



An
Bord
Pleanála

Inspector's Report

ABP-319565-24

Development	Redesign of the permitted No. 40 Thornhill Oaks (Reg. Ref. D20A/0432 / ABP-308150-20 refers) to provide a part single / part two storey dwelling.
Location	Site at 40 Thornhill Oaks, Mount Merrion, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D24A/0059
Applicant	Dearbhaile Byrne
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Observer(s)	Nuala and Conal Hooper Louis and Patricia Ramsay Sara Yu and Andy Yan

Date of Site Inspection

2nd July 2024

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.0355 ha, is located at the entrance to the Thornhill Oaks development, a new residential scheme comprising a mix of housing and apartments, and which also accommodates Thornhill House (a Protected Structure), located within the north-western part of the wider landholding at Cherrygarth, Mount Merrion, Co. Dublin. The residential scheme, including the appeal site, are accessed from Cherrygarth, via Trees Road Lower. Building works have commenced on the appeal site. In this context it is noted that permission was previously granted for a single storey dwelling on the site (see Planning History below).
- 1.2. The subject site is bounded on the northern side by the lengthy rear gardens of Nos. 62 and 64 Trees Road, to the west by a two storey semi-detached unit and to the east by the Cherrygarth road. The site fronts on to the internal estate footpath and road to the south.

2.0 Proposed Development

- 2.1. The proposal constitutes a redesign of a single storey 3 bedroom house (c 130 sqm) permitted on the site as part of a development approved under An Bord Pleanála Ref. ABP-308150-20 / Planning Authority Ref. D20A/0432. The permitted unit was referred to as House Type D and revised Drawing Nos. 1908-ABP.06 and 1908-ABP.07 submitted with that appeal refer. The permitted house is arranged around a central courtyard (c 51 sqm) in an inverted U-shaped plan. A rear planted courtyard (c 18 sqm) and a front courtyard (15.8 sqm) also serves the permitted unit.
- 2.2. The proposed development comprises the alteration / re-design of the permitted house by the addition of a second floor above the rear volume. The proposed house (215 sqm) would accommodate an additional bedroom and a home office, when contrasted with the floorplan of the permitted unit. The maximum flat roof height would be c 6.3 m, compared with 3.56 m of the permitted unit. No fenestration is proposed at first floor levels on the side and rear elevations. In terms of private open space, provision is made for a triangular rear yard (16.7 sqm), an external front courtyard (41 sqm) c 4.5m in width, located between the two side volumes, which leads to the front door. A second external courtyard (c 23 sqm) is proposed to the front of the eastern volume to the front of the proposed house.

2.3. The appellant has provided an alternative external finish for the proposed development as detailed in Drawing Nos. ABP.05 and ABP.06 submitted with the planning appeal, should the Board consider that the proposed finishes of the development would impact on the visual amenity of the area. Specifically, the main alternative finishes comprise:

- Replacement of brick finish to eastern boundary wall with granite rubble wall finish.
- Replacement of brick finishes to front ground floor wall and front courtyard wall to granite rubble wall finish.
- Replacement of brick finish to western boundary wall with granite rubble wall finish.

3.0 Planning Authority Decision

3.1. Decision

3.2. By order dated 25th March 2024, Dun Laoghaire Rathdown County Council issued notification of the decision to refuse planning permission for two reasons as follows:

1. The proposed development would be served by substandard quality of usable private open amenity space for the subject dwelling, contrary to Section 12.8.3.3(i) of the County Development Plan 2022-2028. As such, the development would set an undesirable precedent for similar development in the local area and the wider County area, and would not be in accordance with the proper planning and sustainable development of the area.
2. The proposed two-storey height of the development is considered to represent a visually incongruous design proposal, and overdevelopment at the subject site, by virtue of its location at the entrance to the wider Thornhill Oaks and its protected structure, and is considered to be contrary to the content of Section 12.3.7.1(ii) of the County Development Plan 2022-2028 ('Extensions to the Rear'). As such, the development would set an undesirable visual precedent in the local area and the wider County area, and would not

be in accordance with the proper planning and sustainable development of the area.

3.3. Planning Authority Reports

3.3.1. Planning Report

The Planning Authority case officer report states that while the principle of a detached dwelling is considered acceptable in principle at the subject location, the development as proposed constitutes a visually incongruous design solution, represents overdevelopment and does not provide sufficient quality private open / amenity space for a dwelling of the size proposed. As such the report reflects the refusal reasons as per section 3.2 above.

3.3.2. Other Technical Reports

Architectural Conservation Officer:

- Concern previously raised in relation to the design and layout of the house on this site (House No. 40) which was permitted under ABP-308150-20 / Reg. Ref. D20A/0432
- In previous iterations this dwelling was described as a Gate Lodge. The current proposal would significantly increase the size and scale of the house to a substantial 4 bedroom property, which could no longer be described as a Gate Lodge.
- Request that applicant provides CGI's and a Visual Impact Assessment to enable full assessment of the impact of the proposed development.

Drainage Planning: No objection subject to conditions.

Transportation Planning: No objection subject to conditions.

EHO Office: Acceptable subject to conditions.

3.4. Prescribed Bodies

The Board invited The Heritage Council, Failte Ireland, Department of Housing, Heritage and Local Government, An Taisce and An Chomhairle Ealaíon to comment on the proposed development. No comments were received from the aforementioned prescribed bodies.

3.5. Third Party Observations

Five observations to the proposal received by the planning authority are on file for the Board's information. The issues raised may be summarised as follows:

- Negative impacts on the visual and residential amenities of the area and adjoining properties. Overshadowing, overlooking and overbearing impacts would arise.
- Limited and inadequate separation distances to boundaries.
- Impacts on the boundary wall and the protected structure.
- Inadequate and insufficient private open space provided.
- Excessive scale of development on this 'Gate Lodge' site.
- Issues raised relating to the Thornhill development on the wider site including the long duration of works.

4.0 Planning History

Amendments to parent permission

Planning Authority Ref. D24B/0425/WEB refers to a December 2024 decision to grant retention permission of an external flight of stone steps providing pedestrian access, located at the southern gable of the existing apartment block and a second flight of external stone steps, which also provides pedestrian access to Thornhill Oaks.

An Bord Pleanála Ref. ABP-310285-24 / Planning Authority Ref. D21A/0161 refers to an August 2022 decision to grant permission for conservation works to Thornhill House (a Protected Structure), to upgrade the house as a single family residence; provision of 5 No. 2 bed dwellings, terrace of 5 No. dwellings, all associated site works, at Thornhill House, Cherry Garth, Mount Merrion, Blackrock, Co. Dublin (Protected Structure Ref. No. 936).

An Bord Pleanála Ref. ABP-308150-20 / Planning Authority Ref. D20A/0432 refers to a June 2021 decision to grant permission for the reconfiguration and redesign of permitted housing units (under Reg. Ref. D17A/0240 / ABP Ref. PL06D.300244) to provide an increase from 9 houses to 15 houses and all associated works, at

Thornhill House, Cherry Garth, Mount Merrion, Blackrock, Co. Dublin (Protected Structure Ref. No. 936). It should be noted that a revised proposal for No. 40 was provided with the planning appeal and permission was granted by the Board for this unit.

Planning Authority Ref. D20A/0057 refers to a March 2020 decision to refuse permission for the temporary removal of the eastern stone wall boundary and its subsequent reinstatement upon the completion of construction works on the wider site, at Thornhill House, Cherry Garth, Mount Merrion, Blackrock, Co. Dublin (Protected Structure Ref. No. 936).

The refusal reason states the following:

‘It is considered that the proposed demolition of the wall and its proposed rebuilding as a coursed rubble wall would materially contravene Policy AR1 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 which states that it is Council policy to protect structures on the Record of Protected Structures from any works that would negatively impact their special character and appearance. In addition the proposed development would significantly impact on the area in terms of visual amenity and is therefore considered to be contrary to the proper planning and sustainable development of the area.’

Planning Authority Ref. D19A/0748 refers to a December 2019 decision to grant permission for amendments to the permitted apartment block to facilitate an additional 6 units and associated works. (An appeal was lodged in connection with the planning authority’s decision however it was subsequently withdrawn).

Parent permission

An Bord Pleanála Ref. PL06D.300244 / Planning Authority Ref. D17A/0240 refers to a September 2018 decision to grant permission for 47 no. dwellings provided as follows; 33 no. apartments including 3 no. 1-bed, 24 no. 2-bed and 6 no. 3-bed apartments with balconies/terraces in a 3-4 storey apartment building over single basement level and rooflights on the roof; 14 no. houses including 1 no. 5-bed 3-storey semi-detached house, 3 no. 4-bed 2-storey semi-detached houses, 2 no. 4-bed 3-storeys semi-detached houses and 8 no. 5 bed 3-storey terraced houses; each will have a private garden and an option for solar panels on the roof; 78 no. car spaces and 55 no. cycle spaces at basement and surface level; All associated site development works including site clearance works, landscaping, open space,

boundary treatments, ESB substation, site services and infrastructure, bin stores and plant at basement level and ancillary signage. Vehicular and pedestrian access to / from Cherrygarth is via the existing access on the eastern boundary which is to be relocated and upgraded and via a proposed access on the southern boundary. 2 no. controlled pedestrian accesses are provided to the existing public open space area in the eastern part of the site. A footpath is proposed along part of southern site boundary adjoining Cherrygarth. Permission also sought for the laying of a new surface water sewer outfall and a new foul sewer outfall to connect to the existing public sewers to the south of the site. All on a site of c. 1.39 ha (excluding sewer connections) within the grounds of Thornhill House (A protected Structure).

Relevant condition:

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

5.0 Policy Context

5.1. Development Plan

5.1.1. The Dún Laoghaire Rathdown County Development Plan, 2022-2028 is the statutory development plan for the area. It has regard to national and regional policies in respect of infill development within existing built-up areas.

5.1.2. The site is zoned Objective 'A' residential with the objective to: "Provide residential development and improve residential amenity while protecting the existing residential amenities" under which residential development is listed within the 'Permitted in Principle' category of this zoning objective.

There is also an objective 'To protect and preserve Trees and Woodlands' to the south of the appeal site. An area of open space (zoning Objective 'F') is located south-east of the appeal site, with the objective 'To preserve and provide for open space with ancillary active recreational amenities.'

- 5.1.3. In Chapter 11 'Heritage and Conservation' Section 11.4 relates to Architectural Heritage.
- 5.1.4. In Chapter 12 Development Management, Section 12.3.7 Additional Accommodation in Existing Built-up Areas includes the following:

12.3.7.1(ii) Extensions to the rear

First floor rear extensions will be considered on their merits, noting that they can have potential for negative impacts on the amenities of adjacent properties, and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions the following factors will be considered:

- Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries.
- Remaining rear private open space, its orientation and usability.
- Degree of set-back from mutual side boundaries.
- External finishes and design, which shall generally be in harmony with existing.

Section 12.8.3 – Open Space Quantity for Residential Development

Section 12.8.3.3 (i) Private Open Space for Houses

'All houses (terraced, semi-detached, detached) shall provide an area of good quality usable private open space behind the front building...'

A minimum private open space requirement of 75 sqm for a 4 bedroom (or more) house type is identified in Table 12.10.

Any provision of open space to the side of dwellings will only be considered as part of the overall private open space calculation where it is useable, good quality space. Narrow strips of open space to the side of dwellings shall not be included within any of the above calculations.

5.2. **Regional Policy**

Regional Policy Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 5.3.1.

This strategy provides a framework for development at regional level. The RSES 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.

5.3. National Policy

The National Planning Framework - Project Ireland 2040 5.4.1. The government published the National Planning Framework (NPF) in February 2018. Objective 3a is to deliver 40% of all new homes nationally, within the built-up footprint of existing settlements. Objective 11 is to prioritise development that can encourage more people to live or work in existing settlements. Objective 35 is to increase residential density in settlements and makes specific reference to infill development.

5.4. Ministerial Guidance

Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024) (the 'Compact Settlements Guidelines'). These guidelines outline appropriate density ranges for different area types and provide residential design standards in relation to separation distances, open space and car and cycle parking.

SPPR 2 notes that the minimum private open space for a 4 bed+ house is 50 sqm. It states, inter alia, the following in relation to private open space provision:

'Well-designed private open space forms an integral part of houses and is essential for health and wellbeing.

Private open space must form part of the curtilage of the house and be designed to provide a high standard of external amenity space in one or more usable areas.

Open spaces may take the form of traditional gardens or patio areas at ground level, and / or well designed and integrated terraces and/or balconies at upper level. The open space must be directly accessible from the unit it serves and a principal area of open space should be directly accessible from a living space.'

5.5. Natural Heritage Designations

The South Dublin Bay SAC (Site Code 000210) and the South Dublin Bay and River Tolka SPA (Site Code 004024) are located approximately 2 km to the east of the appeal site.

5.6. EIA Screening

See Forms 1 and 2 below. Having regard to the nature and scale of the proposed development comprising a single additional residential unit within a permitted residential scheme, to the established suburban nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment. 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

This is a first-party appeal against the decision of Dun Laoghaire County Council to refuse permission for the proposed development. The grounds of appeal are summarised under relevant headings, as follows:

Planning history

- The setting of Thornhill House and the surrounding area has changed rapidly in the last number of years. The planning history of the subject site and the wider Thornhill lands is detailed.
- In terms of the parent permission for the lands (PA Ref. D17A/0240 / ABP Ref. PL06D.300244) it is noted that the Council did not recommend refusal relating to the houses at the northern part of the lands, which is where No. 40 Thornhill Oaks is located.
- The completed apartment block is located adjoining the entrance to the wider Thornhill Oaks scheme, with No. 40 Thornhill Oaks located at the opposite side of the entrance.
- The planner's report associated with PA. Ref. D20A/0432 highlighted concerns with the proposed house at the entrance to the site (now known as 40 Thornhill Oaks); such concerns did not include impacting the protected structure.

- Revised proposals for No. 40 were provided with the subsequent appeal and permission was granted by the Board under Ref. ABP-308150-20.
- In relation to the permitted dwelling, it was considered to be in keeping with the visual amenity of the area and did not detract from the setting or character of Thornhill House and provided adequate private open space.
- The permitted Thornhill Oaks Scheme has substantially altered the setting of Thornhill House.
- All of the planning applications relating these lands have been refused by the Council and overturned on appeal.

Refusal Reason No. 1

- The private open space serving the proposed dwelling is in line with that permitted under ABP-308150-20. The proposed south facing external courtyard is larger, taking advantage of maximum daylight provision.
- Reference is made to Section 12.8.3.3(i) of the Development Plan whereby open space to the front and side of a site may be considered acceptable, subject to design and residential amenity for innovative design responses on infill and corner side garden sites.
- There is a clear established precedent for the layout and provision of private open space at 40 Thornhill Oaks.

Refusal Reason No. 2

- The planner's report does not consider the fact that the amended design for No. 40 Thornhill Oaks was granted permission and discounts the planning precedent it sets for the dwelling at the entrance to Thornhill Oaks. In this regard, it is noted that the Board's decision (which granted permission for a number of units including the permitted unit at the appeal site under) stated that 'the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity.'
- Permission was previously granted for a four storey apartment block at the entrance to the scheme which has been completed. No consideration given to the established height and scale of this block in the context of the wider scheme.

- Provision of a part two storey element to the permitted dwelling located opposite the apartment block does not adversely impact the setting of Thornhill House or adjoining development.
- The proposed extension of the permitted dwelling brings it more into line with adjoining development at Thornhill Oaks in terms of floor area / plot ratio, as demonstrated in contextual elevations submitted with the appeal.
- The height of the proposed dwelling is entirely in keeping and in character with surrounding setting.
- No adverse impacts in relation to overbearance, overshadowing or overlooking caused by the proposal.
- The part two storey element visible from adjoining properties on Trees Road , which are c 39 m from the proposed unit is not overly obtrusive and is finished in brick to match the remainder of the dwelling.

Alternative façade finish

- Should the Board have concern in relation to the finish of the proposed external materials, an alternative finish which may be more sympathetic in terms of visual amenity is set out in Drawing Nos. ABP.05 and ABP.06, which maintains the granite façade along the single storey element, with the part two storey element finished in brick.

The following drawings are appended to the appeal:

ABP.01 Contextual Elevations South.

ABP.02 Contextual Elevations East.

ABP.03 Contextual Elevation /Section West.

ABP.04 Proposed Private Open Space.

ABP.05 Proposed – Elevations.

ABP.06 Proposed – Elevations.

2 no. CGI's.

6.2. Planning Authority Response

Response dated 10th May 2024 states no new issues raised which would justify a change of attitude to the proposed development.

6.3. Observations

Three submissions were received on the planning appeal from the following observers:

- Nuala and Conal Hooper, 42 Foster Avenue, Mount Merrion, Co. Dublin.
- Louis and Patricia Ramsay, 64 Trees Road, Mount Merrion. Co. Dublin.
- Xiaoqian Yu and Andy Yan, 41 Thornhill Oaks, Mount Merrion, Co. Dublin.

The issues raised can be summarised under the following headings:

Impact on the residential and visual amenities of the area

- Proposed development would negatively impact the residential amenities of the area through overshadowing, overbearing and overlooking impacts.
- Proposed development is visually incongruous and visually obtrusive.
- The proposed western elevation is highly visible from the private open space of No. 41 Thornhill Oaks.
- Proposal would set an undesirable visual precedent.
- The proposed house would be imposing and out of character with the area.

Size and scale of proposed development

- Excessive size and scale with additional large element (85 sqm) at first floor level when compared with permitted house on the site. The proposal would be 65% larger than the permitted unit.
- The house initially proposed on this site was to be a Gate Lodge, however this revision is for a very substantial dwelling which is much larger than existing units in this scheme.
- Excessive height of boundary walls, which are mostly constructed up to the party boundaries.

- Oppressive front garden wall of 2.1 m in height.
- Rear of the house is too close to the historic boundary wall.
- Rear brick wall would present an ugly vista close to the historic granite wall and would detract from it.

Inadequate private open space provision

- The external courtyard and other areas of open space would be diminished in terms of usability and access to sunlight by the proposed first floor element (85 sqm in size).
- Layout of private open space does not comply with the Development Plan or SPPR 2 of the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024).
- Permitting this development would set a negative precedent in terms of poor open space provision.
- Lack of adequate private amenity space indicates overdevelopment of the site.

Other

- Proposed development would reduce the value of adjoining and surrounding properties within the Thornhill Oaks development.
- Delays in seeking permission for the two storey house has resulted in an unacceptable delay in terms of the completion of the rear garden for No. 41, adjoining the subject site.
- The proposed development would undermine ABP-308150. This proposal relates to a new part single and part two storey house and not a rear extension.
- Planning application was invalid as it failed to include the drawings and plans for the permitted single storey house.
- Proposed development is contrary to the zoning objective.
- No. 40 was not permitted or applied for under the parent permission (PA Ref. D17A/0240 / PL06D.300244).

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the reports of the local authority, and having inspected the site and the protected structure, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Refusal Reason 1
- Refusal Reason 2
- Impact on residential amenities of the area
- Other Issues
- Appropriate Assessment Screening

7.2. Refusal Reason No. 1

7.2.1. The first refusal reason relates to the standard of usable private open space associated with the proposed house, which the planning authority considers to be inadequate and would set an undesirable precedent having regard to Section 12.8.3.3 (i) of the Dun Laoghaire County Development Plan 2022-2028. This view is also shared by the observers.

7.2.2. The appellant considers that the private amenity space is in line with that permitted for the house under reference PL06D.308150 and that the permission has established a precedent for the layout including the private amenity space. Reference is made to Section 12.8.3.3 (i) of the Development Plan in terms of acceptability of front private amenity space for houses on infill and corner garden sites.

7.2.3. As set out in the public notices for the proposed development, the application, which is the subject of this appeal, relates to a redesign of the permitted single storey 3 bedroom house (130 sqm) on this site to provide a part single and part two storey 4 bedroom house (c 215 sqm). Having regard to the nature and size of the revised unit, I propose to examine the proposed private amenity space as it relates to the 4 bedroom house. I do not share the appellant's view that permission in place for the 3

bedroom unit has established a precedent for the layout of the unit and its private amenity space.

- 7.2.4. While Table 12.10 of the Development Plan provides that a minimum private open space requirement for a 4 bedroom house (or more) is 75 sqm, I note that SPPR 2 of the recently introduced Compact Settlements Guidelines (2024) notes that the minimum private open space for a 4 bed+ house is 50 sqm which must be designed to a high standard as it is essential for health and wellbeing.
- 7.2.5. I share the planning authority's concern regarding the quality and quantity of the proposed open space to serve the dwelling. The proposed triangular rear yard to the rear of the unit is stated on the plans to measure 16.7 sqm. It is bounded to the north by a granite wall with a height of c 2.6 m. The maximum width of this area is c 2.46 m but this reduces significantly as one moves to the eastern part of the rear yard. In my view this rear yard would offer no meaningful amenity value to future occupants of the dwelling and it would be completely overshadowed by the proposed unit, including the two storey element, as well as the rear boundary wall.
- 7.2.6. I calculate that the front courtyard (denoted as 'Ext. Court 2' on the plans), accessed from the living area measures approximately 21 sqm (excluding the proposed planted strip along its southern boundary). I consider this southerly orientated space would provide an acceptable level of amenity to future occupants, although the high boundary walls would result in some overshadowing impacts in this courtyard area.
- 7.2.7. The third proposed area of private amenity comprises a second front 'court' area denoted on the plans as 'Ext. Court 01' and stated to measure 41 sqm. This area is located between the two projecting single storey volumes and behind the 2.2 m high gates. In my opinion, this area, directly adjacent to bedroom and kitchen / living room windows, which is c 4.5 m in width, comprises the pedestrian access route to the house entrance, rather than a private amenity area. I note also that the proposed two storey element is constructed above the northern part of this area, which would further detract from any amenity value it might offer. In my opinion this area fails to provide a high standard and well-designed area of external amenity space as envisaged by the Compact Settlements Guidelines. As such, I consider that the total area of private open space proposed for this 4 bedroom unit to be approximately 22

sqm, which is significantly below the minimum of 50 sqm as set out in SPPR 2 of the Compact Settlements Guidelines.

- 7.2.8. While Section 12.8.3.3 (i) of the Development Plan (which seeks a minimum requirement of 75 sqm of private open space for 4 bedroom houses), confirms that a relaxation in the quantum of private open space may be considered in instances where an innovative design response is provided on site, particularly for infill and corner side garden sites, I do not consider any such relaxation would be appropriate in this instance, given the minimum standard (50 sqm for 4 bedroom houses) set out in SPPR 2 of the Compact Settlements Guidelines, the significant extent of the shortfall arising and the size and scale of the proposed dwelling. As such, I concur with the planning authority that permission should be refused on this basis.
- 7.2.9. In my opinion, the proposed development constitutes overdevelopment of the subject site which is evidenced by insufficient and inadequate provision of private open space to serve this proposed 4 bedroom dwelling. The proposed development would, therefore, provide substandard residential amenity for future occupants of the proposed dwelling. In this context, I would also have a concern that the development, if granted, would establish an undesirable precedent for similar development in the administrative area of the local authority, if permission were to be granted.

7.3 Refusal Reason No. 2

- 7.3.1 The second refusal reason considers, inter alia, that the proposed two storey design would represent a visually incongruous design and overdevelopment on account of its location at the entrance to the wider Thornhill Oaks development and the protected structure, resulting in an undesirable visual precedent. Reference is also made to non-compliance with Section 12.3.7.1(ii) of the County Development Plan 2022-2028 ('Extensions to the Rear').
- 7.3.2 In my view, the proposed development comprising a part single and part two storey house would not be visually incongruous or visually obtrusive at the subject location. In this regard and as referenced by the first party appellant, the permitted residential development comprising predominantly two storey housing and a four storey apartment building which is located opposite the subject site, has significantly altered the setting of Thornhill House. In this context, I do not consider that the proposal

would be visually incongruent or that it would seriously injure the visual amenities of the area, notwithstanding that its design differs from existing residential units on the wider lands.

7.3.3 While noting that the appellant has provided alternative external finishes for the proposed development as detailed in Drawing Nos. ABP.05 and ABP.06 and as outlined under section 2.3 above, I consider that the proposed original external finishes for the house would largely accord with the external materiality of the existing houses in this residential scheme and would, therefore, be acceptable.

7.3.4 I note that the planning authority assessed the proposed development against criteria relating to rear extensions to houses under Section 12.3.7.1 (ii) of the County Development Plan. This part of the Plan relates, in the main, to impacts arising on the residential amenities of the area, which are assessed below.

7.4 Impact on residential amenities of adjoining area

7.4.1 Overlooking impacts

No fenestration is proposed at first floor level facing adjoining housing and associated private amenity areas. As such, I am satisfied that no undue overlooking impacts leading to a loss of privacy would arise from the proposed development.

7.4.2 Overbearing impacts

The submitted site plan demonstrates that the proposed development is built within the appellant's boundary. The flat roof heights of the single and two storey elements of the proposed dwelling equate to 3.615 m and 6.315 m respectively.

The contextual elevations and contiguous drawings demonstrate that the two storey element of the proposed house is approximately 2.5 m lower than the adjoining dwelling to the south-west (No. 41 Thornhill Oaks). Having regard to this and the separation distance between the proposed development and No. 41, which is approximately 4.9 m, I do not consider that the proposed development has an overbearing impact on No. 41 or its private amenity space.

Similarly, having regard to the design of the proposed development, including its maximum height as set out above, and significant separation distances of at least 39 m between the proposed house and adjoining dwellings to the north west (Nos. 62 and 64 Trees Road Lower) which have the benefit of lengthy rear gardens, I consider

that there would be no undue overbearing impacts on these aforementioned houses and their associated rear gardens.

7.4.3 Overshadowing

The two-storey element of the proposed dwelling extends approximately 2 m beyond the rear wall of No. 41, which adjoins the appeal site to the south-west. Having regard to the separation distance between the proposed development of c 4.9 m and given the orientation of the site relative to the path of the sun, my view is that while there is likely to be some overshadowing of No. 41 and its private amenity space, this would be confined to a period in the early morning. However, in my view, this matter would not be so significant as to warrant refusal on this ground, and I consider the proposal would be acceptable in principle, in the context of a built up residential development in an urban area.

7.5 Other Issues

- 7.5.1 An observer considers that the planning application was invalid as it did not include the drawings and plans for the single storey dwelling on the site which was permitted under An Bord Pleanála Ref. ABP-310285-24. I note that the planning authority was generally satisfied with the details submitted and also that it adjudicated on the application. I am satisfied that there is adequate information on file to assess the proposed development and I note the availability of the drawings and plans relating to the permitted dwelling on the appeal file.
- 7.5.2 I note the concerns raised in an observation in respect of the devaluation of neighbouring property. However, having regard to the assessment above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

8.0 Appropriate Assessment Screening

- 8.1 I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located in a suburban residential area in Blackrock, Co. Dublin.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Small scale and nature of the development.
- Location-distance from nearest European site and lack of connections.
- Taking into account the determination by the Planning Authority.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1. I recommend that planning permission should be refused for the following reason and considerations.

10.0 Reasons and Considerations

- 10.1. The proposed development, by reason of its inadequate qualitative and quantitative provision of private open space, is contrary to Section 12.8.3.3 (i) of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and SPPR 2 of the Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024) relating to minimum private open space provision, and as such, would constitute overdevelopment of the site. The proposed development would, therefore, provide substandard residential amenity for future occupants of the proposed dwelling and would be contrary to the proper planning and sustainable development of the area. Furthermore, the proposed development would set an undesirable precedent for similar types of development and would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

John Duffy
Planning Inspector

23rd December 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319565-24		
Proposed Development Summary	Redesign of a permitted house to provide a part single and part two storey house.		
Development Address	Site at 40 Thornhill Oaks, Mount Merrion, Blackrock, Co. Dublin		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10 b)(iv) Urban Development.	Proceed to Q3.
No	Tick or leave blank		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. Total site size is c 390 sqm.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: _____ **Date:** _____

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-319565-24
Proposed Development Summary	Redesign of a permitted house to provide a part single and part two storey house.
Development Address	Site at 40 Thornhill Oaks, Blackrock, Co. Dublin.
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The site is located on residential zoned lands. The proposed development is not exceptional in the context of the existing environment. The proposed development site has a stated total area of c 0.0355 ha. The subject site contains a detached dwelling currently under construction. The proposed development will not result in the production of any significant waste, emissions of pollutants.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The South Dublin Bay SAC (Site Code 000210) and the South Dublin Bay and River Tolka SPA (Site Code 004024) are located approximately 2 km to the east of the appeal site.</p> <p>The site is located within a built-up area and is zoned for residential purposes. There are no locally sensitive environmental sensitivities in the vicinity of relevance.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>There is no real likelihood of significant effects on the environment.</p>

Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No