



Development

Conservation works to Thornhill House, to upgrade the house as a single family residence; provision of 5 No. 2 bed dwellings, terrace of 5 No. dwellings, all associated site works.

Location

Site of c. 1.39 ha, Thornhill House, Cherrygarth, Mount Merrion, Blackrock, Co. Dublin - A Protected Structure (RPS No. 936)

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D21A/0161

Applicant

Oak View Property Developments Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party v Refusal

Appellant

Oak View Property Developments Ltd.

Observers

1. An Taisce

2. Mount Merrion Residents Association
3. Gerard Dunnion
4. Jim Murphy and Jackie Gilroy
5. Joan and Clara O'Neill
6. Liam and Michelle Prendiville

Date of Site Inspection

7th February 2022

Inspector

Margaret Commane

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1.0 Site Location and Description

- 1.1. The area surrounding the subject site is a mature residential area in Mount Merrion, Blackrock, Co. Dublin, and there is a mix of two storey dwellings in the vicinity of the site in a variety of architectural styles. Many of these have been previously extended and there is a great variety of external finishes.
- 1.2. The subject site comprises a 1.39Ha parcel of land on the western side Cherrygarth, 60 metres south of the intersection of Cherrygarth and Trees Road Lower. The site includes Thornhill House, a Protected Structure (RPS 936) and associated outbuildings, which is located in the north-western part of the site. 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 feature on site including a large oak, beech and sycamore. The site is currently accessed via a single entrance from Cherrygarth, via Trees Road Lower. The gradient of the subject site slopes gently from north-west to south-east.
- 1.3. Building works have commenced on site (associated with development previously approved under PA Reg. Ref. D17A/0240/Appeal Reference PL06D.300244 and subsequently amended pursuant to PA Reg. Ref. D19A/0748), with the permitted apartment block situated inside the eastern boundary to the site currently under construction.
- 1.4. The site is bounded on the northern and western sides by the back gardens of adjacent dwellings fronting Trees Road Lower and South Avenue. Adjoining residential development along Trees Road Lower and South Avenue is characterised mainly by two-storey semi-detached houses. The site's eastern boundary and the majority of the site's southern boundary is flanked by Cherrygarth Road. A small (c. 40 metre) section of the site's southern boundary abuts No. 43 Cherrygarth, which is occupied by a double storey detached dwelling and associated front and rear gardens. Residential development along Cherrygarth is characterised by low-density, two storey housing, set within generous sized plots.
- 1.5. The site is proximate to Stillorgan Town Centre and is well serviced by public transport. More specifically, Dublin Bus Routes 7B, 7D, 46-N, 46A, 47, 116, 133, 133X, 145 and 155 running along Stillorgan Road to the north-east, Bus Route 47 running along North

Avenue to the north-west and Bus Routes 47, 75, 75A and 116 running along Lower Kilmacud Road to the south-east.

2.0 Proposed Development

2.1. The proposed development would comprise the following elements:

- Conservation and upgrade works to Thornhill House to create a 494sqm single family residence, including the following internal works: - (i) formation of new ope in partition to proposed kitchen in basement, (ii) removal of door and alteration to window to rear hall at ground floor level; (iii) modifications to WC and bathroom at landing level; (iv) modifications to master ensuite at first floor level; and (v) removal of inappropriate internal doors to basement; and external works: - (i) removal of existing perspex screens to front portico; (ii) removal of security grilles to windows and the rationalisation of soil pipes to the elevations; (iii) provision of new painted hardwood doors replacing inappropriate modern joinery elements to basement; (iv) improvements to external areas on eastern and western sides at basement level; (v) removal of fixed maintenance ladders and gates to rear courtyard wall; and (vi) provision of a private garden with associated railings, gates, soft and hard landscaping to the south and west of Thornhill House.
- Provision of 5 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. Associated works to the existing return and outbuildings includes: - (i) creation of new opes; (ii) removal of sections of external wall and interior partitions; (iii) roofs to be removed and existing slates to be reused in new extension; (iv) removal of external courtyard wall and removal of corrugated roof over covered external space, wrought iron trusses and column supports; (v) provision of new sash windows and refurbishment of existing original sash windows; (vi) replacement of non-original windows / doors; and (vii) demolition of existing boiler room and WC to south-east of external courtyard.
- Construction of a terrace of 5 no. one-and-a-half storey mews dwellings (2 no. 3-bedroom dwellings and 3 no. 2-bedroom dwellings) to the south of Thornhill House.

- The development will also include reconfiguration of the permitted (under Planning Authority 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.

2.2. The application for the proposed development was accompanied by the following:

- Planning & Environmental Report.
- Architectural Design Statement.
- Architectural Heritage Impact Assessment.
- Arboricultural Impact Assessment and Tree Root Protection Plan.
- Arboricultural Tree Survey Report.
- Traffic and Transport Assessment and associated drawings.
- Engineering Assessment Report and associated drawings.
- Landscape Design Report.
- 3D computer generated images of the proposed development.
- A physical model of the overall development at Thornhill House.

3.0 Planning Authority Decision

3.1. Decision

To Refuse Permission for the following reasons:

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 remove 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 Dún Laoghaire Rathdown County Development Plan 2016 - 2022.*

3.2. Planning Authority Reports

3.2.1. Planning Report

- Given the subject site's proximity to the N11 Quality Bus Corridor/the Stillorgan Town and District Centre and having regard to the Objective 'F' zoning applying/the Protected Structure and trees featuring on site, on balance the proposed density of 41.7 units per hectare (calculated in the absence of the increase in units nos. being considered under ABP Refence ABP-308150-20) resulting from the subject proposal is considered acceptable.
- From a conservation perspective, the planner's report, echoing the views expressed by the Conservation Officer, had no objection to the conservation and upgrade works proposed to Thornhill House building subject to conditions. However, concerns were raised regarding the proposals to alter the setting of Thornhill House through the creation of a formal and centralised area of open space. The subject proposal was deemed to significantly alter the permitted development under PA Reg. Ref. D17A/0304/ABP Reference PL06D.300244-17 which comprised a less formal layout, which coupled with soft landscaping, afforded the main house with a sense of space which reflected its status as a Protected Structure. The linear and formalised nature of the central open space and road design resulting from the subject proposal was considered to reduce the primacy of Thornhill House on approach. They considered that the road alignment, central area of open space and additional car parking would

adversely affect the character, setting and amenity of the Protected Structure, therefore, it was recommended that permission be refused.

- From an amenity perspective, having regard to the positioning of the dwelling on site, the proposed design of the external courtyards to the side and the separation of the dwelling from the rear return, it is considered that the works proposed to Thornhill House will not impact on the visual and residential amenities of adjacent properties.
- With regards to standard of accommodation, Thornhill House is proposed to measure 494sqm and be served by 910sqm of amenity space which is well in excess of the requirements set out in the Quality Housing for Sustainable Communities, 2007, in relation to floor space and amenity space.
- From a conservation perspective, the planner's report had generally no objection to the renovation, conversion and extension of the existing return and outbuildings to the rear of the Thornhill House resulting in the provision of 4 dwellings. The proposed works are modern and so distinguishable from the original Protected Structure, consistent with Section 8.2.11.2(i) of the County Development Plan. Two aspects of the proposed works to return/outbuilding were considered to be inappropriate. Concerns expressed by the Conservation Officer, regarding the appropriateness of the proposed external staircase serving Unit 25, were shared by the Planning Officer who deemed it would detract from the Protected Structure. This was not deemed to be a substantive reason for refusal and it was instead recommended that further information be requested in this regard. The proposed use of black timber clad hit and miss fencing to define the private open space associated with these dwellings was deemed to detract from the Protected Structure, low level planting was preferred. This was also not deemed to be a substantive reason for refusal and it was instead recommended that further information be requested in this regard.
- From an amenity perspective, it is considered that Units 23-25 proposed to the rear of Thornhill House will not impact on the visual and residential amenities of the surrounding properties along South Avenue and Trees Road Lower, given the length of their rear gardens and the materiality of the proposed

dwellings. Similarly, Unit 22 was not considered to impact on the visual and residential amenities of the surrounding properties along Trees Road Lower given the inclusion of a flat roof immediately adjacent to the common boundary, the materials/finishes proposed and an absence of windows on the northern elevation. The Planning Authority was unable to assess Units 21 and 22's impacts on the properties to the east approved under Reg. Ref. D17A/0304 as the layout shown pertained to ABP Reference ABP-308150-21 which is currently under appeal.

- With regards to standard of accommodation, Units 21-25 are in excess of the standards set out in the Quality Housing for Sustainable Communities, 2007. They are also served by private amenity space to the rear which exceeds the minimum requirement of 48sqm outlined for 2 bedroom dwellings. Concerns were raised in relation to the quality of Unit 16's bedroom 2 which is served by a single window on the side elevation, setback 0.9 metres from the boundary. It was considered that this room would be of poor quality and would receive an adequate amount of daylight. It was recommended that should the Planning Authority be minded to grant permission for Units 16-20, revised proposals addressing the design of Unit 16 be requested.
- From a conservation perspective, in the context of the dwellings proposed to the south of Thornhill House, the reduced height and scale of dwellings in the south-western corner of the site was acknowledged. However, the Planner, having regard to the previous commentary under PA Reg. Ref. D17A/0304/ABP Reference PL06D.300244 and the subsequent removal of Units 8-11 required by Condition No. 2(a) of the Board's order, and sharing the concerns of the Conservation Officer, contented that the proposed dwellings would result in the loss of conditioned open space and the further denudation of the setting and amenity of the Protected Structure. The introduction of 5 dwellings in this area of open space would remove the sense of openness and space currently afforded by the Protected Structure. For these reasons, they were not supportive of this aspect of the development and concluded that permission should be refused for the proposed development.

- From an amenity perspective, the dwellings proposed to the south of Thornhill House (Units 16-20) were considered to impact negatively on the privacy of No. 43 Cherrygarth, the balcony included on the rear elevation facilitating overlooking, given the level difference that exists between the two sites as well as the inclusion of a balcony on the rear elevation.
- With regards to standard of accommodation, measuring between 97sqm and 124sqm, Units 16-20 are in excess of the standards set out in the Quality Housing for Sustainable Communities, 2007. They are also served by private amenity space to the rear which exceeds the minimum requirements of 48sqm and 60sqm outlined for 2 and 3 bedroom dwellings, respectively. Concerns were raised in relation to the quality of Unit 16's bedroom 2 which is served by a single window on the side elevation, setback 0.9 metres from the boundary. It was considered that this room would be of poor quality and would receive an adequate amount of daylight. It was recommended that should the Planning Authority be minded to grant permission for Units 16-20, revised proposals addressing the design of Unit 16 be requested.
- In the context of the revisions proposed to the site layout, the Planner's Report raised concerns about the revised layout forming the basis for the appeal under ABP Reference ABP-308150-20 being utilised in the context of the subject proposal, the absence of a bin storage area to serve the dwellings proposed to the rear of Thornhill House and the revised location propose for the esb substation featuring adjacent to the site's eastern boundary. It was recommended that further information be requested regarding bin storage areas/collection points and alternative locations for the substation. It was recommended that permission be refused having regard to the road re-alignment aspect of the revisions proposed to the site layout.
- The proposed upgrade works to the open space located along Cherrygarth, including the provision of 5 new openings in the existing rubble stone wall and installation of 1.8 metre high metal railings, were considered to result in a loss of character, appearance and integrity of the wall, while the number and extent of openings is considered excessive. Therefore, this aspect of the proposal was not supported and refusal was recommended in this regard.

- The changes to the open space and trees on site proposed more generally were not supported due to the potential impacts to trees on site, including Tree No. 228 as a result of the proposed road-realignment, as well as their adverse effect on the character and setting of the Protected Structure.
- In conclusion, the Planners Report was supportive of the development of the return and outbuildings to the rear of Thornhill House but has significant concerns regarding the mews dwellings, proposed road realignment, opening in the eastern wall and the proposed central linear area of open space which are considered to adversely affect the character, setting and amenity of the Protected Structure. It is considered that these items require a significant re-design and cannot be addressed by way of further information.
- It was recommended that any future application for the subject site have regard to the comments made/additional information deemed necessary in the reports provided by Transport Planning, Water Services and the Public Lighting and Environmental Management Section.

3.2.2. **Other Technical Reports**

Transport Planning (09/04/2021): Recommended that further information be requested regarding cycle parking provision for the proposed dwellings, car parking provision for the entire site, internal footpaths, DMURS compliance, net uplift in vehicle movements resulting from the entire development, turning arrangements and vehicle manoeuvres required for emergency/tender vehicles, service vehicles, refuse collection etc. and construction management.

Drainage Planning (01/04/2021): They noted that the surface water layout is significantly different to that proposed in former applications D20A/0432 and D17A/0240 and recommended that further information be requested regarding attenuation volume/attenuation storage volume/the proposed attenuation storage system, the proposed reticulation system, drainage of hardstanding areas and roofs, SuDS measures, alternative surface water system proposals, taken in charge/wayleave proposals and potential overland flows.

Conservation Division (12/04/2021): Recommended a SPLIT decision, comprising of a grant of permission for works to the Protected Structure and the conversion of the return and outbuildings to provide 5 no. two-storey own door residential units, subject

to the conditions, and refusal for the terrace of 5 no. mews houses to the south of Thornhill House, for the following reasons: - it is considered the proposed development would adversely affect the character, setting and amenity of the Protected Structure and would, therefore, be contrary to the County Development Plan Policies AR1 and RES3 and Section 8.2.11.2 (iii) Development in Proximity to a Protected Structure. With regards to the proposed landscaping and road alignment, the Conservation Officer deemed the permitted development to be more organic with less hard surfacing, a reduced road layout, less surface car parking which provided a more appropriate setting for Thornhill House. With regards to the works proposed to the eastern boundary wall, the Conservation Officer considered the number and extent of the openings to be excessive and would result in a loss of character, appearance and integrity of the wall.

Housing Department (22/03/2021): No objection subject to condition requiring agreement with Part V requirements.

Public Lighting (22/03/2021): Recommended that further information be requested regarding public lighting details for the proposed dwellings / public open space.

Parks Department (09/04/2021): Recommended that further information be requested including a revised Tree Report and that conditions be attached to any grant of permission.

Environmental Health Service (26/03/2021): No objection subject to conditions.

3.3. Prescribed Bodies

- **An Taisce (31/03/2021):** Recommended refusal for the following reasons (in summary): - the development would seriously adversely affect the character, setting and amenity of the Protected Structure and denigrate its primacy on the site; the application is very similar to the application currently under appeal (PA Reg. Ref. D20A/0432/Appeal Reference ABP-308150-20); the applicant's proposals to formalise the landscape around the house are contrary to its original informal form; and the creation of opes in the eastern boundary wall is considered to be unsightly and destructive.

- **Irish Water (26/02/2021):** Requested further information to facilitate assessment of the feasibility of a connection to public water/waste water infrastructure.
- **Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media (01/04/2021):** No objection subject to conditions relating to archaeology.
- The application was also referred by the planning authority to Fáilte Ireland and The Heritage Council with no responses received.

3.4. Third Party Observations

A total of 10 third-party observations were received by the Planning Authority during the consultation period for the application, all of which were submitted by residents of the area surrounding the appeal site and local residents' groups. 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 similar to those raised in the observations to the grounds of appeal and they are collectively summarised under the heading 'Observations' in Section 6 below.

4.0 Planning History

4.1. Subject Site

4.1.1. The following 4 previous applications pertaining to the subject site are of relevance:

Parent Permission

PA Reg. Ref. D17A/0240 (Appeal Reference PL06D.300244)

Permission was sought for a development comprising of 47 no. dwellings comprising of: - 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; 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 via the existing access on the eastern boundary 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 was 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. 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)

Permission was granted by the Board in September 2018, inclusive of the following condition (which reduced the number of dwellings to 43):

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.'

Amendments to Parent Permission

PA Reg. Ref. D20A/0432 (Appeal Reference ABP-308150-20)

Permission granted on 30th June 2021 for development comprising of the reconfiguration and redesign of permitted housing units (under (PA Reg. Ref. D17A/0240; An Bord Pleanála Ref. PL06D.300244) 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) and additional works, including 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. No works were proposed to Thornhill House (RPS No. 936), under this planning application. (See file attached)

The Board's Order, included the following condition (which altered the proposed road layout):

Condition No. 2:

'The proposed development shall be amended so that the section of road to the north-east of the Public Open Space Area 01 shall be omitted and the area absorbed into the open space area with the provision of a pedestrian link.

Reason: In the interests of the protection of the mature oak tree and of visual amenity.

PA Reg. Ref. D20A/0057

Permission refused in 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, for the following reason:

"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 (Appeal Reference ABP-308150-20 – appeal subsequently withdrawn)

Permission granted in February 2020 to amend the apartment block and basement permitted under PA Reg. Ref. D17A/0240; An Bord Pleanála Ref. PL06D.300244. More specifically, 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. No works were proposed to Thornhill House under this planning application.

Permission was inclusive of the following condition:

Condition No. 3

‘Revised plans and elevations shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development which provide:

- a) Alterations to the layout plans requiring the reconfiguration of unit no. 4 & 5, 15 & 16 and 26 & 27 so as to provide 3no. dual aspect and 3no. single aspect units in lieu of the 6 no. single aspect units. This will result in the permission being substantially consistent with the requirements of SPPR 4 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2018.*
- b) Alterations to Unit no. 2, 13 and 24 so as to provide increased private open space as per the requirements of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2018.*

Reason: In the interest of the residential amenity as well as the proper planning and sustainable development of the area.’

4.2. Adjacent Sites

4.2.1. There has been 1 recent application in the vicinity of the subject site that is pertinent to the current proposal. This is summarised below.

PA Reference D16A/0465 (Appeal Reference PL06D.247267)

This application related to a proposal 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 (comprising 9 houses, 24 duplexes and 30 apartments) with all associated site works. The applicable site is located to the east of the current application at Oatlands College, Mount Merrion, Blackrock, Co. Dublin. The Board, concluding that the proposed development would be acceptable, granted permission for this application in April 2017.

5.0 Policy Context

5.1. Dún Laoghaire Rathdown County Development Plan, 2016-2022

5.1.1. *Land Use Zoning*

The majority of the site is zoned Objective 'A' in the Dun Laoghaire Rathdown County Development Plan 2016-2022 with a stated objective '*to protect and/or improve residential amenities.*' A narrow area along the eastern boundary is zoned Objective 'F' with a stated objective '*to preserve and provide for open space with ancillary active recreational amenities.*'

5.1.2. *Other Relevant Sections/ Policies*

Thornhill House is a Protected Structure (RPS. No. 936) and there is a specific objective '*to protect and preserve trees and woodlands*' on the site.

The following policies are considered relevant to the consideration of the subject proposal:

Section 2.1.3.3 - 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.

Where a site is located within 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 or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged'

Section 2.1.3.3 - Policy RES4: Existing Housing Stock and Densification

Section 4.2.2.6 - Policy OSR7: Trees and Woodland

Section 6.1.3.1 - 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."*

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.'

Section 8.2.3.5 Residential Development – General Requirements

Section 8.2.4.5 Car Parking

Section 8.2.4.7 Cycle Parking

Section 8.2.4.9 Vehicular Entrances and Hardstanding Areas

Section 8.2.8.2 Public/Communal Open Space – Quantity

'For all developments with a residential component – 5+ units - the requirement of 15sq.m-20sq.m. of Open Space per person shall apply based on the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.

The Planning Authority shall require an absolute default minimum of 10% of the overall site area for all residential developments to be reserved for use as Public Open and/or

Communal Space irrespective of the occupancy parameters set out in the previous paragraph.'

Section 8.2.8.3 Public/Communal Open Space – Quality

Section 8.2.8.4 Private Open Space – Quantity

Section 8.2.11.2 - Architectural Heritage – Protected Structures: (i) Works to Protected Structures

'In assessing works (inclusive of extensions/alterations/change of use etc.) to a Protected Structure, the Planning Authority will seek to ensure that:

- Alterations and interventions to Protected Structures shall be executed to the highest conservation standards, and shall not detract from their significance or value.*
- Original features of architectural and historic interest will be retained. Interventions proposed should be minimised in order to retain the legibility of the existing floor plan.*
- All works should be carried out to the highest possible standard, under supervision of a qualified professional with specialised conservation expertise. On-site operatives/contractors should have experience dealing with historic buildings.*
- Appropriately scaled extensions should complement, and be subsidiary to, the main structure be positioned generally to the rear elevation or less prominent elevation. Full width extensions will not normally be permitted.*
- Good conservation practice recommends that extensions should be 'of their time' (i.e. clearly distinguishable from the original) and to a high standard of design using material that both respect and are complimentary to the existing building.*
- External fittings (such as meter boxes, ventilation grilles, security cameras, burglar alarms, cables) should be sited to minimise their visual impact and should not be affixed to the principal elevation. Where this is unavoidable, fixtures and associated fittings should utilise any vertical or horizontal lines, i.e. channelling the wires along rainwater goods and mouldings.*
- All planning applications will be referred to the Department of the Arts, Heritage and the Gaeltacht and the prescribed bodies. The Planning Authority will have regard to the advice and recommendations received from the prescribed bodies,*

both in respect of whether or not to grant planning permission and in respect of the conditions to which permission, if granted, should be subject.

- *The special interest of the structure is not compromised when meeting the requirements of Building Regulations. Those that are particularly relevant to works in relation to historic buildings are Part B ‘Fire Safety’ and Part M ‘Access and Use’. Applications for works to meet the requirements of the Building Regulations shall be guided by the principles of minimum intervention to the historic fabric.*
- *In considering proposals to meet Part M regard should be had to the Department of Art, Heritage and the Gaeltacht advice series ‘Access: Improving the Accessibility of Historic Buildings and Places’ (2011).*
- *The retention of original features will be encouraged.’*

**Section 8.2.11.2 - Architectural Heritage – Protected Structures: (iii)
Development in Proximity to a Protected Structure:**

“Any proposed development within the curtilage, attendant grounds or in close proximity to a Protected Structure has the potential to adversely affect its setting and amenity. The overall guiding principle will be an insistence on high quality in both materials and design which both respects and compliments the Protected Structure and its setting. Innovative design in accordance with international best practice is encouraged. Pastiche design should be avoided as it confuses the historical record of the existing building and diminishes its architectural integrity.

Any proposal for development will be assessed in terms of the following:

- *The proximity and potential impact in terms of scale, height, massing and alignment on the Protected Structure, to ensure that harmony produced by particular grouping of buildings and the quality of spaces and views between them is not adversely affected.*
- *The quality and palette of materials and finishes proposed.*
- *Works to the Protected Structure should take place in tandem with the proposed development to ensure a holistic approach to the site.*
- *Impact on existing features and important landscape elements including trees, hedgerows and boundary treatments.*

- *Impact of associated works including street furniture, car parking, hard landscaping finishes, lighting and services.”*

Appendix 4: Record of Protected Structures/Record of Monuments and Places/Architectural Conservation Areas

5.2. Regional Policy

- 5.2.1. The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands area (adopted June 2019) provides a framework for development at regional level. The RSES encourages promotes the regeneration of our cities, towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint. To realise ambitious compact growth targets, at least 50% of all new homes to be built, are to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other metropolitan settlements.

5.3. National Policy

- 5.3.1. The following national policies are considered relevant to the consideration of the subject proposal:
- National Planning Framework 2018 – 2040.
 - Housing for All – A New Housing Plan for Ireland (2021).
 - Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009), and the accompanying Urban Design Manual.
 - Quality Housing for Sustainable Communities, 2007.
 - Design Manual for Urban Roads and Streets.
 - Urban Development and Building Heights, - Guidelines for Planning Authorities (2018).
 - Architectural Heritage Protection Guidelines for Planning Authorities (2011).
 - Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009).

5.4. Natural Heritage Designations

5.4.1. 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 c. 2km to the north-east of the appeal site.

5.5. EIA Screening

5.5.1. An Environmental Impact Assessment (EIA) Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units; and
- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

5.5.2. It is proposed to provide an additional 10 dwellings on the subject site, increasing the overall total no. of residential units on site to 64. The cumulative number of dwellings proposed on site is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 1.39Ha and is located within an existing built-up area, but not in a business district given the predominance of residential uses. The site area is, therefore, well below the applicable threshold of 10ha. The part of the site to which this appeal pertains currently comprises an area of open space and outbuildings/a return associated with the existing dwelling featuring on site and is surrounding by residential uses. The provision of additional residential development on site would not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural heritage or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (as concluded below under Section 7 of this report) and there is no hydrological connection present such as would give rise to significant

impact on nearby watercourses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dun Laoghaire County Council, upon which its effects would be marginal.

5.5.3. Having regard to the nature and scale of the proposed development and its location in a serviced urban area 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, 2 HQ Consulting Engineers, ARC Architectural Consultants Ltd and James Horan Architectural Illustration on behalf of the applicant. Additional drawings, an Engineering Response to the items raised by Drainage Department, Architectural Heritage Commentary, an additional Architect's Design Statement and additional CGIs accompany the appeal for the Boards consideration. In summary, the appeal states:

Reason for Refusal No. 1:

- During the assessment of the Parent Permission (Reg. Ref. D17A/0240/ABP Ref. PL06D.300244), DLR stated the following in relation to the mews units in the south-west corner: - *'it is considered that units of smaller scale, perhaps mews style dwellings and a larger area of open space in front of the main elevation would be more appropriate.'* The design of the proposed mews terrace has had regard to these comments and provides for 1.5 storey mews houses set around a courtyard, with Thornhill House now having a large private open space to the south of the structure. The proposed mews units are significantly reduced in both height and scale from that previously proposed

under the parent permission (as illustrated in Drawing Nos. PP.04 and PP.06 accompanying the application) and provide for high quality residential units that are substantially setback from the Main House.

- The setting of Thornhill House has substantially changed over time, as a result of the development of the Cherrygarth Estate and more recent planning permissions for the site. The appeal refers to the Architectural Heritage Commentary, prepared by ARC Architectural Consultants, which provides commentary on the changes to the setting of Thornhill House that have occurred over time. Given the substantial change to the setting of the house that has occurred, it is submitted that the modest development of terrace units, which are deferential to the house in terms of scale, height and massing do not impact adversely on the protected Structure. Furthermore, a very large private garden is provided for the main House, something which the Parent Permission does not provide for.
- With regards to the reference made in the refusal reason to '*loss of conditioned open space*', the presence of such a condition does not prevent any future development proposals. Any such future development proposals would be assessed on their own merits. It is important to clarify that the '*conditioned open space*' was not imposed as a result of any deficiency in the public open space proposed as part of the parent permission, and likewise the subject proposal provides high quality public open space.
- With regards to potential residential amenity impacts by way of overlooking from the proposed mews dwellings, the dwellings have been designed having regard to this. The separation distances and privacy screens proposed to first floor terraces sufficiently restrict overlooking of No. 43 Cherrygarth. Additional Drawing No. ABP.01, prepared by Lawrence and Long Architects, provides a section through Dwelling No. 17 and No. 43 Cherrygarth. To alleviate perceived overlooking that the neighbouring property may experience, it is proposed to plant two large trees along the common boundary with this property which will provide a visual break, as illustrated in additional Drawing No. ABP.02, prepared by Lawrence and Long Architects. CGIs of views from first floor balconies associated with proposed mews dwellings, prepared by James Horan

Architectural Illustration, accompany the appeal submission. The accuracy of the CGI view included in the observation received from the residents of No. 43 Cherrygarth is also questionable.

Reason for Refusal No. 2:

- The appellants disagree with assessment provided by the Planning Authority in relation to the proposed amendments to the already permitted development within the grounds of Thornhill House.
- The appellants contend that the amendments proposed provide for a more appropriate use of space and an improved landscaping treatment over that previously permitted on the site and provide for a highly appropriate setting to Thornhill House. Further to this, the proposed formal landscape square proposed provides for improved access arrangements to Thornhill House and the development to the front and rear of the same in line with densification of the site that is respectful of the setting of the house.
- The design team reviewed the layout and landscaping of the parent permission for the subject site and consider that it was quite casual in nature and did not particularly address Thornhill House and ensure that it was part of the overall development of the site. It was considered that a more formal approach to create a landscaped square at the centre of the site, providing Thornhill House as a focus, was a more appropriate treatment of the space. It also serves to provide vehicular access to the front and rear of the House to serve proposed units at this location, which the layout under the parent permission does not fully allow for. The appeal refers to the Architectural Heritage Commentary and Architects Design Statement, prepared by ARC Architectural Consultants and Lawrence and Long Architects, respectively, which address the issue of the arrangement of open space and how it interacts or impacts on the character and setting of Thornhill House.
- *Materially contravention* - The appellants refute the Planning Authority's statement that the proposed development would materially contravene Section 8.2.11.2 of the Development Plan. If the Board contends that the proposal involves a material contravention, the applicants consider the proposal to be consistent with Section 37(2)(B)(iii) of the Planning and Development Act, 2000

(as amended), having regard to the proposals consistency with the following national policies: - National Policy Objective 35 in the National Planning Framework 2040; Sustainable Residential Urban Areas (2009); Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018) and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018). Further to this, the development meets the requirements under Section 37(2)(B)(iv) of the Act as the proposed development is consistent with the pattern of development approved on the subject site, as well as the surrounding area (reference made to the residential development at Oatlands College), since the making of the Development Plan in 2016.

- There are a number of contemporary precedents for similar residential developments which provide a more formal setting to protected structures, such as Neptune, Blackrock, Co. Dublin; Stanford Park, Foxrock, Co. Dublin; and Temple Hill, Blackrock, Co. Dublin, in the Dun Laoghaire Rathdown Area. Reference was also made to the SHD application (ABP Ref. PL06D.306949) recently granted in relation to Dalguise House, Monkstown, Co. Dublin, for a much higher density residential scheme focused around a central formal landscaped courtyard with the main house as a focus.
- Car parking proposed as part of the proposed development is entirely appropriate to serve the demands of future users, is in line with the Development Plan standards and does not negatively impact on the character of the Protected Structure.
- With regards to the interventions proposed to the eastern stone wall, they contend that they will improve visual connectivity between the permitted apartment block and the public open space to the east onto Cherrygarth. The openings in the wall will be trimmed with Cor-Ten steel linings and so clearly distinguishable as modern interventions from the fabric of the old stone wall itself, consistent with the principles expressed under Section 8.2.11.2(iii) of the Development Plan which encourages innovative design. The appeal refers to the Architectural Heritage Commentary, prepared by ARC Architectural Consultants, which considers this aspect of the proposed development. CGIs

of proposed openings to eastern wall, prepared by James Horan Architectural Illustration, also accompany the appeal submission.

- *Drainage* – Response to issues raised by Planning Authority’s Drainage Department, prepared by 2HQ Consulting Engineers, addresses the various points outlined in the Drainage Planning Commentary.
- *An Taisce Observation* – The points raised by An Taisce in their observation are addressed in the Architectural Heritage Commentary, prepared by ARC Architectural Consultants.

6.2. Planning Authority Response

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

6.3. Observations

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

- An Taisce;
- Mount Merrion Residents Association C/O Francis Moran;
- Gerard Dunnion, 34 Cherrygarth, Mount Merrion;
- Jim Murphy and Jackie Gilroy, 25 Cherrygarth, Mount Merrion;
- Joan and Clara O’Neill, 31 Cherrygarth, Mount Merrion; and
- Liam and Michelle Prendiville, 43 Cherrygarth, Mount Merrion.

6.3.2. The issues raised can be summarised as follows:

- The pattern of on-going over-intensification of development on the ‘Thornhill House’ site is not an appropriate approach to the proper planning of the site and protection of amenities of the area.
- The proposed development would seriously adversely affect the character, setting and amenity of Thornhill House, a Protected Structure, and would

denigrate the primacy of the protected structure on site. Therefore, the proposal would be contrary to Policies AR1 and RES3, Chapter 8: Principles of Development and Section 8.2.11.2(iii) of the Development Plan and would be contrary to proper planning and development of the area.

- It was requested that the Board invalidate this appeal in light of the appeal currently being considered under ABP Ref. PL06D.308150, having regard to the provisions of Section 37(5) of the Planning and Development Act, 2000 (as amended).
- The granite wall is the original wall of the original walled garden of Thornhill House and should be retained intact and not altered as proposed.
- The making of multiple applications by the developer is inappropriate.
- The proposed development will intrude on the privacy and security of No. 43 Cherrygarth. Overlooking of No. 43 Cherrygarth will be worsened due to the low boundary fencing featuring along the existing common boundary and the change in levels proposed as part of this development. The proposed screens to first floor balconies are insufficient to restrict overlooking.
- The proposed development, along with the Oatlands Development approved, will put Cherrygarth under significant pressure with regards to traffic, parking, drainage and schools. The development has inadequate car parking provision.
- The current application is in contravention of the planning conditions attached to previous grant of permission under ABP Ref. ABP-300224-17 & Reg. Ref. D19A/0748.
- The houses proposed in the south-western corner of the site should be refused permission and the original access reinstated to the front of the protected structure.
- The appellants claim that the proposal meets the requirements of Sections 37(2)(B)(iii) and (iv) of the Act is refuted.

6.4. Further Responses

None.

7.0 Assessment

I draw the Boards attention to the permitted developments on site which provides for a total of 54 no. residential units (39 no. apartments and 15 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 and PA Reg. Ref. D20A/0432/ABP Ref. ABP-308150-20. The current proposal includes refurbishment of/works to Thornhill House and the provision of an additional 10 no. housing units. This results in a total of 10 no. additional housing units, and an overall total of 64 no. residential units on site.

As part of the grounds of appeal, the appellant submitted additional information and drawings in response to the Planning Authority's reasons for refusal of planning permission and the items raised by the Drainage Department in their commentary on the application. This additional information and drawings included the following:

- An Engineering Response to the items raised by Drainage Department.
- Architectural Heritage Commentary.
- An additional Architect's Design Statement.
- CGIs of proposed openings to eastern wall and views from first floor balconies associated with proposed mews dwellings.
- Section drawing through Dwelling No. 17 and No. 43 Cherrygarth (Drawing No. ABP.01).
- Proposed Mews Site Plan (Drawing No. ABP.02).

Proposed Mews Site Plan (Drawing No. ABP.02) submitted with the appeal includes the following amendments to the as lodged proposal:

- Provision of 2 no. trees in the rear gardens of Dwellings No. 16, 17, 18, 19 and 20 to replace existing dense lawson cypruss tree planting to boundary.

The applicants ask that they be read in conjunction with the original reports submitted with the planning application. Accordingly, this assessment is based on the plans and information received by Dun Laoghaire Rathdown County Council on 26th February 2021 as amended by further plans and particulars received by the Board on 18th May 2021.

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Principle of Development
- Density
- Impact on Architectural Heritage
- Residential Amenity
- Site Layout approved under ABP Ref. ABP-308150-20
- Open Space and Tree Conservation
- Access, Traffic and Parking
- Material Contravention
- Drainage
- Flooding
- Other Matters
- Appropriate Assessment

7.1. Principle of the Development

7.1.1. The appeal site is located within an established residential area and is bound by residential properties on three sides. As previously discussed, the development site lies within an area of suburban residentially zoned land. Table 8.3.2 of the Development Plan identifies 'residential development' as permitted in principle under zoning objective A. I also would note that the Planning Authority have stated in their planner's report that the principle of residential development on the appeal site is acceptable. Having regard to the site context and the zoning objective for the site, I am satisfied that the principle of developing residential units at this location is generally acceptable in principle provided the proposed development provides adequate residential amenity, adequately safeguards the amenities of the adjoining properties, would not result in a traffic hazard, protects the environment, protects the architectural heritage and would be in accordance with the provisions of the Dun Laoghaire Rathdown County Council County Development Plan, 2016–2022. These matters are considered in the subsequent sections.

7.2. Density

7.2.1. The National Planning Framework recommends compact and sustainable towns/cities, brownfield development and densification of urban sites. More specifically, National Policy Objective 35 contained therein seeks an increase in residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights. National policy, including the Sustainable Residential Development in Urban Areas (2009), promotes residential densities in urban areas in close proximity to services and public transport. The Sustainable Residential Development in Urban Areas (2009) encourages minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, within public transport corridors.

7.2.2. This sentiment is echoed in the Dun Laoghaire Rathdown County Council County Development Plan, 2016–2022, with Policy RES3 encouraging higher densities at a minimum of 50 units per hectare on sites 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. In this regard, the appeal site is located within 500 metres of the N11 Quality Bus corridor and is proximate to the Stillorgan Shopping Centre, a designated District Centre. The Core Strategy included in the current Development Plan, recognises that approximately 3800 units per annum are required over the period to 2022.

7.2.3. The 10 no. additional houses proposed results in a total of 64 dwellings on a 1.39 ha site, providing an increased density of 46 units per hectare. This falls slightly short of the density parameters set out in the Sustainable Residential Development in Urban Areas (2009) and Policy RES3, however, the proposed density is considered appropriate in this instance. While the subject site is a serviced, residentially zoned site in close proximity to the N11 Quality Bus corridor and the Stillorgan District Centre, there are a number of other factors for consideration in the context of achievable density. The subject site features a Protected Structure, includes an area of Objective 'F' zoned land and is flanked by residential properties on 3 of its 4 sides which requires a more sensitive/tailored approach to infill development. This has implications for the

density achievable on the subject site. It is worth noting that the Planning Authority deemed the resultant density to be acceptable.

7.2.4. Further to this, I am satisfied that the housing mix resulting from the subject proposal (39 no. apartments and 25 no. houses) is consistent with Development Plan requirements in this regard. In addition, and as will be documented in the subsequent sections, I am of the view that the proposed increase in density could be achieved on this site without compromising amenities of adjoining properties or compromising the Protected Structure featuring on site.

7.3. Impact on Architectural Heritage

7.3.1. The appeal site is occupied by Thornhill House, which is a large part two - part three storey detached Georgian House that is on the record of protected structures (RPS No. 936) under the Dun Laoghaire Rathdown County Development Plan 2016-2022. In accordance with the Planning & Development Act, 2000 (as amended), a Protected Structure includes the interior, land lying within the curtilage and any other structures lying within that curtilage and their interiors and all fixtures and features which form part of the interior or exterior of any structure.

7.3.2. The Dún Laoghaire Rathdown County Development Plan 2016-2022, at Policy AR1, seeks to protect protected structures from any works that would negatively impact their special character/appearance. Section 8.2.11.2 provides guidance regarding works to a Protected Structure and development in proximity to a Protected Structure. Both refusal reasons 1 and 2 contend that aspects of the proposed development would not accord with/materially contravene Section 8.2.11.2(iii) of the Development Plan.

7.3.3. The proposal entails (in summary) conservation and upgrade works to Thornhill House to create a 494sqm single family residence; provision of 5 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; construction of a terrace of 5 one-and-a-half storey mews dwellings to the south of Thornhill House; alterations to public open space areas featuring in the development/the road layout; and works to the eastern boundary wall. I will consider the impact of each aspect of the proposed development on the curtilage, setting and

character of the protected structure in turn below. In considering the impact of the proposed development on the architectural heritage of the Thornhill House I will have regard to the Architectural Heritage Impact Assessment submitted with the application, the Architectural Heritage Commentary submitted with appeal, the Planning Authority's Conservation Division's assessment and the Architectural Heritage Guidelines, 2011, as well as the relevant Development Plan Policies.

Works to Thornhill House (Protected Structure)

7.3.4. The proposal entails relatively little change to the existing/historic floor plan of Thornhill House. At basement level, the proposal entails formation of a new ope between the proposed kitchen and dining room, removal of inappropriate internal doors to basement and installation of new external hardwood doors to provide access to improved external courtyards. At ground floor level, it is proposed to replace the door in the rear hall with a window and block up the existing entrance between the rear hall and the rear return. Modifications to WC/bathroom and the blocking up of the existing entrance between the stair hall and the rear return are proposed at landing level. At first floor level, modifications are proposed to the master ensuite and it is proposed to block up the existing doorway between 2 of the bedrooms in the south-western corner of the dwelling. Externally, the following works are proposed to the building: - removal of existing perspex screens to front portico; removal of security grilles to windows and the rationalisation of soil pipes to the elevations; provision of new painted hardwood doors replacing inappropriate modern joinery elements to basement; improvements to external courtyards on eastern and western sides at basement level; removal of fixed maintenance ladders and gates to rear courtyard wall and provision of a private garden with associated railings, gates, soft and hard landscaping to the south and west of Thornhill House.

7.3.5. I would consider that the level of changes proposed to the layout of the existing structure are being kept to a minimum but are also providing for the successful conversion of the existing structure to a useable and good quality modern home.

7.3.6. The information submitted included an Architectural Heritage Impact Assessment, prepared by a suitably qualified Conservation Architect, and an Architectural Design Statement, prepared by Lawrence and Long Architects. The information included in

these reports is the historical background of the existing structure, and details regarding how the works are to be carried out. The application is also accompanied by a photographic study, prepared by Lawrence and Long Architects, which details the features within Thornhill House as well as the rear return and outbuildings.

7.3.7. It is notable that the Conservation Division of the Planning Authority, in recommending a split decision, recommended that permission be granted for works to the Protected Structure subject to a detailed strategy and methodology for the planned refurbishment works to Thornhill House being required by way of condition. Further to this, an Taisce in both their observation on the application and on the appeal raised no concerns about the works proposed to Thornhill House but rather works proposed in its curtilage (discussed in the subsequent sections).

7.3.8. In general, I would consider that the level of works to be carried out and interventions to be satisfactory and the character/integrity of the existing Protected Structure is being retained while providing for a sustainable future use. I am satisfied that the proposed refurbishment and conversion of the protected structure accords with the recommendations of the national guidelines in the form of the publication 'Architectural Heritage Protection: Guidelines for Planning Authorities'. It is recommended that if the Board are so minded to grant permission that they include a condition requiring that a detailed strategy and methodology for the planned refurbishment works to Thornhill House be prepared/agreed with the Planning Authority, as per the recommendation of the Conservation Division.

Works to the Return and Outbuildings to the Rear of Thornhill House (Protected Structure)

7.3.9. It is proposed to convert the rear return to Thornhill House into a 2-bedroom own door dwelling and provide 4 two storey 2-bed dwellings through the extensive renovation, conversion and extension of the existing outbuildings located around an existing rear stable yard to the rear of Thornhill House. More specifically, works to the rear return/outbuildings include creation of new opes; removal of sections of external wall and interior partitions; removal of roofs and reuse of existing slates in new extension; removal of external courtyard wall; removal of corrugated roof over covered external space, wrought iron trusses and column supports; provision of new sash windows;

refurbishment of existing original sash windows; replacement of non-original windows/doors; and demolition of existing boiler room and WC to south-east of external courtyard. The resultant 5 dwellings are located around a central courtyard and will be contemporary in style.

7.3.10. The Architectural Heritage Impact Assessment, prepared by ARC, sets out the history and evolution of Thornhill House. According to this report, the original north-western return was reordered internally and changed to such an extent that they claim that it is difficult to determine how the return would have functioned or how it related to the workings of the main house. Having visited the subject site, I would concur with this deduction.

7.3.11. An Taisce in both their observation on the application and on the appeal raised no concerns about the works proposed to the rear return/outbuildings but rather works proposed in its curtilage (discussed in the subsequent sections). Further to this, the Conservation Division of the Planning Authority, in recommending a split decision, recommended that permission be granted for conversion of the return and outbuildings to provide 5 no. two-storey own door residential units subject to conditions being attached regarding two aspects of the proposal they considered to be inappropriate. The two aspects of the proposed works to rear return/outbuilding the Conservation Division considers to be inappropriate are the proposed use of fences to define the private open space areas serving the resultant dwellings and the proposed staircase to the courtyard serving Dwelling No. 25.

7.3.12. It is proposed to define the private open space areas serving the proposed dwellings using a timber clad hit & miss boundary wall/screen in matt black. The Planning Authority, in the Planners Report, are of the view that this boundary treatment would detract from the Protected Structure. The Conservation Division have expressed a preference for some form of low level planting to instead be used. I would share the view expressed by the Conservation Division in part. More specifically, I think the use of a softer boundary treatment would be more appropriate immediately proximate to Thornhill House to ensure it retains its visual prominence. Therefore, it is recommended that if the Board are so minded to grant permission that they include a condition requiring that planting to an appropriate height be introduced to the southern

boundary of the private amenity space associated with Dwellings No. 21 and 25. I do not have an issue with the timber boundary wall/screen being used in the context of the remaining boundaries as there will be limited views of these in the context of the Protected Structure.

7.3.13. With regards to the proposed staircase to the courtyard serving Dwelling No. 25, the Planning Authority contend that this staircase would detract from the Protected Structure, contrary to Section 8.2.11.2(i) of the Development Plan. The Conservation Division in their commentary requested that the applicant explore alternative locations for this staircase. The Architectural Heritage Commentary, prepared by ARC, submitted with the appeal provides clarification regarding the staircase serving Dwelling No. 25. An arts and crafts porch and small storage shed currently featuring on the eastern side of the return is to be converted/extended vertically to provide space for the stairs. The proposed remodelling of the porch and small store will retain the porch entirely and also retain the arts and crafts elements of the store, raising the roof to provide for the stair.

7.3.14. Having visited the site and reviewed the drawings submitted with the application, I would concur with ARC's above analysis. I consider that the remodelling of the porch/store to accommodate the stairs serving Dwelling No. 25 will involve minimal increases in floor area/changes to the existing structure currently featuring on site and will not detract from Thornhill House. More broadly, although extensive I consider the proposed renovation, conversion and extension of the existing outbuildings/rear return to be appropriate as they provide for a sustainable future use while respecting Thornhill House. The proposal involves limited changes to the footprint of the existing rear return/outbuildings and extensions to the existing outbuildings are proposed in the north-westernmost part of the site away from the Protected Structure. The resultant dwellings will be contemporary and therefore distinguishable as later additions to the immediately adjacent Thornhill House, consistent with conservation best practice.

7.3.15. Subject to the inclusion of the aforementioned condition regarding boundary treatment, I am satisfied that the proposed renovation, conversion and extension of

the existing outbuildings/rear return accords with the 'Architectural Heritage Protection: Guidelines for Planning Authorities'.

Proposed Dwellings

7.3.16. It is proposed to construct a U-shaped terrace of 5 no. 1.5 storey 2-bed and 3-bed dwellings in the south-western corner of the site, to the south of Thornhill House. This part of the site currently comprises an area of open space. The proposed dwellings will be of contemporary design and feature brick, stone and render finishes.

7.3.17. The Planning Authority's first refusal reason contends that the introduction of the mews dwellings in this open space area would further denude the setting and amenity of Thornhill House (a Protected Structure) and the resulting enclosure of land to the front of Thornhill House would remove its sense of openness and space and would not accord with Section 8.2.11.2. (iii) of the Development Plan.

7.3.18. An Taisce, in their observation on the appeal, raised concerns about the proposed development significantly altering the remaining historic landscape around Thornhill House and from the view that the proposed development would adversely affect the character, setting and amenity of this Protected Structure. A no. of the other observations submitted on the appeal raise concerns about the loss of the open space conditioned under Reg. Ref. D17A/0240/ABP Ref. ABP-300244-17 in the south-western corner and the reintroduction of houses previously omitted by way of condition. In the observation received from the residents of No. 43 Cherrygarth, it is suggested that the proposed mews dwellings should not be permitted and instead the applicable area should be used to reinstate the original southerly entrance to Thornhill House.

7.3.19. Slight differences exist between the proposed mews dwellings and Dwellings No. 8 to 11 considered by the Board in the appeal under ABP Ref. ABP-300244-17. I note that Drawings No. PP.05 and PP.06, prepared by Lawrence and Long Architects, submitted with the subject application include the outline/footprint of the houses as lodged with the Planning Authority originally under Reg. Ref. D17A/0240 as opposed to the plans forming the basis of the Board's consideration. The differences between the proposed mews dwellings and Dwellings No. 8 to 11, as considered by the Board under ABP Ref. ABP-300244-17, are as follows:

- The proposed dwellings are 1.5 storeys in height while previously proposed Dwellings No. 8 to 11 were 2 storey;
- The proposed dwellings adopt a staggered building line and a separation distance of between 38.53-42.705 metres from Thornhill House while previously proposed Dwellings No. 8 to 11 were all setback 40 metres; and
- Previously proposed Dwellings No. 8 to 11 were served by 2 no. tandem carparking spaces to the front of the dwellings while car parking spaces for the proposed dwellings are provided around a communal courtyard. This car parking configuration resulted in a front garden depth for Thornhill House of 22.660 metres and 24.995 metres, respectively.

7.3.20. The major differences that exist between the proposal considered under ABP Ref. ABP-300244-17 and the subject proposal is the treatment of the area between the proposed dwellings and Thornhill House and the size/layout of the garden retained to the front of this Protected Structure. The current proposal sees a large garden/parking area retained to the front of Thornhill House which is enclosed by a well-defined front boundary. The car parking spaces serving the proposed mews dwellings to the south of this are pushed up against the site's side boundary or hidden behind planting and are positioned around a communal courtyard which provides a degree of visual separation from the Protected Structure immediately north and the proposed mew dwellings. This differs considerably from the proposal under ABP Ref. ABP-300244-17 which provided a smaller and much less defined forecourt to the front of Thornhill House and featured a car parking area serving previously proposed Dwellings No. 8 to 11 which dominated the intervening area between the proposed dwellings/Thornhill House.

7.3.21. Further to this, the site context within which the proposed mews dwellings will sit has changed dramatically since Thornhill House was originally constructed and more recently the appeal under ABP Ref. ABP-300244-17 was considered. When originally constructed, Thornhill House sat within a much larger land parcel and was accessed from the south. The development of the Cherrygarth Housing Estate consumed much of the associated land parcel and also altered the original access arrangements, with a revised access provided in the north-eastern corner, as discussed in the reports prepared by ARC accompanying the subject application/appeal. It is worth noting that limited views from the adjacent streetscaped

across the south-western part of the site towards Thornhill House are available as No. 43 Cherrygarth has been constructed immediately adjacent to the westernmost part of the subject site's southern boundary as part of the larger Cherrygarth Estate Development. Similarly, the reintroduction of the original southerly entrance to Thornhill House, suggested in the observation received from the residents of No. 43 Cherrygarth, is unachievable for the same reason. As discussed previously in Section 4.1.1 of this report, the Board recently granted permission (under ABP Ref. ABP-308150-20) for the reconfiguration and redesign of previously permitted housing units to provide an increase from 9 no. houses to 15 no. houses and alterations to the road/landscaping layout, among other things. This grant of permission results in further amendments to the site context.

7.3.22. Having regard to the differences that exist between the proposal considered under ABP Ref. ABP-300244-17 and the subject application and the changes that have occurred in terms of site context over time, I think the proposed mews dwellings warrants approval. The proposed mews dwellings which are setback between 38.53-42.705 metres from Thornhill House, are c. 5.8 metre lower in height than Thornhill House, sited in the lowest part of the subject site and are served by a discrete parking area, will sit comfortably in the context of the adjacent Protected Structure and will not detract from its setting or sense of openness and space.

Alterations to the Open Space Areas/Road Layout

7.3.23. The Planning Authority's second refusal reason contends that the road alignment, central linear area of open space, additional car parking, would adversely affect the character, setting and amenity of the Protected Structure and would materially contravene Section 8.2.11.2(iii) of the Development Plan. The Conservation Division of the Planning Authority contends that the development originally permitted under ABP Ref. PL06D.300244 was more organic with less hard surfacing, a reduced road layout, less surface car parking which provided a more appropriate setting for Thornhill House.

7.3.24. An Taisce, in their observation on the appeal, contend that the landscape around the house should be retained as informal and that the 'garden/urban square' proposed by the applicant amounts to the imposition of a layout/morphology incongruous to the setting and amenity of the Protected Structure.

7.3.25. As discussed previously in Section 4.1.1 of this report, the Board recently granted permission (under ABP Ref. ABP-308150-20) for alterations to the road/landscaping layout within the development, among other things, originally approved for the subject site (the matter of the subject proposal in the context of the development approved under ABP Ref. ABP-308150-20 is specifically discussed in Section 7.5 of this report). Similar to the development approved under ABP Ref. ABP-308150-20, the subject proposal adopts a more formally laid out central area of open space and a revised road layout. With regards to these aspects of the proposed development, having reviewed the material submitted with the application/appeal and having visited the site, I would form the same view as that expressed in the Inspectors Report under ABP Ref. ABP-308150-20 that the proposed revisions are appropriate and more sympathetic to the setting and character of the protected structure and that the proposed layout and design, would not adversely affect the character, setting and amenity of the Protected Structure on site. I consider this aspect of the proposal to be 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.

7.3.26. The proposed development also includes alterations to the landscaped area featuring adjacent to the site's eastern boundary, including the replacement of existing railings with new painted steel railings on plinth. The proposed replacement of existing railings featuring along the easternmost site boundary and revisions to the landscape proposal for this area are considered appropriate in the context of the Protected Structure as views of the eastern boundary wall are still provided by the new railings and the leafy character of this open space area is maintained.

Works to Eastern Boundary Wall

7.3.27. The proposed development includes the introduction of 5 new opes in the existing stone wall featuring along the site's eastern boundary and the replacement of existing railings featuring along the easternmost site boundary with new painted steel railings on plinth. The openings proposed in the stone wall will be trimmed with Cor-Ten steel linings to distinguish them as modern interventions to the original fabric.

7.3.28. The Planning Authority's second reason for refusal relates to the adverse effect on the character, setting and amenity of the Thornhill House resulting from the proposed road alignment, central linear area of open space, additional car parking and proposed openings in the eastern stone wall. They contend these aspects of the proposal would materially contravene Section 8.2.11.2(iii) of the Dún Laoghaire Rathdown County Development Plan 2016 – 2022. This echoed the commentary of the Planning Authority's Conservation Division, which deemed the number and extent of the openings to be excessive and considered it this aspect of the proposal will result in a loss of character, appearance and integrity of the wall. Further to this, An Taisce's observation on the appeal requested that the original wall be retained intact and not altered as such.

7.3.29. The wall featuring adjacent to the eastern boundary is a rubble granite stone wall that originally formed the western wall of a walled garden associated with Thornhill House. Therefore, it is considered to be of architectural and historical interest. I would concur with the concerns raised by the Planning Authority, Conservation Division and An Taisce regarding this aspect of the proposed development. Therefore, it is recommended that if the Board are so minded to grant permission that they include a condition omitting the proposed amendments to the eastern boundary wall in order to protect its architectural and historical significance.

7.4. **Residential Amenity**

Thornhill House

7.4.1. Thornhill House has a total floor area of 494sqm across the 3 floors. Having reviewed the proposed floor plans, I am satisfied that the internal modifications proposed to the house result in a suitably designed and adequately sized house which will provide an adequate level of residential amenity to future residents.

7.4.2. The site layout drawing indicates that a large south-facing garden (c. 910sqm) to the front and side would be retained to serve the Thornhill House on site, which is well in excess of the 75sqm requirement set out in Section 8.2.8.4 of the Development Plan. I consider the retained garden would be adequate to serve the needs of the existing dwelling, should permission be granted.

- 7.4.3. With regards to potential overlooking, the first floor northern façade of the proposed mews dwellings is setback a minimum of c. 38 metres from Thornhill House's southern facade and the first floor windows associated with the dwellings proposed in the rear return/extended outbuildings are orientated east and west, so there is no potential for overlooking from opposing first floor windows.
- 7.4.4. With regards to potential overshadowing, due to the c. 38 metre minimum separation distance provided between Thornhill House and the proposed mews dwellings and the orientation of the dwellings proposed in the extended outbuildings/rear return relative to Thornhill House, no significant overshadowing or overbearing issues arise from the proposed dwellings in the context of the Thornhill House.

Proposed Houses

- 7.4.5. The proposed 2-bed mews dwellings have a total floor area of 97sqm across the 2 floors and the proposed 3-bed mews dwellings have a total floor area of 124sqm across the 2 floors, both of which comply with the requirements set out in the Quality Housing for Sustainable Communities, 2007. Having reviewed the proposed floor plans, I am satisfied that the houses are suitably designed and adequately sized internally to provide an adequate level of residential amenity to future residents, save for in one instance. The first floor window serving Bedroom 02 of proposed Mews Dwelling No. 16 is east facing. It sits immediately opposite Dwelling No. 15 approved under Reg. Ref. D20A/0432/ABP Ref. ABP-308150-20 and is separated from this dwelling by a distance of 2.62 metres. This separation distance is not considered sufficient to provide an appropriate level of daylight/outlook to this room. I am satisfied however, that this matter can be appropriately dealt with by way of condition of planning permission requiring that the first floor layout be revised to provide Dwelling No. 16's Bedroom 02 with a north or south facing window should the Board be so minded to grant permission for the proposed development.
- 7.4.6. It is noted that the side elevations associated with Dwellings No. 16 and 20, included on Drawing No. PP04 submitted with the planning application, do not include the side window to the reception room office detailed on the floor plans. In the interest of consistency across the drawing set, it is recommended that the Board, if so minded to

grant permission, include a condition requiring that the side elevations be updated to reflect the inclusion of the side window serving the reception room associated with Dwellings No. 16 and 20.

- 7.4.7. Section 8.2.8.4 of the Development Plan requires that 2-bed houses and 3-bed houses are provided with a minimum of 48sqm and 60sqm of private open space, respectively. Upon review of the plans submitted, the proposed 2-bed dwellings will be served by 55-56sqm of private open space and the proposed 3-bed dwellings will be served by 60-63.5sqm of private open space located to the rear of the dwellings, which complies with the requirements. This is supplemented by a first floor balcony.
- 7.4.8. With regards to servicing, no bin storage area has been identified for Dwellings No. 17, 18 and 19. These three dwellings are terraced with no access available to the rear garden. I am satisfied that provision of a bin storage area to serve Dwellings No. 17, 18 and 19 could be easily addressed by way of condition should the Board be so minded to grant permission for the proposed development.
- 7.4.9. The 2-bed dwellings proposed within the rear return/extended have a total floor area of between 98.5-157sqm across the 2 floors, which complies with the requirements set out in the Quality Housing for Sustainable Communities, 2007. Having reviewed the proposed floor plans, I am satisfied that the houses are suitably designed and adequately sized internally to provide an adequate level of residential amenity to future residents.
- 7.4.10. Section 8.2.8.4 of the Development Plan requires that 2-bed houses are provided with a minimum of 48sqm of private open space. Upon review of the plans submitted, the proposed 2-bed dwellings will be served by 73-177sqm of private open space, which complies with the requirements.
- 7.4.11. With regards to servicing, no bin storage area has been identified for Dwellings No. 21-25. I am satisfied that provision of a bin storage area to serve Dwellings No. 21-25 could be easily addressed by way of condition should the Board be so minded to grant permission for the proposed development.

Houses on Trees Road Lower/South Avenue

- 7.4.12. The dwellings proposed in the rear return/extended outbuildings are adjoined to the west and north by Nos. 51, 53, 55 and 57 South Avenue and Nos. 78, 80, 82 and 84 Trees Road Lower which feature two storey semi-detached dwellings. I do not consider the proposed development, in particular the first floor windows featuring on the western façade of Dwellings No. 23, 24 and 25, would result in any significant or undue overlooking impacts on Nos. 51, 53, 55 and 57 South Avenue due to the boundary wall currently featuring along the common boundary, the 11.66 metre setback from the proposed windows and the common boundary and the c. 40 metre separation distance provided between the proposed west facing first floor windows and opposing first floor windows associated with the neighbouring dwellings. Dwellings No. 22 and 23 are devoid of north facing windows.
- 7.4.13. With regards to the potential overbearing impacts, it is not considered that the dwellings proposed in the rear return/extended outbuildings will have an unreasonable overbearing impact on the properties to the west and north as the majority of the proposed floor space will be contained within the existing return/outbuilding footprint and the extensions proposed to the north of the outbuildings to facilitate the provision of Dwellings No. 22 and 23 have a maximum depth of 6.25 metres and 5.315 metres, respectively, and reduce to a single storey height immediately proximate to the northern boundary.
- 7.4.14. With regards to potential overshadowing, due to the orientation of the dwellings proposed in the rear return/extended outbuildings to the east of Nos. 51, 53, 55 and 57 South Avenue, their 1.5 storey height and the separation distance that exists from the common boundary, no significant overshadowing issues arise in the context of the neighbouring properties to the west. Due to the 1.5 storey height, stepping down adopted adjacent to the common boundary and boundary wall/planting featuring along the common boundary, no significant overshadowing issues arise in the context of the neighbouring properties to the north.
- 7.4.15. The mews dwellings proposed in the south-western corner of the site are adjoined to the west by Nos. 37, 39 and 41 South Avenue which feature two storey semi-detached

dwellings. I consider proposed Dwelling No. 20, in particular the first floor window associated with Bedroom No. 02, would result in potential overlooking of the private open space areas associated with Nos. 39 and 41 South Avenue due to the limited setback adopted from the common boundary. I am satisfied however, that this matter can be appropriately dealt with by way of condition of planning permission requiring that the first floor layout be revised to provide Dwelling No. 20's Bedroom 02 with a north or south facing window should the Board be so minded to grant permission for the proposed development.

7.4.16. With regards to the potential overbearing impacts, it is not considered that the mews dwellings proposed will have an unreasonable overbearing impact on the properties to the west due to the 1.5 storey height of Dwelling No. 20 and the depth of the neighbouring gardens.

7.4.17. With regards to potential overshadowing, due to the orientation of the proposed mews dwellings to the east of Nos. 37, 39 and 41 South Avenue, their 1.5 storey height, the boundary wall featuring along the common boundary and the depth of the neighbouring gardens, no significant overshadowing issues arise in the context of the neighbouring properties to the west.

No. 43 Cherrygarth

7.4.18. The site is adjoined to the south by No. 43 Cherrygarth, a detached double storey property. Reason for refusal No. 1 refers to the proposed mews impacting on the residential amenity of No. 43 Cherrygarth by way of overlooking and contends that the proposal does not accord with the zoning objective of the site which seeks to protect and/or improve residential amenity. The owner of this property, in their observation on the appeal, raised concerns about the proposed dwelling's negative impact on their privacy resulting from overlooking from the rear garden/ground floor doors and windows and proposed first floor balconies, which is exacerbated by the level difference. They contend that the proposed increase in site levels in the south-western corner of the subject site will reduce the height of the wall featuring on the common boundary to 800mm.

- 7.4.19. In response to the concerns raised by the owners of No. 43 Cherrygarth, the applicant has included a Section drawing through Dwelling No. 17 and No. 43 Cherrygarth (Drawing No. ABP.01) and a Proposed Mews Site Plan (Drawing No. ABP.02) with their appeal submission. The Proposed Mews Site Plan (Drawing No. ABP.02) submitted includes the following amendments to the as lodged proposal: - provision of 2 no. trees in the rear gardens of Dwellings No. 16, 17, 18, 19 and 20 to replace existing dense lawson cypruss tree planting to boundary.
- 7.4.20. As illustrated in the site section, included on Drawing No. ABP.01 submitted with the appeal, there is a level difference of 1.5 metres between the proposed mews dwellings and this neighbouring property to the south. As a result of this, the proposed mews dwellings will sit slightly above No. 43 Cherrygarth. I do not consider ground floor level windows/doors of the proposed mews dwellings/the proposed rear garden would result in any significant or undue overlooking impacts on this property due to the minimal difference in levels across the two sites, the boundary fencing currently featuring/proposed tree planting along the common boundary and the 9.4 metre minimum separation distance provided between the proposed south facing ground floor windows and the common boundary.
- 7.4.21. Upon review of the plans submitted with the application/appeal, I would share the concerns raised by the Planning Authority/the owners of No. 43 Cherrygarth that the proposed first floor balconies would allow for potential overlooking/perceived overlooking of No. 43 Cherrygarth's rear amenity space. It is not considered that this aspect of the proposed development necessitates refusal of the scheme in its entirety/refusal of the proposed mews dwellings but rather inclusion of a condition requiring deletion of the first floor balconies/replacement of the doors serving the south-facing first floor bedroom with windows. In the absence of the balconies, overlooking from first floor south facing windows is considered to be appropriately restricted by way of the separation distance that existing between the common boundary and fencing featuring/planting proposed along the common boundary. Therefore, it is recommended that it the Board are so minded to grant permission that they include a condition requiring deletion of the first floor balconies/replacement of the doors serving the south-facing first floor bedroom with windows in order to protect the residential amenity of No. 43 Cherrygarth.

- 7.4.22. Earlier in this section of the report it was requested that the first floor layout of Dwellings No. 16 and 20 be amended by way of condition if the Board are so minded to grant permission. Consideration of potential impacts on residential amenity of No. 43 Cherrygarth, by way of overlooking, is required in the context of the changes which may occur as a result of such conditional requirements. Overlooking from any additional first floor south facing windows introduced to Dwellings No. 16 and 20 is considered to be appropriately restricted by way of the separation distance that existing between the common boundary and fencing featuring/planting proposed along the common boundary.
- 7.4.23. With regards to the potential overbearing impact on the dwelling to the south, it is not considered that the proposed dwellings will have an unreasonable overbearing impact due to the design/layout of the proposed dwellings, the separation distance that exists between the proposed dwellings and the common boundary and planting proposed along the common boundary.
- 7.4.24. With regards to potential overshadowing, due to the orientation of the subject site to the north of No. 43 Cherrygarth, no significant overshadowing issues arise in the context of the neighbouring property to the south.

Dwellings Approved under ABP Ref. ABP-308150-20

- 7.4.25. 14 two storey semi-detached dwellings and 1 bungalow have been approved by the Board, under ABP Ref. ABP-308150-20, to the east of the proposed development. More specifically, proposed Dwellings No. 21 and 22 are located immediately west of Dwelling No. 9 approved under ABP Ref. ABP-308150-20 and proposed Dwelling No. 16 is located immediately west of Dwelling No. 15 approved under ABP Ref. ABP-308150-20. Consideration of potential impacts on residential amenity of these approved dwellings is required in the context of the subject proposal.
- 7.4.26. Proposed Dwelling No. 16 is generally in line with Dwelling No. 15 approved under ABP Ref. ABP-308150-20, projecting only slightly further south than the western abuttal. Further to this, its garden abuts No. 15's rear garden. Given the siting and orientation of the two dwellings, proposed Dwelling No. 16 will not impact on the

residential amenity of its western abuttal by way of overlooking, overshadowing or overbearing.

7.4.27. Proposed Dwellings No. 21 and 20 are to be constructed adjacent to Dwelling No. 9 approved under ABP Ref. ABP-308150-20's western boundary. They are to be built on a north-south axis, while recently approved Dwelling No. 9 is to be constructed on an east-west axis. The rear gardens of proposed Dwellings No. 21 and 20 have a depth of between 8.02 metres and 8.62 metres.

7.4.28. Given the depth of Dwelling Nos 21 and 22's rear gardens, the 1.5 storey height of the dwellings and the positioning of the dwellings to the west of Dwelling No. 9 approved under ABP Ref. ABP-308150-20, proposed Dwellings No. 21 and 22 will not impact on the residential amenity of its western abuttal by way of overshadowing or overbearing.

7.4.29. However, this garden depth is considered insufficient to appropriately restrict overlooking from the first floor windows to the bedrooms of Dwellings No. 21 and 22 to the rear garden associated with Dwelling No. 9 approved under ABP Ref. ABP-308150-20. It is not considered that this issue necessitates refusal of the scheme in its entirety/refusal of proposed Dwellings No. 21 and 22 but rather inclusion of a condition requiring that the stairs/first floor layout of Dwellings No. 21 and 22 be revised so that the windows to first floor bedrooms face westwards (offset from opposing habitable room windows associated with proposed Dwelling No. 24). The revised window positioning will provide a more appropriate outlook across the central external courtyard and restrict overlooking to Dwelling No. 9 approved under ABP Ref. ABP-308150-20 thus protecting its residential amenity. Therefore, it is recommended that it the Board are so minded to grant permission that they include a condition requiring the aforementioned revisions to the stairs/first floor layout of proposed Dwellings No. 21 and 22.

7.5. Site Layout approved under ABP Ref. ABP-308150-20

7.5.1. The site layout forming the basis for the subject proposal encompasses the site layout forming the basis of planning application Reg. Ref. D20A/0432 which involved the reconfiguration and redesign of permitted housing units (under PA Reg. Ref.

D17A/0240/An Bord Pleanála Ref. PL06D.300244) to provide an increase from 9 no. houses to 15 no. houses as well as reconfiguration of the internal road layout, relocation of ESB substation, amendments to hard and soft landscaping, and boundary treatment works.

7.5.2. Following the Planning Authority's refusing of this application on 14th August 2020, the applicant lodged a first party appeal with An Bord Pleanála (ABP Ref. ABP-308150-20). This first party appeal included a revised layout (Drawing No. ABP.01, prepared by Lawrence and Long Architects) which sought to overcome the refusal reasons. It encompassed the following amendments to the site layout as lodged with the application:

- Omission of car parking spaces and turning head proposed to the south of Thornhill House and provision of additional open space;
- Provision of additional open space to the east and north-east of Thornhill House and setting back of the adjacent access road resulting in a reduction in the size of Public Open Space Area 01 (from 1,392sqm to 1,232sqm); and
- A revised design for House No. 1.

7.5.3. Further to this, as previously discussed in Section 4.1.1, An Bord Pleanála granted permission for the amended proposal under ABP Ref. ABP-308150-20 on 30th June 2021. The revised layout submitted with the first party appeal, which formed the basis for the Board's decision, was further amended by way of Condition No. 2 included on the Board's Order. Condition No. 2 altered the proposed road layout/public open space area and reads as follows:

'The proposed development shall be amended so that the section of road to the north-east of the Public Open Space Area 01 shall be omitted and the area absorbed into the open space area with the provision of a pedestrian link.'

Reason: In the interests of the protection of the mature oak tree and of visual amenity.'

7.5.4. Considerable differences exist between the site layout forming the basis of the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition). The amended plans included with the subject first party appeal do not encapsulate the revised site layout approved pursuant to ABP

Ref. ABP-308150-20 (inclusive of amendments required by condition). I do not consider that the discrepancies/inconsistencies that exist between the site layout forming the basis of the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 can be addressed by way of condition given their complexities. Further to this, in the absence of this detail, I do not consider there to be sufficient information to allow the Board to adequately assess the subject proposal in the context of the development approved pursuant to ABP Ref. ABP-308150-20. Such an assessment is required in this instance given the interdependencies that exist between the two proposals in relation to road layout, open space provision etc.

7.5.5. Therefore, in my opinion, given the discrepancies/inconsistencies that exist between the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition), the proposed development should be refused.

7.6. Open Space and Tree Conservation

7.6.1. Refusal reason No. 1 refers to the loss of conditioned open space to accommodate the proposed mews dwellings and the resultant denudation of the setting and amenity of Thornhill House while refusal reason No. 2 contends that the central linear area of open space, among other things, would adversely affect the character, setting and amenity of the Protected Structure and would materially contravene Section 8.2.11.2(iii) of the Development Plan.

Loss of Open Space

7.6.2. Under the parent permission (Reg. Ref. D17A/0240/ABP Ref. PL06D.300244) 3 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 proposed units No. 8 to 11 (inclusive) and provision of public open space, by way of Condition No. 2(a). It is worth noting that the Inspector's Report recommended the omission of these units/their replacement with an open space area for reasons pertaining to their impact on the architectural heritage of the protected structure rather than due to the inadequacy of open space provision.

7.6.3. As illustrated in the 'Site Layout Plan' submitted with the application, the provision of public open space in the subject proposal comprises of two parcels (the subject proposal looking to introduce 5 mews dwellings in the open space area previously proposed in the south-western corner of the site): - the reconfigured central open space area (totalling 1,392sqm) and the area at the entrance to the site adjacent to the site's eastern boundary (totalling 610sqm). This equates to a total of 2,002sqm of public open space.

7.6.4. Given that the overall size of the site is 1.39ha, the provision of public open space represents approximately 14% of the site area which complies with the default minimum of 10% of the overall site area specified in relation to public open space provision in Section 8.2.8.2 Public Open Space – Quantity of the Development Plan. Based on the occupancy rates specified in Section 8.2.8.2, the proposed scheme generates a requirement of 2,100-2,800sqm of public open space (based on the provision of 42 no. 1 and 2 bedroom dwellings/apartments and 22 no. 3+ bedroom dwellings/apartments across the overall scheme¹). The public open space provision provided as part of the subject proposal falls slightly short of this aspect of the Section 8.2.8.2 requirements. This shortfall is considered appropriate in this instance as it is minimal (98sqm) and the subject site is proximate to a no. of public open space areas including Deerpark.

7.6.5. With regard to the quality of the public open space provided, upon review of the landscape proposals submitted with the application, 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.

7.6.6. Based on the information submitted with the application, I am satisfied that the subject proposal provides the quantity and quality of public open space required by the County Development Plan 2016-2022. However, as discussed previously in Section 7.5,

¹ It is noted that, as discussed previously in Section 4.1.1 of this report, Condition No. 3(a) included on the Planning Authority's grant of permission under Reg. Ref. D19A/0748 requires reconfiguration of Unit Nos. 4 & 5, 15 & 16 and 26 & 27 which may have implications for the unit mix featuring in the apartment block featuring on site. It is considered the implications this reconfiguration will have on the public open space calculations for the overall development will be minimal.

considerable differences exist between the site layout forming the basis of the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition), including in the context of the open space layout. The amended plans included with the subject first party appeal do not encapsulate the revised site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition). In the absence of this detail, I do not consider there to be sufficient information to allow the Board to adequately assess open space provision in the subject proposal. Therefore, in my opinion, given the discrepancies/inconsistencies that exist between the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition), the proposed development should be refused.

Loss of Trees

- 7.6.7. There is a specific objective '*to protect and preserve trees and woodland*' applying to the subject site as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022. However, there are no Tree Preservation Orders under the Planning and Development Act, 2000 (as amended), applying to the subject site.
- 7.6.8. The application was accompanied by an Arboricultural Tree Survey Report, Tree Survey Drawing, Arboricultural Impact Assessment and Tree Root Protection, prepared by Tree Management Services.
- 7.6.9. A total of 57 no. trees were surveyed on the site (in December 2019 and again in July 2020), of which it is proposed to retain 17 no. or 30% of the total. The applicant states that the proposed development has a moderate impact on the existing tree population on site with 7 Category B trees, 23 Category C trees and 9 Category U trees proposed for removal to facilitate the proposed development. Further to this, as illustrated in the Proposed Mews Site Plan (Drawing No. ABP.02, prepared by Lawrence and Long Architects) submitted with the appeal it is proposed to plant a total of 10 no. additional trees in the rear gardens of Dwellings No. 16, 17, 18, 19 and 20 to replace a row of grade C category trees being removed as part of the subject proposal.
- 7.6.10. I note that there are some discrepancies between the arboricultural material and landscape proposals included with the application. I am satisfied however, that

this matter can be appropriately dealt with by way of condition of planning permission requiring that revised landscape proposals informed by the Arboricultural Impact Assessment and Tree Root Protection Plan be submitted and agreed with the Planning Authority should the Board be so minded to grant permission for the proposed development.

7.6.11. I note that the report from the Parks and Landscape Services Section of the Planning Authority requested that further information be requested from the applicant and raised concerns that the various planning applications involving the subject site have systematically reduced the historic tree population on the site to the bare minimum. 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.

7.6.12. Based on the arboricultural material submitted with the application, and my own site visit, I am satisfied that the loss of additional trees compared to the already permitted scheme is acceptable in this instance. However, as discussed previously in Section 7.5, considerable differences exist between the site layout forming the basis of the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition), including in the context of the open space layout. The amended plans included with the subject first party appeal do not encapsulate the revised site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition). In the absence of this detail, I do not consider there to be sufficient information to allow the Board to adequately assess the loss of trees resulting from the subject proposal. Therefore, in my opinion, given the discrepancies/inconsistencies that exist between the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition), the proposed development should be refused.

7.7. Access, Traffic and Parking

Access/Traffic

- 7.7.1. The proposed development utilises the existing site access to Cherrygarth located in the north-eastern corner proposes the reconfiguration of the internal road layout permitted under ABP Ref. PL06D.300244 to facilitate access/the provision of car parking to serve the 10 additional dwellings proposed.
- 7.7.2. A no. of the observations received on the appeal contend that the proposed development, in culmination with the approved Oatlands Development to the immediate east, will put Cherrygarth under significant pressure with regards to traffic and parking. I would note that the report from the Transportation Planning Section, of the Local Authority, recommended that further information be requested regarding cycle parking provision for the proposed dwellings, car parking provision for the entire site, internal footpaths, DMURS compliance, net uplift in vehicle movements resulting from the entire development, turning arrangements and vehicle manoeuvres required for emergency/tender vehicles, service vehicles, refuse collection etc. and construction management.
- 7.7.3. The application is accompanied by a Traffic and Transport Assessment, prepared by 2HQ Consulting Engineers. This estimates traffic generation from the development originally approved under Reg. Ref. D17A/0240ABP Ref. PL06D.300244 and that generated by the subject proposal in conjunction with the parent permission/amendments to the parent permission approved under Reg. Ref. D19A/0748/ABP Ref. ABP-308150-20 using the computer modelling package TRICS. It estimates that the net increase in movements generated by the proposed development/the parent permission/amendments to the parent permission will be 3 arrivals and 8 departures in the AM peak, with 6 arrivals and 1 departure in the PM peak. The report concludes that this will equate to a net increase of 1% at the nearest junction (Cherrygarth/Trees Road Lower) which will be immaterial in the context of the local network with minimal reduction in capacity or increase in queuing/delays at the local junctions.

7.7.4. With regards to traffic generation, in my opinion, the overall increase of 10 no. dwellings is not significant. Having regard to the information on file, I am satisfied, that the proposed development will not give rise to a significant increase in traffic and will have a negligible effect on the operation of the links and junctions locally.

7.7.5. With regards to the proposed access arrangements, as discussed previously in Section 7.5, considerable differences exist between the site layout forming the basis of the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition), including in the context of the road layout/access arrangements. The amended plans included with the subject first party appeal do not encapsulate the revised site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition). In the absence of this detail, I do not consider there to be sufficient information to allow the Board to adequately assess the road layout/access arrangements serving the subject proposal. Therefore, in my opinion, given the discrepancies/inconsistencies that exist between the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition), the proposed development should be refused.

Car Parking

7.7.6. The material submitted with the application identifies that the proposed development will be served by the following car parking provision: - 7 no. car parking spaces to serve the proposed mews dwellings (2 no. to serve each of the proposed 3-bed mews dwellings and 1 no. to serve each of the proposed 2-bed mews dwellings); 5 no. car parking spaces to serve the dwellings proposed in the rear return/extended outbuildings; and 4 no. car parking spaces to serve Thornhill House.

7.7.7. A no. of the observations received on the appeal contend that development has inadequate car parking provision on site and the potential overspill of car parking onto the adjoining Cherrygarth Estate. The report from the Transportation Planning Section, of the Local Authority, recommended that further information be requested including in relation to car parking provision for the entire site.

7.7.8. Table 8.2.3, included in Section 8.2.4.5 of the Development Plan, outlines car parking requirements for residential land uses. It states that 1 space per 1-bed unit and per 2-bed unit and 2 spaces per 3-bed unit+ are required. Based on these requirements, the subject proposal would generate a requirement of 14 no. car parking spaces. The 16 no. car parking spaces proposed as part of the subject proposal exceeds the requirements set out, 2 no. additional spaces provided to serve Thornhill House capable of accommodating visitors to the house. I am satisfied that the quantum of car parking is sufficient to serve the subject proposal.

7.7.9. However, as discussed previously in Section 7.5, considerable differences exist between the site layout forming the basis of the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition), including in the context of car parking space provision in the context of Thornhill House and adjacent to the outbuildings to the rear of Thornhill House. The amended plans included with the subject first party appeal do not encapsulate the revised site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition). In the absence of this detail, I do not consider there to be sufficient information to allow the Board to adequately assess car parking provision for the subject proposal. Therefore, in my opinion the subject proposal should be refused.

Cycle Parking

7.7.10. The drawings lodged with the application and the appeal, do not indicate cycle parking provision to serve the proposed dwellings. The Traffic and Transport Assessment, prepared by 2HQ Consulting Engineers, which accompanies the application refers to 46 no. surface bicycle parking spaces being proposed north of the basement ramp to the proposed apartment block to serve the development. These bicycle parking spaces are not considered to be sufficiently proximate to the proposed new dwellings/dwellings proposed in the rear return and extended outbuildings.

7.7.11. I am satisfied that provision of cycle parking spaces to serve the proposed dwellings could be easily addressed by way of condition should the Board be so minded to grant permission for the proposed development.

7.8. Material Contravention

7.8.1. Dun Laoghaire Rathdown County Council's second refusal reason states that the proposed development would materially contravene the Dun Laoghaire Rathdown County Development Plan 2016-2022. More specifically, it details that the proposed development will materially contravene Section 8.2.11.2 (iii) 'Development in Proximity to a Protected Structure' of the Dún Laoghaire Rathdown County Development Plan 2016 – 2022.

7.8.2. Section 37(2)(b) of the Planning and Development Act of 2000 as amended provides that 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 specific criteria. Section 37(2)(b) of the Act reads as follows:-

'(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'.

7.8.3. As previously discussed, the appellants refute the Planning Authority's statement that the proposed development would materially contravene Section 8.2.11.2 of the Development Plan.

7.8.4. Having reviewed the file and associated plans, as outlined above, I consider that the Planning Authority's conclusion that the development materially contravenes the Development Plan to be misplaced in this particular instance. Upon consideration of the wording and intent of the applicable section of the Development Plan, I am of the view that it is not so specific as to be demonstrably contravened and, therefore, I do not consider that the development is in material contravention of the development plan. I am therefore satisfied that the provisions of Section 37(2) of the Act are not applicable in this instance.

7.9. **Drainage**

7.9.1. As outlined previously in Section 3.2.2, the Dun Laoghaire Rathdown County Council's Drainage Planning Section have noted that the proposed drainage layout has significantly changed from previous applications. A number of concerns are raised in relation to details regarding attenuation volume/attenuation storage volume/the proposed attenuation storage system, the proposed reticulation system, drainage of hardstanding areas and roofs, SuDS measures, alternative surface water system proposals, taken in charge/wayleave proposals and potential overland flows along with requirements demonstrating compliance with the Greater Dublin Strategic Drainage Strategy.

7.9.2. In response to issues raised, the applicant's appeal submission is accompanied by An Engineering Response to the items raised by Drainage Department, prepared by 2HQ 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 detailed responses to the items raised, while also being cognisant of the overall development for which permission has already been approved.

7.9.3. Having considered the information provided by the applicant, I am satisfied that the drainage issues raised by the Planning Authority could be addressed by way of condition, should the Board be so minded to grant permission for the proposed development.

7.9.4. Irish Water's submission on the application requested that the applicant should submit a pre-connection enquiry in order to confirm whether a connection to the public

networks can be provided, however; as no request for additional information was issued, this request was not pursued. I am cognisant that Irish Water did not object to the development and there is nothing within the appeal documents to suggest that a connection to the public network cannot be provided. In view of these considerations and having regard to the urban/serviced nature of the subject area, I consider it would be unjustified to refuse permission on the basis of foul water capacity.

7.10. Flood Risk

7.10.1. In terms of assessing a potential flood risk, I would note that the Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009) which sets out a sequential test for assessing flood impact. The appeal site is located in an area designated Flood Zone C in accordance with these guidelines.

7.10.2. The proposed residential development is a highly vulnerable development in accordance with the Table 3.1 of the guidelines and having regard to Table 3.2 of the guidelines the proposed residential development would be appropriate on the appeal site which is situated in Flood Zone C.

7.10.3. Having examined the OPW website (www.floodinfo.ie), I note that the subject site is I have reviewed the website www.floodmaps.ie and there is no recorded history of flooding on the appeal site. The nearest recorded flood event to the appeal site was flooding at Dale Drive, Stillorgan, Co. Dublin, on the 24th October 2011. This flood event was localised.

7.10.4. Dun Laoghaire Rathdown County Council's Drainage Planning Section sought comments from the applicant on surcharging or flood risk arising from blockage or partial blockage of the surface water drainage system proposed to serve the development. The applicant was also asked to submit a drawing identifying and showing details of safe overland flow routes within and outside the site. The appeal submission is accompanied by An Engineering Response to the items raised by Drainage Department, prepared by 2HQ Consulting Engineers. This response states that the attenuation volume has been designed in accordance with the design criteria 3 of the Greater Dublin Strategic Drainage Strategy whereby all excess runoff associated with a 30 year and 100 year flood events shall be catered for within the site

and not overflow in to the surrounding urban area. In the event of overflow, the road levels have been designed to guide over land flows to specifically generated low points within the proposed development where water can accumulate temporarily until any blockage has been cleared or any surcharging surpassed. In the event of an extremely rare event, this temporary surface flood can overspill from the site via an assigned overland route onto the public roadway. A full overland flood route management drawing can be provided by way of condition.

7.10.5. Having considered the information available/provided by the applicant, I am satisfied that, given its location within an established residential area in a Flood Zone C area, the proposed infill development would not give rise to an increased risk of flooding on the site or other properties in the vicinity subject to preparation of full overland flood route management drawing and adoption of any required amendments outlined therein being required by way of condition should the Board be so minded to grant permission.

7.11. **Other Matters**

7.11.1. *Procedural Matters* - I note that there are a number of issues raised within the observations on the appeal regarding procedural matters. More specifically, that the application and subsequent appeal is invalid having regard to the provisions of Section 37(5) of the Planning and Development Act, 2000 (as amended), in light of the appeal being considered under ABP Ref. ABP-308150-20, and that the current application cannot be considered as it is in contravention of planning conditions attached to previous grant of permission under ABP Ref. ABP-300224-17 & Reg. Ref. D19A/0748. In respect of the validity of the application/subsequent appeal, Section 37(5) of the Act states (in summary) that no application for permission for the same development/development of the same description as an application which is the subject of an appeal to the Board shall be made before the Board has made its decision; the appeal is withdrawn; or the appeal is dismissed pursuant to Section 133 or 138. I am satisfied that the subject proposal is distinctly different from that considered under Reg. Ref. D20A/0432/ABP Ref. ABP-308150-20 and capable of being considered by the Planning Authority/the Board subsequently. With regards to the contravention of planning conditions attached to previous grants of permission, the consideration of development proposals in the south-western corner of the site is not

precluded by the presence of conditions attached to previous grants of permission. Any such development proposals would be assessed on their own merits. Therefore, the Board is not precluded from consideration of the subject application.

7.11.2. *Development Contributions* – I refer to the Dún Laoghaire Rathdown County Council Development Contribution Scheme 2016-2020. The proposed renovations to restore/refurbish Thornhill House (a Protected Structures) fall under the exemptions listed in the 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. 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.

7.11.3. *Part V* - The proposed development application included a letter from Dun Laoghaire County Council advising that the applicant has engaged in Part V discussions with the Council. I note that an agreement in principle to comply with Part V requirements has been reached. A no. of specific details regarding this agreement are yet to be agreed with the Planning Authority. I am satisfied however, that this matter can be appropriately dealt with by way of condition of planning permission.

7.12. **Appropriate Assessment**

7.12.1. 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. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 **Recommendation**

8.1. Having regard to the foregoing, it is recommended that permission be refused for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the discrepancies/inconsistencies that exist between the subject proposal and the site layout approved pursuant to ABP Ref. ABP-308150-20 (inclusive of amendments required by condition), I do not consider there to be sufficient information to allow the Board to adequately assess the subject proposal in the context of the development approved pursuant to ABP Ref. ABP-308150-20 or to adequately assess open space provision, car parking provision and resultant loss of trees for/from the proposed development. The proposed development would, therefore, not be in accordance with the proper planning and sustainable development of the subject site and area.

Margaret Commane
Planning Inspector

1st March 2022