8.4(i) of the CDP.

Separation Distances

- 6 no. units proposed along the southern boundary all have a minimum rear garden depth of 11m and are not directly opposing any existing dwellings.
- Notes location of single storey House no. 1 adjacent to the northern boundary wall with no.62 Trees Road Lower, which has an existing garden depth of 37m. House no.1 located at the entrance to the site is excessive in size due to its positioning on the northern boundary wall with no. 63 Trees Road Lower and open space design and proposed boundary wall.
- Notes garden depths of House No.s 2-9 which have no directly opposing windows within 22m from opposing dwellings on Trees Road Lower, are acceptable.

Residential Amenity

- *Height* – Notes that dwellings proposed are lower in height than permitted units under PA D17A/0240 ABP PL06D.300244 which helps mitigate the impact on the protected structure, proposed height is acceptable.
- *Overlooking* – Dwellings proposed along southern boundary have increased the separation distance to southern boundary wall. Notes no directly opposing windows on Cherrygarth to the south – overlooking will not occur along the southern boundary.
- Dwellings proposed along the northern boundary – House no's 7,8 and 9 are now set further back from the northern boundary than House no's 8 and 9 as approved under D17A/0240, satisfied residential amenities of the dwellings on Trees Road Lower will not be impacted by way of overlooking or overbearing.
- *Visual Impact on the Streetscape* - Unit no.1 at the entrance to the site would have a negative impact on the visual amenities of Cherrygarth and future residents due to its size and boundaries which are considered excessive in scale at the entrance to the site.
- Relocation of the substation from the north eastern corner of the site to the open space would negatively impact on the streetscape of Cherrygarth.
- Height and setback of unit nos. 2-15 will not negatively impact the visual amenities of Cherrygarth or the dwellings located on Trees Road Lower.
- Design of nos. 9 and 15 in terms of materials fail to respond to the setting of Thornhill House, and negatively impact the visual amenity of Thornhill House.

Trees and Open Space

- *Trees* – Notes 128 no. trees were surveyed on the site and proposed to retain 28 no. trees. Compared to the permitted development a group of trees are proposed to be removed along the northern boundary of the site. Notes that 2 of the trees proposed to be removed are B category trees and consist of Beech and Sycamore trees which are noted of being in good and fair condition respectively.

- *Areas of open space* - Under D17A/0240, 4 no. areas of open space were permitted, current application reduces these to 2, which include the central area of open space and the open space at the entrance to the site. Total area of open space is 2,002sqm. Area of open space opposite Thornhill House and to the east of Thornhill House adjacent to no. 9, not included in the application, and it appears that it is intended to apply to develop these lands in the future.
- Area of open space provided represents 14.4% of the overall site area and meets the absolute minimum area of open space requirement of 10%. Concerns about the further derogation of the setting of Thornhill House and future development on areas of open space opposite Thornhill House and to the east of Thornhill House which are not included in the open space calculations.
- Serious concerns that the loss of further trees and reduction of open space will significantly and negatively impact on the setting of the protected structure, and result in a development of a lower quality than that previously permitted.

Transportation

- *Sightlines* – Notes discrepancy between sight lines drawings and Site Layout drawings in relation to boundary treatments proposed at unit 1. Concern whether sight lines at the entrance can be achieved.
- *Parking* - Notes reference in Traffic and Transport Assessment (T&TA) to requirement for 32 car parking spaces to serve 15 no. units, however 43 car parking spaces are identified on the drawings. Notes reference in T&TA to requirement for 12 no. cycle spaces, however 23 no. stands are shown, unclear whether all cycle stands proposed are to serve the proposed 15no. dwellings.
- *Turning Area* - Concern in relation to the size of the turning area outside the primary elevation of Thornhill House and note potential to reduce the size of the turning head or revise its location.

3.2.2. Other Technical Reports

- **Drainage:** Report dated 5/08/2020 recommends further information. Notes drainage layout has significantly changed from previous applications, request clarification of scale used on 2HQ drawing No. 19-053-P002, details of surface water calculations, agreement on attenuation storage volumes and allowable outflow rate, clarification of status of area through which proposed foul and surface water sewers traverse, details on plan and in section of surface water sewer between SMH8 and SMH9, confirmation that a utilities clash check has been carried out, details of long-sections of the surface water drainage system, details of flow control device chamber, details of attenuation storage system and load bearing capacity, and options proposed for interception and treatment with contributing areas in accordance with GSDSDS requirements for the entire site.
- **Conservation Officer:** Report dated 29/07/2020 recommends refusal. Notes permitted development under ABP-300244-17 was more organic with less hard surfacing, a reduced road layout and a more appropriate setting for Thornhill House. Proposed layout is very formal arranged around a 'garden/urban square' which is incongruous to the setting and amenity of the protected structure, if permitted will result in a gradual and piecemeal erosion of the setting and amenity of the protected structure and, therefore, fails to accord with CDP policy and national policy in the form of the Department's Guidelines, Chapter 13, Section 13.5. Proposed development would adversely affect the character, setting and amenity of the protected structure, contrary to CDP policies AR1, RES3, Chapter 8: Principles of Development, and Section 8.2.11.2(iii) Development in Proximity to a Protected Structure.
- **Housing Department:** Report dated 10/07/2020 recommends no objection subject to condition requiring agreement with Part V requirements.
- **EHO:** Report dated 27/07/2020 recommends no objection subject to requirements.
- **Transportation:** No report received.
- **Parks & Landscape Services:** No report received.

3.3. Prescribed Bodies

- **Development Applications Unit (DAU), Department of Culture Heritage and the Gaeltacht:** Report dated 24/07/2020 recommends no objection subject to requirements.
- **An Taisce:** Report dated 24/07/2020 notes that the current proposal which deals only with the grounds of the protected structure is premature pending consideration of the house itself, the private area associated with the house is too confined and out of character, the trees on the northern boundary of the site should be conserved, and houses proposed on that part of the site should be reduced accordingly.

The application was referred by the planning authority to Fáilte Ireland, An Chomhairle Ealaíon, and The Heritage Council with no responses received.

3.4. Third Party Observations

3.4.1. A number of letters of objection were received by the planning authority from the following parties;

- Cllr. Barry Saul Dun Laoghaire Rathdown County Council
- Mount Merrion Residents Association C/o Francis J Moran
- Jim Murphy and Jackie Gilroy 25, Cherrygarth, Mount Merrion
- Liam and Michele Prendiville 43, Cherrygarth, Mount Merrion

3.4.2. Objections to the proposed development received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those raised in the third party observations to the appeal summarised in section 6 below.

4.0 Planning History

Amendments to Parent Permission

PA Reg.Ref.D21A/0161: Permission **refused** April 2021 for conservation works to Thornhill House, to upgrade the house as a single family residence; provision of

5No. own door two storey 2 bed dwellings to the rear of Thornhill House through the renovation, conversion and extension of an existing return and outbuildings located around an existing rear stable yard; and the provision of a terrace of 5 No. one-and-a-half storey mews dwellings located to the south of Thornhill House. The proposed development will consist of the reconfiguration of the permitted (Dun Laoghaire Rathdown County Council Reg. Ref. D17A/0240; An Bord Pleanála Ref. PL06D.300244) internal road layout, amendments to hard and soft landscaping, boundary treatment works including the provision of opes in the existing eastern stone wall and replacement of low wall and railings and all associated works above and below ground.

Reasons for refusal;

1. The Mews dwellings would result in the loss of conditioned open space under condition no. 2(a) PL06D.300244, the further denudation of the setting and amenity of Thornhill House, a protected structure and would impact on the residential amenity of no, 43 Cherrygarth by way of overlooking. The mews units and the resulting enclosure of land to the front of Thornhill House would improve its sense of openness and space and would not accord with Section 8.2.11.2.(iii) of the Development Plan. The proposed development is therefore contrary to the proper planning and sustainable development of the area and does not accord with the zoning objective of the site which seeks to protect and/or improve residential amenity.
2. It is considered that the road alignment, central linear area of open space, additional car parking and the proposed openings in the eastern stone wall would adversely affect the character, setting and amenity of the Protected Structure and would materially contravene Section 8.2.11.2(iii) 'Development in Proximity to a Protected Structure' of the Dun Laoghaire Rathdown County Development Plan 2016-2022.

PA Reg.Ref.D20A/0057: Permission **refused** March 2020 for the temporary removal of the eastern stone wall boundary and its subsequent reinstatement upon the completion of construction works on the wider site. Reason for refusal;

1. It is considered that the proposed demolition of the wall and its proposed rebuilding as a coursed rubble wall would materially contravene Policy AR1 of

the Dún Laoghaire-Rathdown County Development Plan 2016-2022 which states that it is Council policy to protect structures on the Record of Protected Structures from any works that would negatively impact their special character and appearance. In addition, the proposed development would significantly impact on the area in terms of visual amenity and is therefore considered to be contrary to the proper planning and sustainable development of the area.

PA Reg.Ref.D19A/0748 ABP Ref.306315: Permission **granted** February 2020 for development on a site of c. 1.39 ha to amend the apartment block and basement permitted under Dun Laoghaire Rathdown County Council Reg. Ref. D17A/0240; An Bord Pleanála Ref. PL06D.300244. No works are proposed to Thornhill House, a protected structure (RPS No. 936), under this planning application. The proposed development provides for amendments to the permitted apartment block comprising 33 No. units (3 No. 1 bed, 24 No. 2 bed and 6 No. 3 bed units) to now comprise 39 No. units (6 No. 1 bed, 28 No. 2 bed and 5 No. 3 bed units) within a 4 storey block and extension and reconfiguration of the basement car park to provide 44 No. car parking spaces, 4 No. motorcycle stands, 40 No. bicycle parking spaces, plant and bin stores for Oak View Property Developments Ltd. Appeal to the Board withdrawn. (see file attached)

Parent Permission

PA Reg.Ref.D17A/0240 ABP Ref.PL06D.300244: Permission **granted** September 2018 for development comprises of 47 no. dwellings provided as follows; 33 no. apartments including 3 no. 1-bed, 24 no. 2-bed and 6 no. 3-bed apartments with balconies/terraces in a 3-4 storey apartment building over single basement level and rooflights on the roof; 14 no. houses including 1 no. 5-bed 3-storey semi-detached house, 3 no. 4-bed 2-storey semi-detached houses, 2 no. 4-bed 3-storeys semi-detached houses and 8 no. 5 bed 3-storey terraced houses; each will have a private garden and an option for solar panels on the roof; 78 no. car spaces and 55 no. cycle spaces at basement and surface level; All associated site development works including site clearance works, landscaping, open space, boundary treatments, ESB substation, site services and infrastructure, bin stores and plant at basement level and ancillary signage. Vehicular and pedestrian access to / from Cherrygarth is via the existing access on the eastern boundary which is to be relocated and upgraded and via a proposed access on the southern boundary. 2 no. controlled pedestrian

accesses are provided to the existing public open space area in the eastern part of the site. A footpath is proposed along part of southern site boundary adjoining Cherrygarth. Permission is also sought for the laying of a new surface water sewer outfall and a new foul sewer outfall to connect to the existing public sewers to the south of the site. All on a site of c. 1.39 ha (excluding sewer connections) within the grounds of Thornhill House (A protected Structure) for David Doyle.

As part of the appeal a revised layout was submitted to the Board which provided for 5 No. terraced houses and 4 No. set-back terraced houses along the southern boundary of the site. (see file attached)

Condition No. 2

'The proposed development shall be modified as follows:

- (a) Units numbers 8 to 11 (inclusive) in revised 'Site Layout Plan' received by An Bord Pleanála on the 16th day of November, 2017 shall be omitted from the proposed development. Revised proposals for the provision of public open space on this land shall be submitted to and agreed with the planning authority prior to commencement of development.*

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

Adjacent Lands – Site to rear of Oatlands College

PA D16A/0465 ABP PL06D.247267: Permission **granted** April 2017 for the demolition of the former Oatlands Monastery building, other derelict buildings existing single storey dwelling at No. 2 Cherrygarth, and the construction of 63 residential units with all associated site works, at Oatlands College, Mount Merrion, Blackrock, Co Dublin.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016 – 2022. The subject site is zoned Objective A: "To protect and/or improve residential amenity." A narrow area along the eastern boundary is zoned Objective F: 'To preserve and provide for open space with ancillary active

recreational amenities.’ There is a specific objective ‘to protect and preserve trees and woodlands’ on the site.

5.1.2. Relevant policies and objectives include:

Chapter 2 – 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.’

Policy RES4 Existing Housing Stock and Densification

Chapter 6 - Built Heritage

Policy AR1 Record of Protected Structures

Chapter 8 – Principles of Development

Section 8.2.3.2 ‘Quantitative Standards’

Section 8.2.4.5 ‘Car Parking’

Section 8.2.4.7 ‘Cycle Parking’

Section 8.2.8.4 sets out standards for private open space.

Section 8.2.11.2 ‘Architectural Heritage – Protected Structures’

- (i) Works to Protected Structures
- (iii) Development in Proximity to a Protected Structure

Appendix 4 - Thornhill House is a Protected Structure RPS Ref: 936 (Map No. 2).

5.2. National Policy

- National Planning Framework 2018 – 2040
- Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009)
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018)

- Urban Development and Building Heights, - Guidelines for Planning Authorities (2018)
- Architectural Heritage Protection Guidelines for Planning Authorities (2011)

5.3. **Natural Heritage Designations**

There are no Natura 2000 sites within the boundary of the appeal site nor are there any Natura 2000 sites directly abutting the appeal site or within the immediate context of the site. The South Dublin Bay SAC (Site Code 000210) and the South Dublin Bay and River Tolka SPA (Site Code 004024) are located approximately 2km to the east of the appeal site.

5.4. **EIA Screening**

Having regard to the nature and scale of the proposed development, comprising a modest increase to the number of residential units within a permitted residential scheme and the urban location of the site, it is considered that 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.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal against the decision to refuse permission by the planning authority has been lodged by Tom Phillips + Associates in association with Lawrence and Long Architects, and 2 HQ Consulting Engineers on behalf of the applicant.

Revised drawings, Arboricultural Updated Tree Survey Report and Drainage details accompany the appeal for the Boards consideration. In summary, the appeal states:

Reason for Refusal No.1

- Disagree with assessment provided by the PA in relation to the proposed amendments to the permitted development.

- Assert that amendments proposed provide for a more appropriate use of space and an improved landscaping treatment over that previously permitted and provides for a highly appropriate setting to Thornhill House. Contend that proposals do not adversely impact on its character, setting or amenity.
- *Material Contravention* – Disagree that the development materially contravenes the CDP, particularly as the PA recommended refusal for a residential scheme on this site previously under D17A/0240 and material contravention reasons were not highlighted.
- Submit that the development which seeks to densify the permitted residential scheme is in accordance with national planning policy and planning guidelines, and similar to the Boards decision for development at Oatlands College and, therefore, meets the requirements of Section 37(2)(B)(iii) and 37(2)(B)(iv) of the Acts to allow the Board to grant permission for the scheme.
- *Layout and Design* – On reviewing the layout and landscaping of the parent permission a more formal approach with the creation of a landscaped square at the centre of the site with Thornhill House as the focus was considered a more appropriate treatment of the space. This provides for a central square which is bound by newly proposed houses to the north and south, a permitted apartment block to the east and Thornhill House to the east. Substantial distances remain between the proposed housing units and Thornhill House and vistas and views of the House have been enhanced.
- Submit that changes to the permitted housing layout along the northern and southern boundary do not adversely impact on the setting of Thornhill House or the residential amenity of surrounding houses. Submit that the proposed layout in the vicinity of Thornhill House is consistent with that previously permitted by the Board.
- Refer the Board to the Outline Architectural Heritage Impact Assessment prepared by ARC and the Architectural Design Statement prepared by Lawrence and Long Architects which provides for a number of contemporary precedents for similar residential development which provide a more formal setting to a protected structure and recent decision by ABP at Dalguise

House, Monkstown, Co. Dublin (PL06D.306949) which provides for a much higher density apartment scheme.

- *Open Space* – PA acknowledge that the quantum of open space proposed meets CDP requirements. Assert that refusal seems to have focussed on aspirational future applications which is inappropriate.
- Application proposes 3 No. large areas of public open space which equates to in excess of 23% of the site area which will provide high quality amenity space for future residents of the scheme.
- *Trees* – Area to the north of the site previously included the retention of 2 no. trees a Beech and a Sycamore, the Sycamore has now been downgraded to a Category C tree because of its age and condition. Submit that the loss of these 2 no. trees does not significantly reduce amenity within the site of impact on Thornhill House. It is also proposed to remove trees along the southern boundary, and additional trees will be planted to offset this loss.
- Submit that the landscaped open space proposed will provide for a high quality amenity space and the loss of a small no. of trees will not significantly adversely impact the setting or character of Thornhill House.
- Contend that the proposal does not further intrude on the setting of Thornhill House over and above that which has already been permitted on site and seeks to densify the permitted housing layout while ensuring the prominence of Thornhill House within the overall development, in keeping with Policy AR1 and Section 8.2.11.2(iii) of the CDP.
- *Density* – Assert that the proposed development ensures that there is no adverse impact on the amenity of the adjoining residential development or the established character of the area and is in accordance with Policy RES3 of the Development Plan and accords with National policy.

Reason for Refusal No. 2 – Southwest Corner of the Site

- Submit that the reason for refusal is illogical and ultra vires and should be overturned as it is not a relevant consideration to the determination of the current proposal. Proposal should be considered on its own merits.

- *Revised Layout in Vicinity of Thornhill House* – Dwg.No.ABP.01 prepared by Lawrence and Long demonstrates that access to Thornhill House is retained to the south and east but that car parking and the turning head is omitted, with the provision of additional open space to the south. Additional open space is provided to Thornhill House along the eastern boundary and a setback road is provided to connect around the central landscaped space that allows fire tender and bin truck access (2HQ drawings submitted with the appeal).
- *Revisions to House No.1 at Entrance to the Scheme* – Revised design reduces the scale to c.130sqm, c.10% reduction in size and footprint, increased set back from northern boundary, reduction in height of family bathroom structure, and increase in private open space to c.85sqm.
- *Drainage* – Response to issues raised by PA Drainage Department prepared by 2HQ Consulting Engineers address items.
- *Traffic* – Updated 2HQ Drawing No. 19-053-P008 indicates correct sightlines, which have not changed from that previously permitted by the Board on the parent permission. Refer also to accompanying Auto Track layout submitted which demonstrates movements on the site are still compliant with regard to the alternative route around the central open space.
- *Substation Location* – PA reference to location of permitted substation is incorrect. The proposed relocation of the substation does not impact adversely on adjoining residential amenity, refer to Drawings No. ABP.04 and ABP.05 from Lawrence and Long which detail the substation layout and elevations.
- Gable End of House No. 15 – Refer to condition in the parent permission that gable windows of the permitted unit onto the open space to the south of Thornhill House have obscure glazing.
- Request the Board to issue a grant of permission.

6.2. Planning Authority Response

The planning authority confirmed its decision and considered the issues raised by the appellant have been considered in the Planner's Report.

6.3. Observations

6.3.1. Observations to the first party appeal were lodged from the following parties;

- Mount Merrion Residents Association, C/o Francis J. Moran
- Gerard Dunnion, 34 Cherrygarth, Mount Merrion
- Tom and Mary Martin, 30 Cherrygarth, Mount Merrion
- Drs. Robert and Paula McDonnell, 3 Cherrygarth, Mount Merrion
- Jim Murphy and Jackie Gilroy, 25 Cherrygarth, Mount Merrion
- Liam and Michele Prendiville, 43 Cherrygarth, Mount Merrion

6.3.2. The issues raised can be summarised as follows;

- *Excessive Density* - Additional units proposed together with permitted development on adjoining Oatlands site, (105 extra units) will put significant pressure on the surrounding roads and services.
- *Traffic Hazard* – Construction traffic and additional traffic and parking particular hazardous given narrow road width, and proximity of entrances to a blind corner.
- *Increase in Traffic* – Query the basis for the traffic assessment presented with the original development.
- *Planning process* – Proposal does not comply with conditions granted under PA.Reg.Ref.D17A/0240 ABP-300244-17.
- *Impact on Thornhill House and Previous Conditions* – House No. 15 of the current proposal is a reapplication for House No. 8 of PA.Reg.Ref.D17A/0240 ABP-300244-17, current proposal does not include a revised proposal for provision of public open space.
- *Proposed Internal Road Layout* – Road servicing houses along the southern boundary extends unnecessarily to the western boundary of the site and is contrary to Condition No. 2a. under PA.Reg.Ref.D17A/0240 ABP-300244-17. Revised site layout submitted with the appeal still separates Thornhill House from the open space.

- *Inadequacy of Design* – Submission of an alternative layout and revised traffic management design in the appeal introduces a lack of clarity and is uncoordinated.
- *Loss of Amenity, Privacy and Security* – Houses Nos.10 (should be 14) and 11 (should be 15) as per Drg. No. PP02 will have views into No. 43 Cherrygarth. Suggest houses be re oriented north south.
- *Location of Compound* – In open space in front of Thornhill House more appropriate location would be between the houses proposed on the northern and southern boundaries.
- *Location of ESB substation* – Will result in a traffic hazard and should be located in a more discrete area.
- *Request the Board* – In the event of a grant to condition altering the road layout associated with the houses proposed on the southern boundary, and design be revised to provide the necessary sight lines at the proposed entrance.

6.4. Further Responses

None.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Principle & Policy Considerations
- Architectural Heritage
- Open Space and Tree Conservation
- Material Contravention
- Piecemeal Development
- Impact on Residential Amenity

- Access / Traffic Impact
- Other Matters
 - Surface Water Drainage
 - Precedent
 - Financial Contributions
- Appropriate Assessment

I draw the Boards attention to the permitted developments on site which provides for a total of 48 no. residential units (39 no. apartments and 9 no. houses). These were permitted under parent permission PA Reg.Ref. D17A/0240 ABP Ref.PL06D.300244 as amended by PA Reg.Ref. D19A/078.

The current proposal includes revisions to the layout, scale and design of the 9 no. houses, to provide an additional 6 no. housing units. This results in a total of 15 no. housing units, and overall total of 54 no. residential units on site.

The applicant in their appeal against the decision of DLRCC to refuse permission submitted a revised site layout drawing and updated Tree Survey Report. The revised layout in the vicinity of Thornhill House provides for the omission of car parking and a turning head and provision of additional open space. Revised design proposals were also submitted for House No. 1 at the entrance to the scheme with a reduction in scale and height and increase in private open space. A response to issues raised by the Drainage Section of the PA was submitted along with an updated drawing indicating the correct sightlines at both entrances, and Auto Track layout.

Accordingly, this assessment is based on plans received by DLRCC on the 22nd June 2020 as amended by further plans and particulars received by the Board on the 10th September 2020.

7.2. Principle & Policy Considerations

- 7.2.1. The appeal site is located within an established residential area and is bound by residential properties on three sides. Under the provisions of the Dún Laoghaire-Rathdown County Council County Development Plan 2016 – 2022 the appeal site is

contained within an area zoned “A” where the objective is to protect and improve residential amenity and where residential development is open to consideration. Having regard to the zoning objective for the sites I am satisfied that the principle of developing residential units at this location is acceptable.

- 7.2.2. An Outline Architectural Heritage Impact Assessment Report prepared by ARC Consultants for the applicant notes that the current proposal, seeks to ensure that Thornhill House which is a protected structure is the focus of the central green space of the scheme, which will retain the open aspect of the house from the east and south east and the primacy of Thornhill House on approach. No works are proposed to the Thornhill House as part of the current proposal.
- 7.2.3. With regard to density, I would set out the following. Policy RES 3 of the Development Plan states that “where a site is located circa 1 kilometre pedestrian catchment of a rail station, LUAS line, BRT, Priority 1 Quality Bus corridor and / or 500 metres of a Bus Priority Route, and / or 1 kilometre of a Town district centre, higher densities at a minimum of 50 units per hectare will be encouraged” the appeal site is located within 500m of the N11 QBC and is proximate to the Stillorgan Shopping Centre, a designated District Centre.
- 7.2.4. The additional 6 no. housing units proposed results in a total of 54 residential units on a 1.39 ha site providing a density of 38.8 units per hectare. While the applicant has referred to a density as 52 units per hectare this excludes the area around Thornhill House resulting in a site area of 1.04ha.
- 7.2.5. This is considered to be fully in accordance with the density parameters set out in Policy RES3. I do not consider that the proposed development is of excessive density and I would strongly discourage a further reduction in density at this location given the location of the subject site to the N11 QBC and the Stillorgan District Centres.
- 7.2.6. I note the concerns of the observations as submitted by the observers to the appeal regarding the excessive density development particularly having regard to the permitted residential development on the nearby Oatlands site. It is my view that such an approach is an unsustainable use of serviced urban lands where the overall objective is to maximise land uses.

- 7.2.7. It is evident that proximity to the N11 QBC and Stillorgan District Centre was a significant factor in the assessment of the application and determining what is considered to be the appropriate density at this location. As set out in the Development Plan the question of density plays an important part in ensuring that the best use is made of land intended for development. Overall, I am satisfied with the density proposed at this location.
- 7.2.8. This is a serviced, residentially zoned site within walking distance of public transportation infrastructure services on the N11 / Stillorgan Road QBC. It is also within reasonable walking distance of Stillorgan village centre and is proximate to schools, places of worship, places of employment and other amenities. I am also satisfied that the scheme (as amended) provides a reasonable housing mix and is consistent with the requirements of the Development Plan in this regard. Further and as documented above I am also of the view that the proposed height and density could be achieved on this site without compromising amenities of adjoining properties. While the proposed scheme before the Board is a clear densification of residential use at this location overall I consider the proposed additional units with the proposed densification of residential development at this location to be acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

7.3. **Architectural Heritage**

- 7.3.1. Reason for refusal no. 1 refers to the proposed layout, design, loss of open space and trees, which would adversely affect the character, setting and amenity of the Protected Structure on site, contrary to Policies AR1, and Section 8.2.11.2 (iii) 'Development in Proximity to a Protected Structure' of the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- 7.3.2. Thornhill House is a three bay two storey over semi-basement late Georgian house designated as a Protected Structure RPS Ref: 936 under the DLR CDP. The Georgian villa comprises the main house and outbuildings set within the north western part of the overall site.
- 7.3.3. The house is relatively shallow and includes a part three storey part two storey return at the east side of the original house. The front elevation of Thornhill house benefits

from a south facing orientation, while the eastern side elevation of the house addresses the entrance to the development from the east. There are no works proposed to Thornhill House as part of the current application.

- 7.3.4. The permitted scheme provides for a residential scheme with a mix of apartments and houses. Nine number houses are permitted with 4no. located along the northern part of the site and 5no. along the southern part of the site.
- 7.3.5. The current proposal provides for 9 no. houses (1-9) along the northern part of the site with 6 no. houses (10-15) along the southern boundary. The houses address a large green and mature Oak tree at the centre of the development. The houses are finished in brick and granite to complement Thornhill House. Each house is distinguished by a tall bay window and front door lined in stone which addresses the green.
- 7.3.6. The front building line of houses along the northern section are set back in line with the outbuildings to the rear of Thornhill House. House No.1/Gate Lodge is located inside the main entrance to the development. The gable of House No. 9 is set back approx. 16m from the eastern elevation of the outbuildings to the rear of Thornhill House. In my opinion, the layout of the houses proposed makes optimum use of the site, while also allowing clear views of the protected structure from within the scheme.
- 7.3.7. The PA raised concern in relation to the revised layout and in particular to the reduced separation distance between end house no. 9 and the protected structure, along with the provision of car parking and hardstanding areas in the vicinity of Thornhill House. I have examined the drawings lodged with the application and 5 no. car parking spaces are indicated to the side of House No. 9 and 4 no. spaces are indicated to the south/front of Thornhill House. On other drawings car parking is indicated within the area of open space to the south of the Thornhill House.
- 7.3.8. I share the concerns expressed by the Conservation Officer of the PA and agree that the location of these spaces would detract from the setting and character of the protected structure. I also accept that the revised layout of the central area of open space is more formalised in nature, and although discussed in more detail below, I do not consider that this necessarily detracts from the character or setting of the protected structure.

- 7.3.9. I note that the ridge height of the proposed houses is lower than that previously permitted. I have also had regard to Photomontages submitted, which I consider to be a reasonably accurate illustration of the proposed dwellings in context with the protected structure and trees to be retained. I am satisfied that the proposed dwellings will not detract from the protected structure.
- 7.3.10. The applicant has submitted a revised layout plan (Dwg.No.ABP.01) with the appeal for consideration by the Board to which I have had regard. The revised layout indicates the omission of car parking and the turning head, and provision of additional open space to the south of Thornhill House. Additional private open space is provided to Thornhill House along the eastern boundary. A setback road is provided to connect around the central landscaped space.
- 7.3.11. In my opinion, the assessment of the current proposal by the PA has been overly influenced by the layout of the original/parent permission in the assessment of the current application. I am satisfied that the proposed development, which I have considered on its own merits, and subject to alterations as submitted to the Board on appeal are appropriate and more sympathetic to the setting and character of the protected structure.
- 7.3.12. I am satisfied that the proposed layout and design, would not adversely affect the character, setting and amenity of the Protected Structure on site, and is in accordance with Policies AR1, and Section 8.2.11.2 (iii) 'Development in Proximity to a Protected Structure' of the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- 7.3.13. I am satisfied, therefore, that the grounds of appeal should be upheld on this basis.

7.4. Open Space and Tree Conservation

- 7.4.1. Reason for refusal no. 1 refers to the loss of open space and loss of trees on site which would adversely affect the character, setting and amenity of the Protected Structure.

Loss of Open Space

- 7.4.2. With regard to private and public open space I would set out the following. Overall, I am satisfied that the private open space provided for each of the houses proposed achieves the minimum area required.
- 7.4.3. Under the parent permission PA D17A/0240 ABP PL06D.300244 three no. areas of public open space were proposed within the scheme. The total area of public open space had a stated area of 2,847sqm. which equated to approximately 20% of the overall site area of 1.39ha. The site area calculation included Thornhill House and outbuildings. The permitted development required the omission of four no. proposed units and provision of public open space, by way of condition No.2 (a).
- 7.4.4. The PA notes that under the current application the area of open space is reduced to two. These include the reconfigured central area of open space, and the area at the entrance to the site. It is noted by the PA that the area to the front/south and east of Thornhill House, along with an area adjacent to house no. 9 are excluded from the current application. On this basis the PA submit that the area of open space provided represents 14.4% of the overall site area and therefore meets the absolute minimum open space requirement of 10%.
- 7.4.5. The PA have also expressed serious concerns that within the areas to the south and east of Thornhill house there is potential for future development which would detract from the setting of Thornhill House and result in an inferior development to that permitted.
- 7.4.6. The applicant maintains that four areas of public open space are proposed which equates to 23% of the overall site area.
- 7.4.7. I have had regard to the 'Proposed site layout plan Drawing no. ABP.03' submitted with the appeal which clearly identifies the following;
- central area of open space (Area 01-1.232sqm)
 - area at the entrance to the site (Area 02-610sqm)
 - area to the south/in front of Thornhill House (Area 03-1,185sqm)
 - area to the side of House No. 9 (Area 04-180sqm)
- 7.4.8. I note that Thornhill House and grounds has a stated area of 2,485sqm. The total area of public open space excluding Thornhill House is, therefore, 3,207sqm. This represents approximately 23% of the overall site.

- 7.4.9. I also note from Proposed site layout plan Drawing no. ABP.01 submitted with the appeal that Area 03 the area to the south/in front of Thornhill House, refers to no works proposed within this area.
- 7.4.10. I have also had regard to the Landscape Drawing no. ABP.02 submitted with the appeal which details additional planting. I accept that the layout of the areas of public open space are now more formal compared to the permitted layout, however, I am satisfied that the areas of open space will provide a high quality amenity space for future residents of the scheme.
- 7.4.11. The PA raised concerns in relation to the gable end elevation of House No. 15 where it adjoins the open space to the south of the Thornhill House. This House Type A includes a door at ground floor giving access to the utility room and two first floor bathroom windows. The door is finished in glass with upstairs windows in obscure glazing.
- 7.4.12. The applicant notes that passive surveillance of this space is provided by Thornhill House and the permitted scheme included a condition that gable windows onto this open space should have obscure glazing. I am satisfied that the design and fenestration of the gable end elevation of House No. 15 is acceptable at this location.
- 7.4.13. Overall, I am satisfied that the amended scheme provides the quantity and quality of public open space required by the County Development Plan 2016-2022.

Loss of Trees

- 7.4.14. There are no Tree Preservation Orders on this site as may have been applied under the 'Planning and Development Act'. However, there is a specific objective 'to protect and preserve trees and woodland' on the site as set out in the County Development Plan.
- 7.4.15. I note the Tree Survey of the site, Arboricultural Impact Assessment and Tree Root Protection Plan undertaken by Tree Management Services, and the updated Arboricultural Report submitted with the first party appeal and observations.
- 7.4.16. A total of 128 no. trees were surveyed on the site, (December 2019) of which it is proposed to retain 28 no. trees or 21% of the total. The applicant states that the proposed development has a moderate impact on the existing trees with 13

Category B trees and 85 Category C trees proposed for removal to facilitate the proposed development.

- 7.4.17. The applicant notes that the area to the north of the site previously included the retention of 2 no. trees a Sycamore and a Beech (referred to as Tree nos. 220 and 221) in the Arboricultural Impact Assessment.
- 7.4.18. The applicant states that the over mature Sycamore trees growing near the northern boundary and right hand side of the access driveway are in fair to poor condition.
- 7.4.19. The updated Arboricultural Report (September 2020) submitted with the appeal notes that further to tree felling a number of trees on site have displayed extensive heartwood decay. The aforementioned trees have been re-examined in that context and consequently, the Sycamore has been downgraded to a Category C tree given its age and condition.
- 7.4.20. It is also proposed to remove a row of grade C category trees along the southern boundary of the site that are of low retention value. The applicant states that additional tree planting is proposed in the rear gardens of houses to offset this loss.
- 7.4.21. I note that there was no report from the Parks and Landscape Services section of the PA. Notwithstanding, as observed on the day of my site inspection the dominant tree on site is the centrally located Mature Oak. I agree with the applicant that the landscaped open space proposed as part of the application in the centre of the development will provide a high amenity space for future residents and that the loss of the additional trees proposed will not significantly adversely impact the setting or character of Thornhill House or of the development overall.
- 7.4.22. Having considered the updated Arboricultural Report submitted with the appeal, and my own site visit, I am satisfied that the loss of additional trees compared to the already permitted scheme is acceptable.
- 7.4.23. I am satisfied, therefore, that the grounds of appeal should be upheld on this basis.

7.5. **Material Contravention**

- 7.5.1. The Board will note that Reason Number 1 of the decision of Dun Laoghaire Rathdown County Council to refuse planning permission states that the proposed

development would materially contravene the Dun Laoghaire Rathdown County Development Plan 2016-2022.

7.5.2. Therefore, Section 37 (2)(b) of the 2000 Planning and Development Act (as amended) applies. This states :-

(2) (b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that:

(i) the proposed development is of strategic or national importance

(ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of the development, and permissions granted, in the area since the making of the development plan’.

7.5.3. Having considered the file, and the provisions of the Plans, as outlined above, I consider that the Planning Authority’s conclusion that the development materially contravenes the Plan is unreasonable.

7.5.4. In this instance, the proposal does not constitute a development of strategic or national importance and there are no relevant regional planning guidelines or similar guidance documents to which regard must be had.

7.5.5. Overall, there are a number of competing objectives in order to develop the subject site for housing supply at this location. Having regard to the particular circumstances pertaining to this site together with the Development Plan objectives and policies for the site, I am satisfied that the amended plans are acceptable and that to permit the loss of trees and woodlands as proposed would not materially contravene the Development Plan, and therefore meets the requirements of Section 37(2)(B)(ii) of the Acts to allow the Board to grant permission for the scheme.

- 7.5.6. The applicants position is essentially that the development which seeks to densify the permitted residential development is not in contravention of national planning policy and planning guidelines and therefore meets the requirements of Section 37(2)(B)(iii) of the Acts to allow the Board to grant permission for the scheme.
- 7.5.7. As set out previously the site is within 500m of a QBC and is therefore suited to densities of more than 50 per hectare. Added to this there is a protected structure on site, an objective to protect and preserve trees, and zoned open space.
- 7.5.8. Having regard to Objective No. 35 of the National Planning Framework, and policy guidance provided in the Sustainable Residential Urban Areas (2009), Sustainable Urban Housing: Design which seeks to increase residential density, the addition of 6 no. additional residential units within an established residential area is in accordance with national planning policy. The proposed development, therefore, meets the requirements outlined in Section 37(2)(B)(iii) of the Acts to allow the Board to grant permission for the scheme.
- 7.5.9. The applicants also note the decision of the Board for a residential development at Oatlands College (ABP PL06D.247267) which is similar in nature to the development at Thornhill House. The proposed development, therefore, meets the requirements outlined in Section 37(2)(B)(iv) of the Acts to allow the Board to grant permission for the scheme.
- 7.5.10. I am satisfied, therefore, that the Board are not precluded from granting planning permission for the scheme.

7.6. Piecemeal Development

- 7.6.1. Reason for refusal no. 2 refers to the potential for future development in the south west corner of the site, conditioned as open space, which represents a piecemeal approach to development on the overall site.
- 7.6.2. As outlined in section 7.4 of this report the parent permission required the omission of four no. proposed units and provision of public open space, in the south west corner of the site by way of condition No.2 (a).
- 7.6.3. Under the current proposal the area/part of the site located to the south and east of Thornhill House is identified as open space.

- 7.6.4. I note there have been a number of amendment applications following the parent permission under ABP Ref.PL06D.300244. I also note the recent application for another amendment to the parent permission refused by DLRCC in April 2021 under PA Reg.Ref.D21A/0161 as outlined in section 4 of this report. The proposed development relates to conservation works to Thornhill House with 5 no. dwellings to the rear and 5 no dwellings to the south of Thornhill House.
- 7.6.5. Notwithstanding, I concur with the applicant in that the current proposal subject of this appeal should be considered on its own merits. The future development of part of the site is for a separate planning application.
- 7.6.6. I am satisfied, therefore, that the future development of the south west corner of the site is not a relevant planning consideration in the determination of the current appeal, and that the appeal should be upheld on this basis.

7.7. Residential and Visual Amenity

- 7.7.1. Concern has been raised in observations to the appeal in relation to the impact of the proposed dwellings on the residential and visual amenities of the adjoining area. In particular, concern is raised in relation to overlooking of House No. 43 Cherrygarth. In this regard the 6 no. residential units proposed along the southern boundary all have minimum rear garden depths of 11m and are not directly opposing any additional dwellings. While I do note that the location of the proposed compound is identified in the outline Construction Management Plan as being located in the south west corner of the site adjacent to House No. 43, this will be temporary in nature.
- 7.7.2. It is not considered that undue overlooking will occur from the proposed development and the required separation distances have been achieved where required. Further I agree with the Local Authority Planner that having regard to the relatively limited height of the dwellings the separation distances to both the site boundaries along the northern and southern boundaries and set back distances to adjoining dwellings (in particular to the north) it is considered that there will be no undue overlooking on any adjacent property as a result of the proposed development.

- 7.7.3. Concern was raised by the PA in relation to the design and layout of House No. 1 located inside the entrance to the scheme. I have examined the proposals submitted, and as revised with the appeal, and I share these concerns.
- 7.7.4. House no. 1 House Type D is a three bedroom house is different in design and layout to the other houses proposed. It is arranged around an internal court yard and surrounded by a high boundary wall, which extends above the proposed front eastern boundary wall along Cherrygarth. The property extends to the rear boundary wall of House no. 62 Trees Road Lower.
- 7.7.5. Revised Plan and Elevation drawings ABP.06 and ABP.07 were submitted with the appeal. Amendments include a reduction in in area to c.130sq, c. 10% reduction in size and footprint, increased set back from the northern boundary, reduction in height of family bathroom structure, and increase in private open space to c.85sqm.
- 7.7.6. I concur with the PA that the configuration of this house constitutes over development at the entrance to the scheme. I particularly note the enclosed external courtyard to the front and lack of fenestration on the front/south facing elevation. I have reviewed photomontage View 01 lodged with the application which only partially illustrates the visual impact at the entrance to the scheme.
- 7.7.7. Notwithstanding the relatively minor amendments submitted as part of the appeal I am not satisfied that these concerns have been adequately addresses. In my opinion the layout and design of the house would have a negative impact on the residential and visual amenities of existing and future residents
- 7.7.8. While there may be scope to provide a more modest house at this location this I would suggest would require a complete redesign as part of a future planning application.
- 7.7.9. If the Board, therefore, are minded to grant permission, I recommend that House No. 1 be omitted.
- 7.7.10. The PA and observers to the appeal have raised concerns in relation to the relocation of the substation now proposed at the south eastern corner of the site to an area of open space, which it is asserted would negatively impact on the streetscape along Cherrygarth.

- 7.7.11. The permitted substation is located to the north eastern corner of the site north of the entrance to the development.
- 7.7.12. It is noted by the applicant that the proposed relocation of the substation is to ensure the optimum location to provide power for the scheme and does not adversely impact on adjoining residential amenity. Lawrence and Long Drawings No.ABP.04 and ABP.05 were submitted as part of the appeal, detailing the floor plan and elevations of the substation.
- 7.7.13. I have considered the revised location layout and design details submitted and am satisfied that it will not significantly detract from the visual or residential amenity of the area. I am satisfied that with planting over time it will be assimilated into the overall development.
- 7.7.14. In summary, I am satisfied that the proposed development provides for a good standard of residential amenity for future occupants and would not significantly impact on the established residential amenities of the area.

7.8. Access /Traffic Impact

- 7.8.1. I have noted the reports (as amended) on file from the applicant and the planning authority together with the appeal and observations.
- 7.8.2. The receiving environment is urban in nature. The main transportation artery in the area is the Stillorgan Road while the remaining links generally serve as local access routes. Access to the site will be from Cherrygarth a local access road which bounds the site to the east, with a second access to the basement car park from Cherrygarth to the south.
- 7.8.3. Third party observations to the appeal have raised concerns in relation to the additional units proposed which together with permitted development on the Oatlands site will put significant pressure on the surrounding roads and services.
- 7.8.4. The Traffic and Transport Assessment (T&TA) prepared by 2HQ Consulting Engineers refers to the Transportation Statement submitted with the parent application. This estimated traffic generation from the proposed development using the computer modelling package TRICS.

- 7.8.5. It estimates that the net increase in movements generated by the proposed development will be 2 arrivals and 3 departures in the AM peak, with 3 arrivals and 2 departures in the PM peak.
- 7.8.6. In my opinion, the overall increase of 6 no. units is not significant. Having regard to the information on file including the T&TA submitted. and I am satisfied that it has been demonstrated that the proposed development will have a negligible effect on the operation of the links and junctions locally and will not give rise to a significant increase in traffic.
- 7.8.7. While I note there was no report from the Transportation section of the PA an issue was raised by the PA in relation to sightlines indicated on drawings submitted. The applicant has confirmed that the sightlines have not changed from that previously permitted by the Board on the parent permission and has submitted an updated Sightlines Drawing prepared by 2HQ Consulting Engineers Drawing No.T008, indicating the correct sightlines at both entrances. I am satisfied that the applicant has demonstrated that adequate sightlines can be achieved at both entrances proposed.

Car Parking

- 7.8.8. The PA have raised concern in relation to the over provision of car parking. They have noted a reference in the T&TA to a parking requirement for 32 no. car parking spaces to serve 15 no. units, but that 43 no. car parking spaces are identified on the drawings submitted.
- 7.8.9. The CDP car parking requirement for the 15 houses equates to 30 no. spaces.
- 7.8.10. As noted above in section 7.3 of this report a number of car parking spaces previously indicated in the vicinity of Thornhill House have been omitted in revised plans submitted with the appeal.
- 7.8.11. I have had regard to the Proposed Site Layout Plan Drawing no. ABP.01 submitted with the appeal which identifies two no car parking spaces to the front or side of each house, with four no. car parking spaces identified between house no.10 and the apartment block. A total of 34no. spaces therefore are indicated, which appears appropriate, and can accommodate visitor parking.

7.8.12. I am satisfied that sufficient car parking has been provided and meets CDP car parking requirements.

Cycle Parking

7.8.13. The PA have noted a reference in the T&TA to a requirement for 12 no. cycle spaces, but that 23 no. stands are shown, and query whether all cycle stands proposed are to serve the proposed 15 no. dwellings. In this regard, I can confirm from 2HQ Consulting Engineers Drawing No.T008 submitted with the appeal that 23 no. stands are indicated. I am satisfied that sufficient cycle parking has been provided for the overall development.

7.8.14. In summary, I am satisfied, that the proposed development will not give rise to a significant increase in traffic and is acceptable in terms of traffic safety and convenience.

7.9. Other Matters

Surface Water Drainage

7.9.1. As outlined above at section 3.2.2 the Drainage Section of the PA have noted that the proposed drainage layout has significantly changed from previous applications. A number of concerns are raised in relation to details regarding surface water calculations, storage, manholes, utilities, flow control devices, etc. along with requirements demonstrating compliance with the Greater Dublin Strategic Drainage Strategy (GDSDS).

7.9.2. The applicant in response to issues raised have submitted as part of the appeal a report prepared by 2 HQ Consulting Engineers. It is noted in the report that although the internal layouts of both schemes are different, there are similarities between both. The applicant has provided in some detail responses to the items raised, while also cognisant of the overall development for which permission has already been approved.

7.9.3. If the Board are minded to grant permission, I am satisfied that the surface water drainage issues raised can be agreed with the PA.

Precedent

7.9.4. The appeal submission submits that precedents in relation to contemporary designs which provide a more formal setting to a protected structure and provide for much

high densities. I have reviewed the precedents including PL06D.306949 at Dalguise House, Monkstown, Co. Dublin, however I have considered the current application on its own merits.

Financial Contributions

7.9.5. Dun-Laoghaire Rathdown County Council adopted a Development Contribution Scheme 2016-2020 under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th December 2015. The proposed development does not fall under the exemptions listed in either scheme. Having regard to the stated development contribution scheme it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

7.10. In relation to the Section 49 Supplementary Development Contribution Schemes (Extension of LUAS Line B1 – Sandyford to Cherrywood) it is noted that the subject site is located outside the catchment area.

7.11. **Appropriate Assessment**

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

8.0 **Recommendation**

I recommend that permission be **granted** for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

Having regard to the zoning objectives for the site as set out in the Dun Laoghaire Rathdown County Council, 2016 – 2022, the National Planning Framework, 2018 –

2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) and the overall layout, scale and design of the proposed development it is considered that, subject to compliance with the conditions set out below the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not have a detrimental impact on architectural heritage, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars received by An Bord Pleanála on the 10th day of September 2020, 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. House No. 1 House Type D shall be omitted from the proposed development.

Reason: In the interest of residential and visual amenity.

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

Reason: In the interest of visual amenity.

4. Details of boundary treatments shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of residential and visual amenity.

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

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

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

Reason: In the interests of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

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

Reason: In the interest of urban legibility.

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

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

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

Reason: To secure the protection of trees on the site.

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

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

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall – (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c)

provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

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

Reason: In the interest of sustainable waste management

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of

facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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

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

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

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

Reason: To ensure the satisfactory completion of the development.

19. 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.

Susan McHugh
Senior Planning Inspector

21st May 2021