



An
Bord
Pleanála

Inspector's Report

ABP-311000-21

Development	Demolition of building/yard on site; and construction of a 4-storey apartment development consisting of 17 apartments.
Location	Blackhorse Avenue, Dublin 7
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3705/20
Applicants	Mabel Grace Development Limited
Type of Application	Planning Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Darryl Jones Joe and Lisa Fernandez
Observers	1. Bernard Farrell 2. Brian McGrath 3. Management Committee of Park Crescent House C/O Catriona Ni Bhaoill

4. Navan Road Community Council
C/O Patricia Dunleavy
5. Patrick Kearney

Date of Site Inspection

3rd March 2022

Inspector

Margaret Commane

1.0 Site Location and Description

- 1.1. The site at Blackhorse Avenue, Dublin 7, is to the north of the Phoenix Park. The area surrounding the site is a mature residential area and there is a mix of single and two storey dwellings and three storey apartment developments in the vicinity of the site in a variety of architectural styles.
- 1.2. The site is a 1,371sqm triangular shaped brownfield site on the south-western side of Blackhorse Avenue. The site is currently occupied by a c. 140sqm pitched roof free-standing warehouse building sited in the north-western corner of the plot with an area of hard standing to the south of this structure leading to the existing entrance onto Blackhorse Avenue in the south east corner of the site. The remainder of the site comprises an area of vegetation with a row of mature trees featuring along the site's north-western boundary.
- 1.3. The site is bounded by Blackhorse Avenue to the north-east and by North Road to the south-west. The site's north-eastern and south-western boundaries are delineated by stone work walls. The stone wall delineating the site's south-western boundary is a Protected Structure (RPS Ref: 6781) associated with the Phoenix Park Deerpark (DU018-007024). The subject site's north-western boundary abuts Park Crescent House, a scheme of three storey flat roofed apartment buildings.

2.0 Proposed Development

- 2.1. Planning permission was sought for: - demolition of the existing building and yard on site; construction of a 4-storey (setback at 3rd floor level) apartment development consisting of 17 no. apartments (6 no. 1-bed units and 11 no. 2-bed units) served by internal communal amenity space, including a gym and multi-purpose room at ground floor level with direct access to the external communal amenity space; provision of 2 new vehicular accesses and a pedestrian access from Blackhorse Avenue providing access to 16 no. resident car parking spaces, 56 no. resident bicycle parking, 2 no. resident motorcycle parking and refuse storage at undercroft level and 2 no. visitor car parking spaces and 10 no. bicycle parking at surface level; and plant at roof level, landscaping, boundary treatment and all associated site works and services. The proposed development will be contemporary in design and materials/finishes will

consist of brick, cement rainscreen cladding, hardwood timber screening and metal guarding rails.

2.2. It is also proposed to partially demolish/divert an existing combined public sewer running under the site. The diverted sewer will eventually join with an existing combined sewer on North Road. Water supply will connect to the existing Irish Water infrastructure on Blackhorse Avenue. SUDS measures are incorporated within the development. Surface drainage will connect to the public sewer on Blackhorse Avenue.

2.3. The proposal was revised in response to a further information request. The revisions made resulted in the following amendments to the proposed development:

- Revisions to the proposed undercroft car parking area, including a reduction in the quantum of car parking being provided by one space to 15 no. resident parking spaces (with 2 no. visitor spaces in the north-western corner retained); relocation of the 2 no. motorcycling spaces being provided; increase in the size of the bicycle parking area to accommodate the provision of 5 no. e-cargo spaces; increase in the size of the refuse store area; and provision of a demarcated pedestrian route.
- Clarification was provided regarding bicycle parking provision with 56 no. resident, 10 no. visitor and 5 no. e-cargo spaces provided.
- Retention of an additional 6 no. trees along the site's north-western boundary.
- Enclosure of the northern façade of the ground floor/undercroft parking area by way of solid brick wall with trellis planting.
- Revisions to the red line along the site's western boundary and a reduction in the site area (from 1,415sqm to 1,371sqm) in light of a boundary dispute with the site's north-western neighbours.

2.4. A summary of the key site statistics/details of the proposed development (as amended by a further information response) are provided in the table overleaf:

Site Area	0.1371ha
Demolition Works	140sqm
No. of Residential Units	17 no. apartments (6 no. 1-bed units and 11 no. 2-bed units)
Total Gross Floor Area	1,840sqm
Open Space	130sqm of communal open space
Car Parking	17 no. in total (15 no. resident parking spaces and 2 no. visitor parking spaces)
Bicycle Parking	71 no. in total (56 no. resident parking spaces, 10 no. visitor parking spaces and 5 no. e-cargo spaces)
Density	124 units per hectare
Height	3-4 storeys (maximum height of 15.95 metres)
Site Coverage	42%
Plot Ratio	1.34
Dual Aspect Apartments	65%

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to 26 no. conditions. These conditions are generally of a standardised format and relate to issues including surface water drainage, construction hours and development contributions/levies.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Initial Planners Report (14th January 2021)

- Each apartment proposed has favourable aspect, adequate floor area, private open space and storage. The internal layout to each unit is satisfactory and all units would have a good level of residential amenity. The current proposal has overcome concerns expressed in the previous application in terms of apartment

quality by omitting ground floor units and so all units on all floors would be satisfactory.

- While the block is located in proximity to its boundary with Blackhorse Avenue the units would all have a good level of privacy. By the same measure the block would be sited sufficiently back from the boundary with the Phoenix Park to provide privacy when viewed from that area.
- The height of the scheme at mainly four storeys is not a particular issue. At 15.95m to parapet and lift overrun, the proposed development is below the maximum height of 16m for residential buildings in outer city areas as set out in the Dublin City Development Plan 2016 - 2022. Park Crescent House to the north is three storeys and the proposed block is proportional to this. The height will have an impact on the visual amenity of the streetscape but this is not considered undue or wholly negative. Were the prevailing building type of one and two storey domestic housing to be used on this site it would be an unacceptably low density and a poor and unsatisfactory use of urban land and would be contrary to national standards set out variously in the National Planning Framework, Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy and Building Height Guidelines – policy with regard to compact cities and towns.
- The form, scale and character of the block onto Blackhorse Avenue is generally acceptable and would not detract from the appearance of the streetscape. The separation distance from houses on the east side of the street is such that the block can form its own character at a remove from the traditional houses. The block is modern apartment architecture. By its nature it is different to the prevailing dwelling type in form and appearance.
- With regard to the relationship with North Road and the park, while the block would occupy a space presently absent of buildings the construction of a four storey block adjacent to the boundary of the park is not necessarily an excessively intrusive presence. This area of the park is relatively isolated due to a lack of pedestrian entrances along with the extensive tree cover. It is also something of a car park for visitors to the zoo and it is considered that an appropriately scaled residential building on this site would have a positive

impact in terms of passive surveillance of this section of North Road. This section of the park is less visually sensitive than elsewhere and it is able to accommodate the proposal without the inherent character of the park being negatively impacted.

- Overall, the scheme would not have an unacceptable or undue increase on overshadowing to adjacent properties.
- The building would be a minimum of c. 23m and a maximum of c. 29m from the front elevations of houses on Blackhorse Avenue and would not present an excessive overlooking impact given distance and the separation being fully on a public street. While windows would overlook the ground of Park Crescent House to the north this would be over the existing green space to that building and there would be no direct overlooking between opposing windows would occur due to the 12m distance provided to the boundary, the angling of windows to bedrooms to direct views towards the west boundary with the park and screening of the northern edges of balconies.
- With regards to the resultant loss of trees, it is considered that the loss of trees, while unfortunate, is not unreasonable given they are mainly a prevalent species (sycamore) and there is a proposal for replacement with semi-mature and immature specimens of other species. Given the trees on site form a mature stand, and given proximity to the Phoenix Park the applicant should carry out a study of the site to confirm the site is not used as nesting/breeding area for wildlife such as badgers or bats.
- The proposed balconies to each dwelling are at or above the national required standard and all have favourable aspect while aluminium fins are used in certain locations to provide privacy screening. The proposed communal space is a marked improvement on the previous scheme and would have reasonable amenity value with daylight from east and west. Combined with the communal amenity room and gym there would be a satisfactory level of subsidiary amenities for future residents.
- It is noted that aluminium fins would screen the parking area to the south of the communal outdoor space. This is not considered satisfactory facing toward the outdoor recreational space as there is the possibility of vehicle noise intruding

on the amenity area and possibly headlight spill. A boundary of more solid construction with perhaps minimal use of fins would be more appropriate and there may be scope to plant climbing plants on this ground floor elevation to form a backdrop to the open space.

The report recommends a request for further information in respect of the following:

- Item 1: Concerns are raised by the Transportation Planning Division in relation to the design layout of the proposed parking and site entrances. The applicant is therefore requested to provide a Car Parking Strategy outlining the management of both the residents and visitor car parking spaces; a revised layout plan addressing concerns regarding parking spaces 11 and 12 being too close to the site entrance and impeding pedestrian access to/from the bicycle parking area; a demarcated pedestrian route from the bicycle parking area to the internal communal access; a Swept Path Analysis for parking bay Nos. 13, 17 and 18, as well as parking bay Nos. 11 and 12 if being retained; indicate where the cargo bikes will be securely stored; demonstrate how the bicycle parking area will be secured; and clarify the number of bicycle parking spaces to be provided.
- Item 2: The applicant was requested to submit revised drawings of the boundary treatment works fronting onto Blackhorse Avenue and revised sightline drawings.
- Item 3: The applicant was requested to clarify the need to remove the majority of the trees along the northern boundary and to examine the planting proposals for this area and revise as appropriate.
- Item 4: The applicant is requested to submit a conservation specification and methodology for the necessary mitigation measures to ensure the protection of the Phoenix Park boundary wall (Protected Structure) and revised drawings/landscaped proposals that show greater retention of trees/historic hedgerow elements along the boundary with the adjoining apartment complex and augmentation of the extant tree canopy along the boundary with the Phoenix Park with additional high quality and semi mature trees.
- Item 5: The applicant is requested to submit a survey the existing stand of trees along the north boundary to determine whether the site serves as a

nesting/breeding/foraging habitat for fauna. If such use is discovered the applicant is requested to provide proposals for mitigation of any potential habitat loss as a result of the development.

- Item 6: The applicant is requested to consider alternative means of enclosure of the along the north façade of the ground floor/undercroft parking area, including using climbing plants on this elevation.
- Item 7: The applicant is requested to clarify the operational arrangement for the gym and communal amenity room.
- Item 8: The applicant is requested to reconsider the metal balustrades proposed to the balconies. Glazed balustrades are considered more appropriate.
- Item 9: The applicant is requested to submit a Building Life Cycle Report.
- Item 10: The applicant is requested to submit further detail on the chosen finishes.

Planners Report (21st July 2021)

The Planners report, dated 21st July 2021, recommends a grant of permission subject to conditions. The following provides a summary of the points raised:

- In the context of FI Items 1 and 2: - A Revised Traffic Assessment, Mobility Management and Operational Servicing Plan; details of the boundary treatment onto Blackhorse Avenue; and revised parking layout have been submitted by the applicant. The proposed undercroft car parking quantum has been reduced by one space to 15 no. parking spaces for resident use with 2 no. visitor allocated spaces retained to the west of the site. The existing boundary wall along Blackhorse Avenue is to be retained with modifications in parts. The Transportation Planning Division reviewed and provided commentary on the same (discussed in the subsequent section). From a visual point of view the proposed boundary onto Blackhorse Avenue, as modified, is acceptable forming an attractive frontage onto the public domain.
- In the context of FI Item 3: - A Revised Landscape Plan, prepared by AIT Urbanism; and a Response Report Arboricultural Assessment, Arboricultural Impact and Tree Protection Strategy Report and 3 no. drawings, prepared by

CMK Hort + Arb Ltd, have been submitted by the applicant. The Parks Division reviewed and provided commentary on the same (discussed in the subsequent section). The revised proposals for additional tree retention; the new tree planting proposed as part of the landscape design proposals; and proposed augmenting of planting along the boundary with the Phoenix Park are welcomed. The content of the subsequent Park Division's report has been considered and the reservations expressed therein regarding the considered inappropriate impact of the proposal on the character of the Phoenix Park, a designed conservation area, are noted. In this regard, it is noted that the Office of Public Works have not submitted any observation on the application and there are not protected views into or out of the park at this point and no report was received from the Division at the time of the original application. Notwithstanding the absence of the foregoing, the planning authority did not consider the impact of the development on the Phoenix Park to be inappropriate. While the Phoenix Park is a conservation area, the planning authority considered the provisions of the development plan with regard to potential impacts on conservation areas, the report received from the Conservation Office and, on balance, viewed the development as an acceptable intervention at this location.

- In the context of FI Item 4: - In response to Item 4(a), the approach to ensuring the Phoenix Park North Wall is not damaged in any way during the course of construction is set out in the Further Information Statement by DMOD Architects. In response to Item 4(b), the landscape proposal has been amended and 6 no. trees are now retained along the boundary with the adjoining apartment complex.
- In the context of FI Item 5: - An Ecological Survey of the site, prepared by Mary Tubridy an Ecological Consultant, has been submitted by the applicant. It concludes that the site is now of low local biodiversity interest and deems the most valuable habitat on site to be the historic wall, protected structure supporting habitats, although not rare or protected for its biodiversity. The report concludes by recommending that a programme of biodiversity-friendly landscaping be implemented that involves the provision of a water feature designed to benefit birds; the potential of the green roof be maximised to benefit

biodiversity by planting it with appropriate species (not sedum); and the WL2 (Treeline) along the western boundary be managed to make it more attractive to nesting and feeding birds. The Ecological Survey has been assessed and the findings and conclusions noted and it is proposed that the report's aforementioned conclusions be required by way of condition.

- In the context of FI Item 6: - Alternative means of enclosure are proposed along the northern façade of the car parking area, a brick wall with a stainless steel trellis. The applicant's proposals in this regard are positive. The proposal is visually attractive, will increase biodiversity and will improve the quality of the communal space overall.
- In the context of FI Item 7: - The applicant has clarified that the gym and communal amenity space will be operated and maintained by the management company; residents will have access to both spaces either through a security keypad or fob system; and the communal space will be managed through the development website where the space can be booked in advance. The planning authority is satisfied with the applicant's response to this item.
- In the context of FI Item 8: - The applicant has carried out an internal review and concluded that glazed balustrades would not be appropriate in the context of the overall design of the apartment development; a remodelled building with glass balustrades and guarding has been submitted in the form of sample images from the model issued. The metal balustrades are retained as they are considered an appropriate design response for multiple reasons. The planning authority is satisfied with the applicant's response and rational for choosing metal as opposed to glass as the material for balconies balustrades. The finer details of the metal balustrades can be subject to a compliance agreement with the planning authority post decision. It is recommended that a condition be attached in this regard.
- In the context of FI Item 9: - A Building Lifecycle Report, prepared by DMOD Architects, has been submitted by the applicant. The planning authority is generally satisfied with the applicant's response to this item of further information request.

- In the context of FI Item 10: - The applicant has submitted a rationale for the chosen finishes. The planning authority consider the applicant to have responded to the request for information in a satisfactory manner. Having regard to the sensitivity of the site it is recommended that the finer details of the materials be agreed through inspection of materials on site by the planning authority to ensure a high quality finish to the scheme.

3.2.2. **Other Technical Reports**

Drainage Division (26/11/2020): No objection, subject to conditions.

Environmental Health Officer (30/11/2020): No objection, subject to conditions.

City Archaeologist (22/12/2020): Recommended the attachment of a condition in the event of a grant of planning permission.

Parks, Biodiversity & Landscape Services Division (12/07/2021): Expressed reservations regarding the proposed developments' impact on the existing landscape character/setting of the Phoenix Park, due to its excessive scale. Should permission be granted, they recommended that a series of conditions be included, including conditions regarding appointment of a Landscape Architect to procure, oversee and supervise implementation of the landscape proposals, tree bonds, landscape plan submission/implementation, landscape/boundary works within the root protection area of trees being retained on site and trees within the park adjacent to the boundary and contributions in lieu of public open space.

Transportation Planning (initial report received on 15/12/2020): Recommended that further information be requested regarding management of both the residents and visitor car parking spaces, parking spaces No. 11 and 12, a demarcated pedestrian route within the car parking area, swept path analysis regarding parking bay Nos. 13, 17 and 18, as well as parking bay Nos. 11 and 12 if being retained, cargo bike storage, secure bicycle storage, clarification regarding the number of bicycle parking spaces to be provided, boundary treatment works fronting onto Blackhorse Avenue and sightlines from the entrance located adjacent to Skreen Road.

Transportation Planning (subsequent report received on 12/07/2021): In light of the revisions included in the further information response, no objection, subject to conditions, including the removal of 1 no. visitor car parking space to facilitate a permanent clearance for service vehicle set-down.

Architectural Conservation Officer (06/01/2021): Recommended that further information be requested regarding conservation specification and methodology for the necessary mitigation measures to ensure the protection of the Phoenix Park boundary wall (Protected Structure) and retention of all good and fair quality trees/historic hedgerow elements along the boundary with the adjoining apartment complex as well as additional tree planting.

Architectural Conservation Officer (subsequent report received on 12/07/21): No objection, subject to conditions.

3.3. Prescribed Bodies

Irish Water (22/12/2020): No objection, subject to standard requirements and a requirement that the applicant liaise with Irish Water and agree full details on the proposed diversion of this sewer, prior to the commencement of construction.

Failte Ireland/ An Chomairle Ealaion/The Heritage Council/An Taisce/The Minister for Arts, Heritage, Regional, Rural & Gaeltacht Affairs: None received

3.4. Third Party Observations

13 third party observations were submitted to the Planning Authority. The main issues raised therein are as follows:

- Height and scale being out of character.
- Negative impact on the amenity of the Phoenix Park.
- Proposed development at odds with the existing architectural character of the area and materiality of the Phoenix Park boundary wall.
- Visual and physical impact on Phoenix Park including boundary wall.
- Insufficient information provided on how the proposed development and infrastructure works will be carried out without impacting on the boundary wall of the Phoenix Park.

- Security concerns at proximity to Áras an Uachtaráin north gate.
- Loss of trees on site and impact on trees in park.
- Impacts on biodiversity.
- Overshadowing. The Shadow Study Document provided with the application is poorly presented, with no explanations, and it does not include pictures for the winter.
- Overlooking and loss of privacy.
- Overdevelopment of a small site.
- Design not consistent with Urban Design Manual.
- Proposal will add to traffic and cause a traffic hazard and illegal parking in the surrounding area. Insufficient car parking provision.
- The drawings give a misleading representation of the extent of the visual impact and do not accurately represent Park Crescent House's siting/height.
- There are flooding issues in the area and this development will exacerbate these issues.
- Risk from demolition of existing building on site due to asbestos.
- The proposed development is a slightly amended version of the unsuccessful application for the same site (Reg. Ref. 2901/20) and still bears the unacceptable features of that proposal.

4.0 Planning History

4.1. Subject Site

4.1.1. The following 2 previous applications pertaining to the subject site are of relevance:

PA Reg. Ref. 2901/20

Permission refused by Dublin City Council on 14th August 2020 for the demolition of the existing building and yard on site; and construction of a 4-storey apartment development with a setback at 3rd floor level comprising of 20 no. units with associated

balconies, comprising of 7 no. 1-bed units and 13 no. 2-bed units, served by 10 no. car parking spaces, bicycle parking and refuse storage accessible via a new vehicular and pedestrian access from Blackhorse Avenue, for reasons pertaining to the quality of the communal open space provided, the substandard design of the *proposed ground floor layout, the poor level of residential amenity for the ground floor units in terms of aspect, sunlight, privacy and usable outdoor amenity space, insufficient parking provision/vehicle manoeuvring.*

PA Reg. Ref. 2925/17 (Appeal Reference PL29N.300456)

This application related to the removal of existing outbuilding structure; construction of a four storey apartment development, consisting of: 9 no. two-bed and 2 no. three-bed apartments served by 14 no. car parking spaces accessible via new vehicular access from Blackhorse Avenue; and amendment to the existing wall to allow for a vehicular entrance and pedestrian access.

Permission was granted by Dublin City Council in November 2017. The Planning Authorities decision was appealed to An Bord Pleanála by a third parties (Appeal Reference PL29N.300456). The Board granted permission in July 2018 subject to 15 no. conditions, including Condition No. 2 which read as follows:

2. *The proposed development shall be amended by the omission of an intermediate floor so that it is a three-storey building. Prior to commencement of development, revised drawings reflecting this requirement shall be submitted to, and agreed in writing with, the planning authority.*

Reason: *In the interests of visual amenity and the residential amenity of nearby properties.*

4.2. Adjacent Sites

- 4.2.1. There have been no recent applications in the vicinity of the subject site that are pertinent to the current proposal.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

5.1.1. Land Use Zoning

The site is zoned 'Z1' - Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2016-2022 with a stated objective '*to protect, provide and improve residential amenities.*'

5.1.2. Other Relevant Sections/ Policies

The subject site's south-western side boundary features a stone boundary wall which is a Protected Structure (RPS Ref. 6781). This boundary wall is associated with the Phoenix Park Deerpark (DU018-007024), which is a Conservation Area and listed on the Record of Monuments and Places (RMP) and is subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994. The subject site also shares a boundary with the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City) and a Zone of Archaeological Interest in the Dublin City Development 2016-22. Further to this, the site is located adjacent to the Blackhorse Avenue Road Improvement scheme, as identified in the Development Plan 2016-2022, which has been completed.

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

Section 4.5.3.1 – Policy SC13:

'To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context, and which are supported by a full range of community infrastructure such as schools, shops and recreational areas, having regard to the safeguarding criteria set out in Chapter 16 (development standards), including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture. These sustainable densities will include due consideration for the protection of surrounding residents, households and communities.'

Section 4.5.9 – Policy SC28:

‘To promote understanding of the city’s historical architectural character to facilitate new development which is in harmony with the city’s historical spaces and structures.’

Section 5.5.2 – Policy QH8:

‘To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.’

Section 5.5.2 – Policy QH22:

‘To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.’

Section 11.1.5.1 – Policy CHC2:

‘To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage.’

Section 11.1.5.15 – Policy CHC9: National Monuments Preservation

Section 16.2.2.2 Infill Housing:

‘Having regard to policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the planning authority will allow for the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development; however, in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.

Infill housing should:

- *Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.*
- *Comply with the appropriate minimum habitable room sizes.*

- *Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.'*

Section 16.5 Plot Ratio

For 'Z1' zoned lands, the development plan sets indicative requirements of 0.5-2.0 for plot ratio

Section 16.6 Site Coverage

For 'Z1' zoned lands, the development plan sets indicative requirements of 45%–60% for site coverage.

Section 16.7.2 Building Heights

In the case of the low rise outer city, a maximum height of 16 metres is specified for residential development and commercial development.

Section 16.10.3 Residential Quality Standards – Apartments and Houses

This section contains standards under the following headings that shall apply to proposed residential development: - public open space, safety and security and acoustic privacy. In the context of public open space, it states that *'the design and quality of public open space is particularly important in higher density areas'* and requires that, in the context of new residential developments, 10% of the site area shall be reserved for public open space provision. Section 16.3.4 goes on to state that in the event that the site is considered by the planning authority to be too small or inappropriate (because of site shape or general layout) to fulfil useful purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy).

Section 16.38 Car Parking Standards

A maximum car parking rate of 1.5 spaces per residential unit is specified for sites located within Zone 3 as identified within Map J of the Dublin City Development Plan 2016-2022.

Section 16.39 Cycle Parking Standards

A minimum bicycle parking rate of 1 one space per residential unit is specified for residential developments.

5.2. **Dublin City Development Plan 2022-2028**

Dublin City Council has started the preparation of a new Dublin City Development Plan for the period 2022 to 2028. It is understood that Stage 2 of public consultation on the draft Development Plan concluded on 14th February 2022.

5.3. **Regional Policy**

5.3.1. **Regional Spatial and Economic Strategy for the Eastern and Midlands Area, 2019**

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. The following Regional Policy objectives are noted in particular:

RPO 3.2 Promote compact urban growth - targets of at least 50% of all new homes to be built, 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 urban areas.

RPO 4.3 Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

5.4. **National Policy/Section 28 Ministerial Guidelines**

5.4.1. **Project Ireland 2040 National Planning Framework**

The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note in this instance:

NPO 3(a) Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO 13 In urban areas, planning, and related standards, including height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject

to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

NPO 35 To increase densities 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.

5.4.2. Housing for All – A New Housing Plan for Ireland to 2030 (2021)

A multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price.
- built to a high standard and in the right place.
- offering a high quality of life.

5.4.3. Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009), and the accompanying Urban Design Manual

These guidelines encourage higher densities on residential zoned lands, particularly on inner suburban and infill sites and along public transport corridors, identifying minimum densities of 50 / ha in such corridors, subject to appropriate design and amenity standards. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

Section 4.21 encourages a more flexible approach to quantitative open space standards with greater emphasis on the qualitative standards. Close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution in lieu of public open space within the development.

5.4.4. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)

These guidelines provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes.

In terms of identifying the types of locations within cities that may be suitable for apartment development the guidelines note the following:

Intermediate Urban Locations - such locations are generally suitable for smaller-scale (will vary subject to location), higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net), including:

- Sites within or close to i.e. within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations, that may include hospitals and third level institutions;
- Sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided;
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services.

These guidelines provide a range of requirements in the context of apartment developments, including the following which are relevant to the subject proposal:

- **Specific Planning Policy Requirement 1:** Developments may include up to 50% one bed/studio units. Studio units to not exceed 20-25% of the total. No minimum requirements for three or more units. Mix to be in accordance with evidence-based Housing Need and Demand Assessment.

- **Specific Planning Policy Requirement 2:** The housing mix specified under Specific Planning Policy Requirement 1 of the Apartment Guidelines, is relaxed where 10 to 49 residential units are proposed in building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha.
- **Specific Planning Policy Requirement 3:** The following minimum apartment floor areas are specified: - Studio apartment - 37sq.m; 1-bedroom apartment - 45sqm; 2-bedroom apartment (4 persons) - 73sq.m; and 3-bedroom apartment (5 persons) 90sq.m. 2-bedroom apartment (3 persons) may also be considered, particularly in the context of certain social housing schemes such as sheltered housing. They must have a minimum floor area of 63sq.m. Minimum floor areas are also outlined at Appendix 1 in relation to minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms; minimum bedroom floor areas/widths; and minimum aggregate bedroom floor areas. Pursuant to paragraph 3.8, the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%).
- **Specific Planning Policy Requirement 4:** Sets out the minimum number of dual aspect apartments to be provided in any scheme; a minimum of 33% dual aspect units are required in more central and accessible locations, a minimum of 50% in a suburban or intermediate location and on urban infill sites of any size or on sites of up to 0.25ha planning authorities may exercise discretion to allow lower than the 33% minimum.
- **Specific Planning Policy Requirement 5:** Specifies minimum ground level apartment floor to ceiling heights of 2.7 metres.
- **Specific Planning Policy Requirement 6:** Specified a maximum of 12 apartments per core.
- The following minimum requirements for storage areas are set out in Appendix 1: - Studio apartment - 3sq.m; 1-bedroom apartment - 3sqm; 2-bedroom

apartment (3 persons) - 5sq.m; 2-bedroom apartment (4 persons) - 6sq.m; and 3-bedroom apartment - 9sq.m.

- The following minimum requirements for private amenity space are set out in Appendix 1: - Studio apartment - 4sq.m; 1-bedroom apartment - 5sq.m; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 7sq.m; and 3-bedroom apartment - 9sq.m. Further to this, paragraph 3.37 of the Apartment Guidelines states that balconies should have a minimum depth of 1.5 metres.
- The following minimum requirements for communal amenity space are set out in Appendix 1: - Studio apartment - 4sq.m; 1-bedroom apartment - 5sq.m; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 7sq.m; and 3-bedroom apartment - 9sq.m.
- The following requirements regarding bicycle storage are set out at paragraph 4.17: - 1 cycle storage space per bedroom (for studio units, at least 1 cycle storage space shall be provided) and 1 visitor cycle parking space per 2 residential units.

5.4.5. Urban Development and Building Heights - Guidelines for Planning Authorities (2018)

These guidelines set out national planning policy guidance on building heights in relation to urban areas. Greatly increased levels of residential development in urban centres and significant increases in the building height and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. Building height is identified as an important mechanism to delivering compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dublin City Development Plan.

There is therefore a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. In this regard, the Guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include

suburban areas, must be supported in principle at development plan and development management levels.

5.4.6. Architectural Heritage Protection Guidelines for Planning Authorities (2011)

Architectural Heritage Protection Guidelines for Planning Authorities set out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

5.4.7. Design Manual for Urban Streets (2019)

The need to balance the needs of 'Place' and 'Movement' in relation to roads and streets informs the document. Section 4.2.3 notes that designers should seek to promote active street edges to provide passive surveillance of the street and promote pedestrian activity. Increased pedestrian activity has a traffic-calming effect as it causes people to drive more cautiously.

5.4.8. Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)

These guidelines introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. They provide guidance in relation to development proposals in areas at risk of flooding.

5.5. Natural Heritage Designations

5.5.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) located c. 4.8 kilometres east.

5.6. EIA Screening

5.6.1. 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

Two third-party appeals have been submitted. The first appeal is from Darryl Jones and the second is from Joe and Lisa Fernandez. The main points raised may be summarised as follows:

- The proposed density is too high and the proposal departs from the indicative plot ratio for Z1 zoned lands outlined in the Development Plan. The proposed development constitutes overdevelopment of the subject site.
- The proposed development is too close to the historic wall of the Phoenix Park.
- The proposed building height is inappropriate having regard to its relationship to the surrounding area. The proposed development fails to satisfy the criteria outlined in the Building Height Guidelines regarding increased building height.
- The proposed development is at odds with the character of the surrounding area which mainly features bungalows and cottage-style houses.
- In the absence of public open space being provided on the subject site, the proposed development will utilise the public amenity space featuring within the surrounding neighbourhood.
- The proposed development will contribute to existing traffic problems along Blackhorse Avenue and the two entrances proposed will cause a traffic hazard.
- There is a history of flooding in the area and the proposed development will increase potential flooding in the wider area.
- The application makes no reference to the inclusion of social and affordable housing or accessible apartments.
- The development will tower over Phoenix Park and neighbouring properties on Blackhorse Avenue, having a devastating effect on visual and residential amenity.

6.2. Applicant Response

The applicant's response to the appeal can be summarised as follows:

- Planning permission was previously granted on appeal (ABP Ref. ABP-300456-17) for part of the site. As part of the subject application the site has been enlarged following agreement with Irish Water regarding the diversion of a sewer traversing the subject site. Consequently, in design terms, it has been possible to move the building further from the Phoenix Park wall.
- The proposal is a well-designed apartment development which is not monolithic in form or scale, reflecting the curving alignment of the road, narrow to the east end and wider at the west end. The proposed development also provides an appropriate urban design response to the setting, reflecting the scale of the Park Crescent House apartments adjacent.
- The height of the proposed building is within all existing development plan limits and does not rely on the Building Height Guidelines.
- The ratio of car parking spaces is c. 1:0.88 excluding visitor parking spaces which is high in an inner suburban location accessible to the city centre by public transport and other mode such as cycling and walking.
- The Phoenix Park is an urban park and the existence of the city surrounding the park is always recognised and acknowledged, as confirmed in the Planners Report.
- The grounds of appeal indicate that the local area has been subject to drainage remediation works in 2017, which have reduced the incidences of flooding in the locality. The proposed development has been fully considered by Dublin City Council's Drainage Division and it is considered that the proposed development will not contribute to flooding in the locality, subject to appropriate conditions. Further to this, the proposed development incorporates green roofs and an attenuation tank which will reduce the amount of surface water leaving the site in storm events, thus improving on the existing situation.
- With regards to concerns raised regarding road safety, the speed limit on Blackhorse Avenue is 50kmph and there are a no. of speed bumps which control traffic speed/movement. The proposed development achieves appropriate sightlines of 45 metres in compliance with DMURS for both entrances and this has been accepted by Dublin City Council. It is also noted

that the development, approved under ABP Ref. ABP-300456-17, featured 14 no. car parking spaces and an entrance onto Blackhorse Avenue. The proposed increase of 3 no. cars will have a negligible impact on traffic on Blackhorse Avenue.

- The Planning Authority was favourable regarding on-site residential quality, height aspects in the context of the Development Plan and recent government guidance and taking account that one and two storey domestic housing would provide an unacceptably low-density and a poor and unsatisfactory use of zoned and serviced urban land in the inner suburbs. The development was assessed against the Building Height Guidelines and found to be appropriate. Following submission of material in response to a further information request, they decided to grant permission for the proposed development subject to conditions. The applicant has not appealed any of these conditions.
- The appellants have not taken into account any recent government guidance in their critique of the proposed development. The Planning Authority did consider the most recent guidance in their assessment and therefore, it is considered that the decision to grant planning permission should be upheld.

6.3. **Planning Authority Response**

The Planning Authority did not respond to the appeal.

6.4. **Observations**

Observations on the third party appeals were lodged from the following parties:

- Bernard Farrell, 23 Ardpark Road, Navan Road, Dublin 7.
- Brian McGrath, 16 Glenmore Road, Dublin 7.
- Management Committee of Park Crescent House C/O Catriona Ni Bhaoill, 5 Park Crescent House, Blackhorse Avenue, Dublin 7.
- Navan Road Community Council C/O Patricia Dunleavy, 10 Glenhu Park, Navan Park, Dublin 7.
- Patrick Kearney, 17 Springfield, Blackhorse Avenue, Dublin 7.

The issues raised can be summarised as follows:

- The proposed development is of poor architectural quality and is out of character with the surrounding neighbourhood which is mainly 2 storey.
- The development will have a negative visual impact on the surrounding residences and the Phoenix Park due to its height, bulk, mass, scale and design. It is argued that at least one storey should be removed.
- The proposed density is too high and the proposal departs from the indicative plot ratio for Z1 zoned lands outlined in the Development Plan. The proposed development constitutes overdevelopment of the subject site.
- The proposal, due to its cramped nature and small size/positioning of the proposed communal amenity space, will provide poor conditions for residents of the subject scheme.
- The proposed development will have a negative impact on the ecology/biodiversity of the area, both inside and outside the park, due to loss of trees and hedgerows. Tree removal is proposed which is contrary to the advice of the Arborist engaged by the developer and Dublin City Council's Park's Dept. and Conservation Specialist. Loss of existing trees will also have a negative impact on residential amenity of the area.
- The proposed development will negatively impact upon trees growing in the Phoenix Park.
- The proposal will exacerbate existing traffic issues in the area and egress/access from the site at this dangerous bend/at the junction of Skreen Road will cause a safety hazard. Further to this, car parking provision is insufficient for a development of this size and will cause illegal parking on the surrounding streets.
- The granting of permission is inconsistent and incompatible with previous Dublin City Council and An Bord Pleanála decisions and is much taller than the block previously approved on site.
- The Planning Authority's decision did not have appropriate regard to the advice of Dublin City Council's Parks Dept. and Conservation Specialist.

- The granting of permission was incompatible with a no. of Development Plan policies, most of the Planners' assessments were subjective and arguably wrong.
- No effective analysis or study of daylight, sunlight and shadowing impact was provided by the developer or requested by the Planner.
- The application is lacking in information regarding how the combined extensive construction/drainage/landscaping works are to be constructed without affecting the structural integrity of the protected Phoenix Park wall.
- The subject site is subject to a special objective in the current Development Plan. Can Dublin City Council Planners grant such permission in light of this special objective?
- The proposed development will allow overlooking of Park Crescent House, particularly in light of trees being removed which currently act as a screen.
- Changes were made to the boundary line at FI stage, in light of a boundary dispute with Park Crescent House Limited, and no opportunity was provided to other objectors to comment on this as the application wasn't readvertised.
- The drawings included in the application misrepresent buildings featuring on abutting/surrounding sites.
- The proposed development will exacerbate flooding issues in the area.
- A good quality residential development could be accommodated on site. The proposed development does not constitute a such a development.

6.5. **Further Responses**

None received.

7.0 **Assessment**

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, Scale & Height.
- Impact on Architectural Heritage.
- Visual Impact.
- Residential Amenity of Proposed Development.
- Residential Amenity of Adjoining Properties.
- Open Space and Tree Conservation.
- Access, Traffic and Parking.
- Flooding.
- Other Matters.
- Appropriate Assessment.

7.1. Principle of Development

7.1.1. As previously discussed, the development site lies within an area of suburban residentially zoned land. Under this land use zoning objective, residential development is generally acceptable in principle subject to the proposed development being acceptable in terms of its impact on the visual amenities of the area and the established residential amenities of properties in its vicinity. These matters are considered in turn below.

7.2. Density, Scale & Height

7.2.1. The appellants argue that the proposed density is too high, the proposal departs from the indicative plot ratio for Z1 zoned lands outlined in the Development Plan and the proposed development constitutes overdevelopment of the subject site. They also contend that the proposed building height is inappropriate having regard to its relationship to the surrounding area the proposed development fails to satisfy the criteria outlined in the Building Height Guidelines regarding increased building height. Similar concerns are raised by the observers, and they also contend that the granting of permission is inconsistent/incompatible with previous Dublin City Council and An Bord Pleanala decisions as it is much taller than the block previously approved on site and argue that at least one storey should be removed.

7.2.2. Before considering the appropriateness of the density, scale and height of the subject proposal, I think it beneficial to discuss the changes that have occurred at National policy level in the intervening period since the planning application for a four storey apartment development on the subject site was considered under Reg. Ref. 2925/17/ABP Ref. PL29N.300456. While the Planning Authority/Boards previous decision was made under the provisions of the current Dublin City Development Plan 2016-2022, I note that the Urban Development and Building Height Guidelines were introduced in December 2018 following the consideration of the previous application having taken place. These guidelines remove any blanket policy with regard to building height and also promote increased heights in urban areas and require that, general building heights of at least three to four storeys, coupled with appropriate density, in locations which include suburban areas must be supported. Further to this, I note the Inspectors Report pertaining to ABP Ref. PL29N.300456 was written prior to the adoption of the National Planning Framework (adopted on 29th May 2018). The NPF maintains an emphasis on providing higher densities within built up areas. National Policy Objective 35 contained in the National Planning Framework 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.

7.2.3. In the context of the previous decision under Reg. Ref. 2901/20, when the current application is compared to that previously refused by the Planning Authority the current proposal involves a 3-unit reduction in the no. of apartments proposed (from 20 no. to 17 no.) with no apartments proposed at ground floor level, a 5 no. resident/2 no. visitor parking space increase in car parking provision, a 20 no. resident/2 no. e-cargo parking space increase in bicycle parking provision, a re-positioning/widening of the communal amenity space serving the development, a re-positioning of the primary vehicular access serving the development/reconfiguration of the proposed parking area and a setting back of the proposed ground floor from the rear boundary. I consider that the changes proposed under the current application are significant/material so as to warrant or justify a change in the previous decision relating to the site. Irrespective of this, the proposed development will be assessed on its own merit.

- 7.2.4. With regards to density, 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. This sentiment is echoed in the Dublin City Development Plan, 2016–2022, with Policy SC13 promoting sustainable densities particularly in public transport corridors. In this regard, the appeal site is currently well served by public transport being proximate to Bus Route No. 37 running along Skreen Road and Bus Routes No. 37, 38, 38A, 38B, 38D, 39, 39A, 70, 70d and 122 running along the Navan Road Quality Bus Corridor. Moving forward, the B Spine of the Bus Connects Network, more specifically routes B1, B2, B3 and B4, and Bus Routes 34 and 35 are proposed to run along Navan Road and Bus Routes N2 and 37 will run along Blackhorse Avenue. In light of this, under the Sustainable Urban Housing; Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, (the Apartment Guidelines), the site would be categorised as an 'Intermediate Urban Location'. Such locations are deemed to be suitable for smaller-scale (will vary subject to location), higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net).
- 7.2.5. The 17 apartments proposed on this 0.1371Ha site, equates to a density of 124 units per hectare. Given the site's location in a serviced residential area, its proximity to public transport services and the infill nature of the subject site, the proposed density is considered appropriate in this instance. The proposed density for the application site complies with the provisions of the Development Plan and Government policy seeking to increase densities and, thereby, deliver compact urban growth.
- 7.2.6. In terms of consistency with 'Plot Ratio' and 'Site Coverage' standards, the proposed development would equate to a plot ratio of 1.34 and a site coverage of 42%. Therefore, the proposed development is compliant with Development Plan policy regarding plot ratio. The proposed site coverage falls slightly short of the applicable development plan standards. This is considered appropriate in this instance given the irregular shape of the subject site and its context.
- 7.2.7. The proposed development extends to a maximum height of 15.95 metres, to parapet and lift overrun. In terms of building height, Section 16.7.2 of the Dublin City

Development Plan specifies a building heights of up to 16 metres for residential development and commercial development in the case of the outer city developments. As previously mentioned, the Urban Development and Building Heights, Guidelines for Planning Authorities (2018), also promote general building heights of at least three to four storeys. The height of the structure proposed is consistent with Development Plan policy and National policy in relation to building heights, including the Building Height Guidelines (2018) and is considered to appropriately respond to the adjacent Protected Structure and residential dwellings, as will be discussed in the subsequent sections. Contrary to the arguments made by the appellants and observers, I contend that the proposed development is appropriate in the context of the immediately surrounding area. Although the buildings featuring on the opposite side of Blackhorse Avenue comprise of single and double storey dwellings, the subject site immediately abuts Park Crescent House which comprises of a scheme of three storey flat roofed apartment buildings which span for a length of c. 170 metres along Blackhorse Avenue. As illustrated in the contextual elevations accompanying the application, the proposed development will sit comfortably adjacent to Park Crescent House. Were 2 storey dwellings to be introduced on the subject site, as per the suggestions of appellants/observers, it would constitute underutilisation of a residentially zoned, serviced site which is well served by public transport and be contrary to national and regional planning policy. This was the view shared by the Planning Authority in the Planners Report.

7.3. Impact on Architectural Heritage

7.3.1. The stone wall delineating the appeal site's south-western boundary is a Protected Structure (RPS Ref. 6781), associated with the Phoenix Park Deerpark (DU018-007024), under the Dublin City Development Plan 2016-2022. The Dublin City Council Development Plan 2016-2022, at Policy CHC2, seeks to protect protected structures from any works that would negatively impact upon their special character/appearance. The Architectural Heritage Protection Guidelines for Planning Authorities (2011) require consideration of the effect of items in the curtilage or attendant grounds on the character and / or special interest of the main structure.

- 7.3.2. The proposal entails the construction of a 4-storey apartment development, consisting of 17 no. units, centrally on the subject site. The appellants argue that proposed development is too close to the historic wall of the Phoenix Park while the observers are of the view that application is lacking in information regarding how the combined extensive construction/drainage/landscaping works are to be constructed without affecting the structural integrity of the protected Phoenix Park wall. The applicant argues that the proposed development adopts an appropriate separation distance/protective measures to ensure the structural integrity/character of the boundary wall is protected.
- 7.3.3. In considering the impact of the proposed development on the architectural heritage of the boundary wall with the Phoenix Park, I will have regard to the Conservation Method Statement submitted with the application, the Proposed Protective Structure Hoarding Drawing (Drawing No. 19044 AP 056) and relevant contents of the Further Information Statement submitted with further information request response, the Planning Authority's Architectural Conservation Officer's assessment and the Architectural Heritage Guidelines (2011), as well as the relevant Development Plan Policies.
- 7.3.4. With regards to potential impact on the boundary wall with the Phoenix Park, I note the proposed development adopts a setback of between 3.6 and 5.5 metres from the south-western boundary wall with the Phoenix Park. The proposed development is served by undercroft car parking as opposed to a basement car park which would require excavation of the ground proximate to the wall. Excavation proposed as part of the subject development would be limited to foundation installation based on the material included with the application. In response to Item 4 of the Planning Authority's further information request, the applicant submitted a Conservation Assessment, as part of the Further Information Statement (prepared by DMOD Architects). This outlined the following mitigation measures proposed in the context of the Phoenix Park Wall: - documentation of the wall's current condition by way of a photographic dilapidation/condition survey and report; protection of the wall during construction by way of hoarding erection (as detailed in the Proposed Protective Structure Hoarding Drawing (Drawing No. 19044 AP 056) submitted with the further information request

response)/scaffolding screening; and monitoring of the wall during construction, including by way of vibration monitors.

7.3.5. I am satisfied that the proposed development, given the separation distances adopted, the extent of excavation required to facilitate the development and the mitigation measures to be adopted, will not result negatively impact upon the structural integrity/character of the Phoenix Park Wall. In addition, I do not consider the setting of the wall will be so adversely affected by the proposal as to warrant a refusal. To ensure that the architectural integrity and heritage value of the wall is preserved, it is recommended that the Board include a condition requiring that detailed structural drawings and a construction methodology statement (including the results of detailed condition/structural surveys of the protected structure) indicating the means proposed to ensure the protection of the structural stability and fabric of the retained structures be submitted to and agreed in writing with the planning authority.

7.4. Visual Impact

7.4.1. Consideration is also needed in relation to the proposed developments potential visual impact on the immediately surrounding residential area (the potential visual impact on the Phoenix Park is considered subsequently in Section 7.8 of this report). It is noted that a no. of observers expressed concerns that the proposed development will have a negative visual impact on the surrounding residences due to its height, bulk, mass, scale and design and that the proposed development is at odds with the predominantly single and double storey dwellings in the immediately surrounding area. Along this section of Blackhorse Avenue, the majority of residential development is located on the north-eastern side of the road, however, there are limited sections of development along its south-western side adjoining the park. In general, development along this route is of varied design and scale, having been developed over different periods of time. Immediately north-west and adjoining the site is a 3-storey apartment development (with occasional 4 storey projections associated with stairwell/core areas) at Park House Crescent, while the dwellings opposite the site, on the opposite side of Blackhorse Avenue, are single storey and two storey in height.

7.4.2. The appeal site is positioned at the end of a straight section of Blackhorse Avenue and at the starting point of a curve in the street, which sweeps around the site and the

adjacent Park House Crescent development to the north-west. The proposed building is located centrally on the site and has a triangular/modulated footprint reflective of the site's shape/curved frontage. The proposed building at four storeys (15.95 metres) will be the highest building along this stretch of Blackhorse Avenue, however, having examined the building in the context of the mixed architectural style of the surrounding area and given its position within the site and within the street at the termination of a straight section/beginning of the curve of the street and immediately adjacent to an existing 3 storey apartment development (which extends for c. 170 metres along Blackhorse Avenue), I am of the view that the proposed building will provide for a modern insertion in this streetscape, which given its position separate from surrounding low rise buildings/adjacent to a 3-storey building and orientation on site, is of a scale and design appropriate to the site and will not significantly detract from the visual amenity of this area.

7.4.3. As previously discussed, the appeal site is highly accessible and well served by public transport, while also being within walking distance of a range of services, including the amenity of the Phoenix Park. The proposal is in line with National policy guidance in relation to density and utilising infill sites to support the growth of cities versus their outward expansion, which must be balanced against the evolving character of an area and the existing community. I consider that this three-four storey building can be accommodated without detrimentally impacting to the character and visual amenity of the area. The potential impact of the proposed development on residential amenity of the surrounding area is subsequently considered in Section 7.5.

7.5. Residential Amenity of Proposed Development

7.5.1. Having regard to the floor areas, layouts, configurations, aspect and floor to ceiling heights, while being cognisant of the standards within the New Apartment Guidelines (2020), I am satisfied that the proposed development would provide for a suitable and acceptable form of accommodation for future occupants of the proposed apartments.

7.5.2. The proposal would entail the provision of 17 no. apartments (consisting of 6 no. 1-bed units and 11 no. 2-bed (4P) units). As detailed in the area schedule included on the floor plans, the 1-bed units would have a floor area of 47.9sqm and 49.5sqm and the 2-bed units would have a floor area of between 87.2sqm and 100.3sqm. The

proposed apartments exceed the minimum overall apartment floor areas specified in Appendix 1 of the Apartment Guidelines (2020) as well as complying with the associated minimums set in relation to aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas. In addition, the proposed development also complies with the requirement under Section 3.8 regarding exceedance of the minimum floor area standards. Further to this, having reviewed the proposed floor plans, I am satisfied that the apartments are suitably laid out internally to provide an adequate level of residential amenity to future residents, save for in one regard. It is noted that there is a discrepancy in the window positioning of Unit 206's main bedroom shown on the floor plan (Drawing No. 19044 AP 052_Rev B) and the applicable elevation (Drawing No. 19044 AP 230_Rev B). In the interest of clarity and to ensure sufficient daylight is provided to this room, it is therefore recommended that the Board, include a condition requiring that the floor plan/elevations be updated accordingly.

7.5.3. With regards to aspect and floor to ceiling heights, the proposed development complies with Specific Planning Policy Requirements 4 and 5, respectively, with 65% of the proposed apartments being dual or triple aspect (with all single aspect apartments proposed being south-west facing) and the floor ceiling height at ground floor level being 2.91 metres.

7.5.4. The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration and regard should be had to the BRE standards. While I acknowledge that the applicant has not carried out their own assessment of the numerical targets for daylight and sunlight in the proposed apartments, which I note is a bone of contention with observers to the appeal, I am satisfied that daylight and sunlight considerations have informed the proposed layout and design in terms of separation distances, scale, window sizing and the aspect of units, as well as the absence of ground floor apartments. This confirmed when the proposed development is assessed against BRE 209: Site Layout Planning for Daylight and Sunlight and BS 8206-2:2008 (Part 2: Code of practice for daylighting), both of which are referenced in the Section 28 Ministerial Guidelines on Urban Development and Building Heights, 2018. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019

(in the UK), I am satisfied that this document/updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines. Sections 2.1.6 of BRE 209: Site Layout Planning for Daylight and Sunlight states that the daylight received in a room of a proposed development with standard windows will be acceptable if there is no obstruction in the 25 degree plane emanating from it. Given the positioning of the windows serving the kitchen/living/dining room of Apartments No. 106, 206 and 305 to the south of the Park Crescent House and the provision of all proposed apartments at upper floor levels (with the gym and internal communal amenity space being the only habitable room at ground floor level), no such obstruction will occur in this instance. This window positioning/elevated nature of the proposed apartments provides them with a generous vertical sky component. Further to this, as previously discussed, 65% of the proposed apartments are dual or triple aspect and single aspect apartments proposed are south-west facing, maximising available light and ventilation to each apartment.

7.5.5. As detailed in the area schedule included in the Design Statement accompanying the application/application drawings, the 1-bed units would be provided with 3sqm of storage and the 2-bed units by between 6.2sqm and 8.6sqm of storage, which complies with the storage requirements specified in Appendix 1 of the Apartment Guidelines, 2020.

7.5.6. Turning to private amenity space. As detailed in the area schedule included in the Design Statement accompanying the application/application drawings, the 1-bed units would be served by balconies of between 5.7sqm and 6.4sqm and the 2-bed (4P) units by balconies of between 7.2sqm and 20.8sqm, all of which have a minimum depth exceeding 1.5 metres, thus complying with the requirements set out in relation to private amenity space.

7.5.7. Pursuant to Specific Planning Policy Requirement 2, the housing mix specified under Specific Planning Policy Requirement 1 of the Apartment Guidelines, is relaxed where 10 to 49 residential units are proposed in building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha. Similarly, as outlined in Paragraph 4.12 of the Apartment Guidelines, a relaxation in standards pertaining to

communal amenity space can be granted to urban infill schemes on sites of up to 0.25ha, which I consider the subject site to constitute. Irrespective of this, the proposed development complies with the housing mix specified, with only 35% of the proposed apartments comprising 1-bed units, and the communal amenity space requirements, providing 130sqm (23sqm in excess of the requirement) of communal amenity space. In the context of the proposed communal amenity space, the observers to the appeal have raised concerns that the cramped nature and small size/positioning of the proposed communal amenity space, will provide poor conditions for residents of the subject scheme. I am satisfied that the proposed communal amenity, due to its size, minimum width of 9.4 metres and positioning in the south-western corner of the site, will comprise a good quality space for residents use. I am also satisfied that the revisions made to the interface between the car parking area and communal open space area at further information stage (the originally proposed vertical treated hardwood timber screens being replaced by a brick wall with stainless steel wire trellis which is to be planted) address concerns originally raised by the Planning Authority in relation to noise and headlight spill.

7.5.8. In conclusion, subject to the aforementioned conditions, I am satisfied that the proposed development would provide quality apartments, meeting the relevant design standards and providing a suitable level of amenity and services for future residents.

7.6. Residential Amenity of Adjoining Properties

7.6.1. One of the primary issues raised by appellants and observers alike is that the proposed development will have a negative impact on the residential amenities of the nearby properties and the area.

North-western Abuttal

7.7. The subject site's north-western boundary abuts Park Crescent House, a scheme of three storey flat roofed apartment buildings. Appellants/observers are particularly concerned about potential overlooking/overbearing created by the subject scheme.

7.7.1. The north-western façade of the proposed development features a 12 no. habitable room windows and 6 no. balconies which have the potential to give rise to overlooking

of opposing upper floor windows (of which there are 2 no. in total) and the communal amenity space featuring to the rear of Park Crescent House. Overlooking from the north-west facing windows associated with the kitchen/living/dining room of Apartments No. 106, 206 and 305 is restricted due to their positioning. They sit south of Park Crescent House's south-east facing upper floor windows so no opportunity for direct overlooking is provided. Overlooking from the north-west facing windows associated with the bedrooms of Apartments No. 105, 205 and 304 and the kitchen/living/dining room of Apartments No. 105, 205 and 304 is restricted due to their being angled to direct views towards the boundary with the adjacent park and their 11 metre setback from the common boundary, respectively, as well as existing trees/proposed screen planting featuring along the common. Overlooking from the balconies associated with Apartments No. 105, 106, 205, 206, 304 and 305 is restricted by way of vertical powder coated metal screening on their north edges which focus views towards the west as well as existing trees/proposed screen planting featuring along the common boundary.

7.7.2. Potential overlooking from the proposed communal open space in the north-western corner of the site and the windows serving the internal communal amenity space is generally restricted by the existing block wall featuring along the common boundary with Park Crescent House, save for in one area. As previously discussed, a c. 140sqm pitched roof free-standing warehouse building currently features in the north-western corner of the subject site. Currently this, as well as the trees featuring along the common boundary, restricts views from the subject site, via the north-western corner, towards Park Crescent House's adjacent communal open space area. Based on the boundary treatment detailed in the Landscape Report submitted at further information stage, it is proposed to introduce a 1.8 metre high metal railing along the north-western edge of the proposed communal open space area. Due to the spacing proposed between the bars featuring in this metal railing, I would contend that there is potential for overlooking from the communal open space via the boundary featuring at the north-western corner of the site. To restrict such potential overlooking, it is considered that information regarding boundary treatment along the applicable common boundary should be required by way of condition. Therefore, it is recommended that the Board, include a condition requiring that details of boundary fencing proposed between the

subject site and Park Crescent House be submitted and agreed with the Planning Authority.

- 7.7.3. With regards to the potential overbearing impact, it is not considered that the proposed development will have an unreasonable overbearing impact on Park Crescent House due to the design/layout of the proposed development, its positioning relative to Park Crescent House, the separation distance that exists between the proposed development and the common boundary and planting proposed/trees retained along the common boundary.
- 7.7.4. Due to the orientation of the subject site to the east of Park Crescent House's rear open space area, the existing stone wall/building featuring along the common boundary, the stepped nature of the north-western elevation of the proposed building and the generous separation distance (a minimum of 10.25 metres) adopted from the common boundary with Park Crescent House proximate to the rear open space area, it is not considered that significant overshadowing issues arise in the context of this neighbouring property, as illustrated in the shadow analysis accompanying the application.
- 7.7.5. In terms of potential impacts on daylight to windows, I am satisfied that daylight and sunlight considerations have informed the proposed layout and design in terms of separation distances and offsetting of the proposed building. This is confirmed when the proposed development is assessed against BRE 209: Site Layout Planning for Daylight and Sunlight and BS 8206-2:2008 (Part 2: Code of practice for daylighting). Sections 2.2.21 of BRE 209: Site Layout Planning for Daylight and Sunlight states that daylight to windows in existing schemes shouldn't adversely affected if the proposed building doesn't breach the 25 degree plane from those window. Given the north-western façade of the proposed development has been offset so that the building sits south of the south-east facing windows associated with Park Crescent House and not directly opposite, as well as the 10.25 metre setback adopted from the common boundary (which in combination with width of Park Crescent House's side yard equates to an overall separation distance of c. 18 metres), no such obstruction will occur in this instance. This building offset/separation distance maintains a generous vertical sky component for the neighbouring windows.

Properties to the North-east

7.7.6. The subject site is bounded by Blackhorse Avenue to the north-east and by North Road to the south-west. On the opposite side of Blackhorse Avenue are Nos. 297-303 Blackhorse Avenue and Nos. 1-4 Parkview Court which comprise single storey semi-detached/terraced dwellings and double storey terraced dwellings, respectively. Given the height/scale of the proposed development, the orientation of adjacent dwellings and the separation distances that exist between the proposed development and the dwellings featuring on the opposite side of Blackhorse Avenue, I do not consider the proposed development would result in any negative impacts on the residential amenity of these adjacent properties by way of overlooking or overshadowing.

7.7.7. With regards to the potential overbearing impacts, it is not considered that the proposed development will have an unreasonable overbearing impact on the properties on the opposite side of Blackhorse Avenue due to the separation distances (between c. 25 and 33.5 metres) that exist between the proposed development and the applicable dwellings, the modulated/stepped presentation of the building to Blackhorse Avenue and the varying materials/finishes utilised.

7.8. Open Space and Tree Conservation

Open Space Provision

7.8.1. The appellants contend that in the absence of public open space being provided on the subject site, the proposed development will utilise the public amenity space featuring within the surrounding neighbourhood and this is inappropriate.

7.8.2. Section 16.10.3 of the Development Plan requires that, in the context of new residential developments, 10% of the site area shall be reserved for public open space provision. Section 16.3.4 goes on to state that in the event that the site is considered by the planning authority to be too small or inappropriate (because of site shape or general layout) to fulfil useful purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy).

7.8.3. The proposed development is devoid of public open space. This is considered appropriate in this instance given the small size/irregular shape of the subject site and its proximity to a no. of public open space areas, including the Phoenix Park. It is worth noting that Parks, Biodiversity & Landscape Services Division shared the same opinion commenting that this area is not an open space deficit area under the City Parks Strategy and given the size of the site, the provision of open space would be too small and inappropriately located. It is recommended that the Board attach a suitably worded condition requiring payment of a financial contribution, including in lieu of public open space provision, *in accordance with* the Dublin City Development Contribution Scheme 2020-2023. It is noted that in the context of development contributions, the proposed development does not fall under any of the categories of exemption listed in the development contribution scheme and the subject site is located outside the applicable catchment areas relating to the Section 49 Supplementary Development Contribution Schemes (Luas Docklands Extension and Luas Cross City).

7.8.4. The appropriateness of communal amenity space provided as part of the proposed development has been considered previously in Section 7.5 of this report.

Loss of Trees

7.8.5. The observers have raised concerns about the proposed development having a negative impact on the ecology/biodiversity of the area, both inside and outside the park, due to the resultant loss of trees and hedgerows. They contend tree removal is proposed which is contrary to the advice of the Arborist engaged by the developer and Dublin City Council's Park's Dept. and Conservation Specialist. They also contend that the proposed development will have a negative impact upon trees growing in the Phoenix Park.

7.8.6. The application was accompanied by an Arboricultural Assessment, Arboricultural Impact and Tree Protection Strategy Report, prepared by CMK Hort + Arb Ltd. A total of 23 no. trees were surveyed (comprising of 20 no. on the site and 3 no. to the immediate south-west overhanging the subject site) in March 2020. In the context of the 20 no. trees featuring on the site, it was proposed to retain 2 no. or 10% of the

total. More specifically, it was proposed to remove 9 no. Category B trees, 4 no. Category C trees and 5 Category U trees proposed for removal to facilitate the proposed development. Further to this, as illustrated in the Landscape Plan (Drawing No. 20D05-DR-200, prepared by Ait Urbanism + Landscape) submitted with the application it was proposed to plant 5 no. additional semi-mature trees and 18 no. small trees as part of the subject proposal.

7.8.7. I note that the initial report from the Architectural Conservation Officer of the Planning Authority raised concerns about the extent of tree removal proposed along the site's north-western boundary and the boundary with the Phoenix Park. They agreed with the conclusion of the Arboricultural Assessment, Arboricultural Impact and Tree Protection Strategy Report, that good and fair quality trees featuring should be retained and tree removal be limited to very low quality trees where possible. In light of this, they recommended that, as part of the further information request, the applicant be requested to submit revised drawings/landscaped proposals that show all good and fair quality trees and any remaining elements of an historic hedgerow along the boundary with the adjoining apartment complex retained on site and for the extant tree canopy along the boundary with the Phoenix Park to be augmented with additional high quality and semi mature trees, so as to mitigate the visual impact of the development from the historic park. The further information request issued by the Planning Authority, encapsulated this recommendation at Item No. 3.

7.8.8. In response to FI Item No. 3, the applicant submitted a Revised Landscape Plan, prepared by AIT Urbanism; and a Response Report Arboricultural Assessment, Arboricultural Impact and Tree Protection Strategy Report and 3 no. landscape drawings, prepared by CMK Hort + Arb Ltd. The revised landscape proposals involved the removal of 5 no. existing trees on the subject site (13 no. less than the original landscape proposals) and the planting of 9 no. additional semi-mature trees and 13 no. small trees.

7.8.9. Upon review, the Architectural Conservation Officer welcomed the increased tree retention/planting proposed and recommended that permission be granted subject to conditions. However, the Parks, Biodiversity & Landscape Services Division (whose report was issued post-issuance of the further information request) expressed

reservations regarding the proposed developments' impact on the existing landscape character/setting of the Phoenix Park, due to its excessive scale and the setback from the rear boundary providing limited opportunity for screen planting to be introduced (although they did detail conditions for inclusion on the permission should the Planning Authority determine that permission should be granted). The applicant argues that the Phoenix Park is an urban park which is surrounded by the city and the proposed development will have a limited impact on the existing landscape character/setting of the Phoenix Park.

7.8.10. Based on the arboricultural material/revised landscape proposals submitted with the application/further information request response, and my own site visit, I am satisfied that the level of tree retention/loss resulting from the proposed development is acceptable in this instance. The majority of existing trees currently featuring on site are to be retained as part of the proposed development and supplemented by additional tree planting, including along the site's rear (south-western) boundary. The retained trees on site and proposed supplementary planting, in combination with the street trees featuring along North Road, will appropriately screen the proposed development and reduce its visual impact when viewed from the Phoenix Park. Further to this, I think the introduction of buildings such as this proximate to the Phoenix Park is appropriate having regard to the park's urban context. I note that this location does not form part of any significant view into/out of the park, as set out within the OPW Conservation Management Plan. While this building will be visible, views of it from the park will be limited to this section of the park and I do not consider its scale and width will be such as to detract from the setting of the Phoenix as a whole and this area in particular, nor will it in my view detract from the enjoyment of the quality amenity space which this historic park provides.

7.8.11. Having regard to the foregoing, it is recommended that the Board include conditions regarding the appointment of a Landscape Architect, tree bonds, landscape plan submission/implementation and landscape/boundary works within the root protection area of trees being retained on site and trees within the park adjacent to the boundary, as outlined in the commentary of the Architectural Conservation Officer and Parks, Biodiversity & Landscape Services Division of the Planning Authority.

7.8.12. With regards to the proposed developments potential impact on the ecology/biodiversity of the area, in response to Item 5 of the further information request, the applicant submitted an Ecological Survey of the site, prepared by Mary Tubridy an Ecological Consultant. It concludes that the site is now of low local biodiversity interest and deems the most valuable habitat on site to be the historic wall, protected structure supporting habitats, although not rare or protected for its biodiversity. The report concludes by recommending that a programme of biodiversity-friendly landscaping be implemented that involves the provision of a water feature designed to benefit birds; the potential of the green roof be maximised to benefit biodiversity by planting it with appropriate species (not sedum); and the WL2 (Treeline) along the western boundary be managed to make it more attractive to nesting and feeding birds. The Ecological Survey was assessed by the Planning Authority, who were satisfied with its findings and conclusions and recommended that the report's recommendations be required by way of condition. I share the same view as the Planning Authority in this regard. It is therefore recommended that if the Board are so minded to grant permission that they include a condition requiring that the recommendations outlined in the Ecological Survey be adopted in the context of the proposed development.

7.9. Access, Traffic and Parking

Access/Traffic

7.9.1. The proposed development looks to provide 2 no. vehicular accesses off Blackhorse Avenue, 1 no. 6 metre wide access in the north-eastern corner providing access to a visitor parking/delivery & set-down area and 1 no. 7.376 metre wide access located centrally along the site's Blackhorse Avenue frontage providing access to an undercroft car parking area. The appellants and observers contend that the subject proposal will exacerbate existing traffic issues along Blackhorse Avenue and egress/access from the site at this dangerous bend/at the junction of Skreen Road will cause a safety hazard.

7.9.2. The initial report from the Planning Authority's Transportation Planning Division raised concerns about/recommended that further information be sought in relation to ease of access to parking spaces No. 11, 12, 13, 17 and 18; pedestrian movement within the

car parking area, bicycle parking provision; boundary treatment works fronting onto Blackhorse Avenue; and sightlines from the entrance located adjacent to Skreen Road. In response to the further information request subsequently issued by the Planning Authority, the applicant revised the parking area layout proposed (encompassing a reduction in the quantum of car parking being provided by one space, relocation of the 2 no. motorcycling spaces; an increase in the size of the bicycle parking area and refuse store area; and provision of a demarcated pedestrian route) and submitted details of the boundary treatment onto Blackhorse Avenue (Drawing No. 19044AP 275); sightlines afforded the 2 no. proposed vehicular entrances (Drawing No. 19128-LDE-ZZ-XX-DR-C-4C02) and a Revised Traffic Assessment, Mobility Management and Operational Servicing Plan. Upon review, the Planning Authority/Transportation Planning Division deemed the vehicular accesses/ car parking areas serving the proposed dwellings to be acceptable, save for one aspect – the visitor parking/delivery & set-down area. As discussed previously in Section 3.2, in light of the revisions at further information stage to the red line along the site's western boundary/resultant reduction in the site area in response to a boundary dispute, the Planning Authority's Transportation Planning Section due to concerns they had with clearance available for service vehicle set-down within the resized visitor/delivery & set-down area recommended the removal of 1 no. visitor car parking space.

7.9.3. The application is accompanied by a Revised Traffic Assessment, Mobility Management and Operational Servicing Plan, prepared by Martin Rodgers Consulting Limited. This, among other things, estimates traffic generated by the subject proposal using the computer modelling package TRICS. It estimates that the net increase in movements generated by the proposed development will be 1 arrival and 3 departures in the AM peak, with 3 arrivals and 2 departure in the PM peak, which equates to 0.2% of the assumed capacity of Blackhorse Avenue. In this regard, the report concludes that this will equate to an imperceivable traffic volume increase.

7.9.4. Having regard to the standard of the road network in the area, the availability of public transport services, the relatively modest scale of the proposed development (17 no. apartments), the material submitted with the application, and the Planning Authority reports, it is my view that the proposed development will not endanger public safety

by reason of traffic hazard or cause increased congestion. However, I consider two aspects of the proposed vehicular access arrangements warrant further consideration. Firstly, upon review of the swept path analysis included at further information stage, I would share the concerns expressed in relation to the clearance available for service vehicle set-down within the resized visitor/delivery & set-down area. It is therefore recommended that the Board include a suitably worded condition requiring revised site layout plans showing removal of 1 no. visitor car parking space to facilitate a permanent clearance area for service vehicle set-down be submitted and agreed with the Planning Authority. Secondly, I find the width of the access to the undercroft car parking area (at 7.376 metres) to be overly generous in the context of pedestrians traversing the adjacent footpath. To ensure pedestrian priority is maintained along this section of footpath, it is therefore recommended that the Board include a suitably worded condition requiring the width of the vehicular access to the undercroft car parking area to be reduced to 6.5 metres and suitable design measures be adopted to provide pedestrian priority is provided along the applicable stretch of footpath be submitted and agreed with the Planning Authority.

Car Parking

7.9.5. The material submitted at further information stage identifies that the proposed development will be served by the following car parking provision: - 15 no. resident spaces provided within the undercroft parking area and 2 no. visitor spaces in the north-western corner of the site. A no. of the observations received on the appeal contend that car parking provision is insufficient for a development of this size and will cause illegal parking on the surrounding streets.

7.9.6. In terms of car parking provision, the proposed development achieves a car resident parking rate of 0.88 car parking spaces per apartment, which is slightly below the 1.5 car parking spaces per residential unit outlined in Table 16.1 for this area. Given the subject site's intermediate urban location and the proximity to Dublin Bus services running along Skreen Road and Navan Road, and in light of the information included in the Revised Traffic Assessment, Mobility Management and Operational Servicing Plan, the proposed car parking rate is considered appropriate at this location. This was the view shared by the Planning Authority.

7.9.7. With regards to visitor car parking provision, as discussed earlier in this section it has been recommended that 1 no. visitor car parking space be omitted to facilitate a permanent clearance for service vehicle set-down. With regards to the knock-on effect such an omission would have to visitor car parking provision, the resultant provision of 1 no. visitor parking space is considered appropriate in this instance having regard to the scale of the proposed development.

Cycle Parking

7.9.8. With regards to bicycle parking provision, the development is served by 56 no. resident, 10 no. visitor and 5 no. e-cargo bicycle parking spaces. The quantum of bicycle parking provided is in excess of the Apartment Guidelines (2020) standards, which require 1 no. resident cycle space per bedroom and 1 no. visitor cycle space for every 2 no. units, and the standards set out in Table 16.2 of the Development Plan, which require a minimum of 1 no. cycle space per unit. The proposed visitor spaces are located adjacent to the development entry and the resident spaces are located within the parking area serving the development behind a gated entry point, which are considered to be appropriate locations in terms of shelter, accessibility and passive surveillance.

7.10. Flooding

7.10.1. The appellants have raised concerns regarding there being a history of flooding in the area and the proposed development increasing potential flooding in the wider area. A no. of observers to the appeal also fear that the proposed development will exacerbate flooding issues in the area.

7.10.2. The application is accompanied by a Flood Risk Assessment, prepared by Lohan & Donnelly Consulting Engineers, which identifies the subject site as being located in a Flood Zone C area and, upon review of the OPW website (www.floodinfo.ie), the site as being in an area not vulnerable to coastal or fluvial flooding from a 100-year storm event or an extreme event, not predicted to flood due to ground water flooding and not susceptible to pluvial flooding during the predicted 2031-year flood events. With regards to pluvial flooding, the stated that maps contained on the OPW website indicate that the site is predicted to flood during a

1:100-year storm event for a depth of 0.5-1.0 metres. In light of this, a Stage 3 assessment was carried out. To obviate potential risk of pluvial flooding, the site level/proposed floor level is to be raised and an attenuation tank/green roof/permeable paving are to be provided as part of the proposed development. In light of the adoption of these mitigation measures, they conclude that the risk of flooding at this site and the risk of flooding due to the development of this site in flood events is minimal in their view.

7.10.3. Having examined the OPW website (www.floodinfo.ie), I find the assessment provided regarding potential coastal, fluvial and coastal flooding in the Flood Risk Assessment, prepared by Lohan & Donnelly Consulting Engineers, to be accurate. Subject to the adoption of the mitigation measures outlined in the Flood Risk Assessment, prepared by Lohan & Donnelly Consulting Engineers, I am satisfied that, given its small scale and 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.

7.11. Other Matters

7.11.1. *Archaeology* - Based on Development Plan mapping, the site is located in a zone of Archaeological Interest and also shares a boundary with the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City), while the stone boundary wall featuring along the subject site's south-western boundary is a Protected Structure (RPS Ref. 6781). This boundary wall is associated with the Phoenix Park Deerpark (DU018-007024), which is listed on the Record of Monuments and Places (RMP) and is subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994. An Archaeological Impact Assessment, by Shanarc Archaeology, was prepared in response to the Planning Authority's further information request which concluded that there will be no direct impact to either the protected boundary wall or to the adjacent deer park as part of the proposed development. In light of the foundations of a small 19th-century house being found during test excavations across the site, a no. of re-construction phase mitigation measures were recommended by the Project Archaeologist. Upon review of the application, the City Archaeologist asks that a condition be attached to any grant of

permission for this application requiring retention of an Archaeologist/preparation of an Archaeological Impact Assessment etc. be attached in the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development. I consider this approach to be reasonable, given the site context, the findings during test excavations and the limited extent of excavation that would be required for the foundations and services associated with the development. In conclusion, should the Board be minded to grant permission, I recommend the condition outlined by Dublin City Council's City Archaeologist be attached.

7.11.2. *Part V* – One of the appeals states that the application makes no reference to the inclusion of social and affordable housing or accessible apartments. The proposed development application included a letter from Dublin City Council advising that the applicant has engaged in Part V discussions with the Council and an agreement in principle, regarding the acquiring of units on site, has been reached. A no. of specific details regarding this agreement, including the specific apartments to be provides for social and affordable units, 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.

7.11.3. *Procedural Issues* - I note that there is a procedural issue raised within the observations on the appeal received regarding the fact that the application was not readvertised by the Planning Authority following receipt of the further information request response submitted. More specifically, the observers are of the view that the public should have been given an additional opportunity to comment on the application given the changes made to the boundary line utilised for the planning application in response to a boundary dispute with Park Crescent House Limited, who are responsible for the immediate north-western abuttal to the subject site. I note that the Planning Authority did not deem the changes encapsulated in the further information request response to constitute 'significant' further information in the context of Article 31 of the Planning and Development Regulations, 2001 (as amended). Having reviewed the material submitted, I am satisfied with this conclusion. Further to this, Section 5.13 of the Development Management Guidelines for Planning Authorities advises that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in

the Courts. Therefore, I also conclude that the boundary dispute noted by observers did not prevent the Planning Authority and do not prevent the Board from proceeding to assess/determine the application in the normal manner.

7.12. Appropriate Assessment

7.12.1. Having regard to the nature and scale of the proposed development (a small infill apartment building within an established urban area), 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.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the residential zoning objective as set out in the Dublin City Development Plan 2016-2022, the design, layout and scale of the proposed development, the existing pattern of development in the vicinity and the historic setting and boundary with the Phoenix Park, it is considered that subject to compliance with conditions below, the proposed development would appropriately introduce residential use onto this suitably located infill site, would not detrimentally impact on the architectural heritage of the area including the adjacent Protected Structure, would be acceptable in terms of design, height, layout and scale of development, would provide a suitable level of accommodation and amenity for future occupants, would not seriously injure the amenities of the area, properties in the vicinity or of the Phoenix Park, would be acceptable in terms of traffic safety/parking provision and would comply with the provisions of the Dublin City Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for

Planning Authorities (Department of Housing, Planning and Local Government, 2020) and the Architectural Heritage Protection: Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht, 2011). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on 22nd June 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none"> a) The second floor plan and front elevation amended to rectify the discrepancy in the window positioning of Unit 206's main bedroom windows. b) Boundary fencing, to a height of 1.8 metres high where it abuts adjacent open space areas, to be installed along the sites north-western boundary. c) 1 no. visitor car parking space to be deleted to facilitate a permanent clearance area for service vehicle set-down. The revised layout shall include detailed demarcation of the site visitor and servicing parking forecourt area and turning areas within the forecourt including signage, hatching and any amendments to landscaping proposals. d) The width of the vehicular access to the undercroft car parking area to be reduced to 6.5 metres and suitable design measures be adopted to

	<p>provide pedestrian priority is provided along the adjacent stretch of footpath.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential amenity and road safety.</p>
3.	<p>Prior to the commencement of development, details of the materials, colours and textures of all external finishes including samples, shall be submitted to and agreed in writing by the Planning Authority. This shall includes details of the metal balustrades to proposed balconies.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
4.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall encapsulate the recommendations outlined in the Ecological Survey submitted with the further information request response and include the following:</p> <p>(a) A plan to scale of not less than 1:500 showing –</p> <ul style="list-style-type: none"> i. Existing trees, hedgerows, stone walls, specifying which are proposed for retention as features of the site landscaping. ii. The measures to be put in place for the protection of these landscape features during the construction period. iii. The species, variety, number, size and locations of all proposed trees and shrubs. iv. Details of screen planting. v. Details of roadside/street planting. vi. Hard landscaping works, specifying surfacing materials, furniture and finished levels.

	<p>(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment</p> <p>(c) A timescale for implementation.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
5.	<p>Prior to the commencement of development, the developer will retain the professional services of a qualified Landscape Architect as a Landscape Consultant and a qualified Arboriculturist, throughout the life of the site development works and will notify the planning authority of these appointments in writing. The developer will engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she will submit a Practical Completion Report to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented. The Arboriculturist will oversee tree removal and protection on and adjacent to the site.</p> <p>Reason: To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.</p>
6.	<p>(a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge</p>

	<p>for its full length, and shall be maintained until the development has been completed.</p> <p>(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>Reason: To protect trees and planting during the construction period in the interest of visual amenity.</p>
7.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted by the planning authority to secure the protection of existing trees to be retained on site trees adjacent to the site in the Phoenix Park and to make good any damage caused by construction, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The amount of the security shall be determined by the Helliwell or Cavat method by the developer's arboriculturist. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of an agreement, shall be referred to An Bord Pleanala for determination.</p> <p>Reason: To secure the retention of existing trees to be retained on the site.</p>
8.	<p>Trees to be removed on site shall be felled in late summer or autumn.</p> <p>Reason: In the interest of nature conservation.</p>

9.	<p>Prior to commencement of development, detailed structural drawings and a construction methodology statement (including the results of detailed condition/structural surveys of the protected structure) indicating the means proposed to ensure the protection of the structural stability and fabric of the retained structures shall be submitted to and agreed in writing with the planning authority. These details shall include demonstrating the methods proposed demolition and excavation arrangements, the proposed foundation system and underpinning, structural bracing and support and method of construction.</p> <p>Reason: In the interest of preserving the architectural integrity and heritage value of the retained structures.</p>
10.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <ul style="list-style-type: none"> (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination. <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
11.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction</p>

	<p>practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
12.	<p>(a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
13.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
14.	<p>The applicant shall comply with the following requirements of Irish Water:</p> <p>(a) There is an existing Irish Water foul sewer running through the Site. The Developer is required to liaise with Irish Water and agree full details on the proposed diversion of this sewer, prior to commencement of construction.</p> <p>(b) Where the applicant proposes to connect directly or indirectly to a public water/wastewater network operated by Irish Water, the applicant must sign a connection agreement with Irish Water prior to the commencement of the development and adhere to the standards and conditions set out in that agreement.</p>

	<p>(c) In the interest of Public Health and Environmental Sustainability, Irish Water Infrastructure capacity requirements and proposed connections to the Water and Waste Water Infrastructure will be subject to the constraints of the Irish Water Capital Investment Programme.</p> <p>Reason: In the interests of public health</p>
15.	<p>Proposals for an house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility.</p>
16.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
17.	<p>All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of sustainable transportation.</p>

18.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>
19.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area, particularly the Phoenix Park Conservation area.</p>
20.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
21.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation</p>

	<p>from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
22.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition</p>
23.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>

Margaret Commane
Planning Inspector

11th April 2022