



An
Bord
Pleanála

Inspector's Report ABP-319910-24

Development	Landscaping and planting works, conversion of 2 sheds for residential use and retention of stud wall.
Location	Ryevale House, Ryevale Lawns, Leixlip, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	23/988
Applicant(s)	Mé Liberer Limited
Type of Application	Permission.
Planning Authority Decision	Split Decision
Type of Appeal	Third Party against condition No.2
Appellant(s)	Brian Geraghty.
Observer(s)	Ann & Gerard Hall John Deignan, Secretary of Ryevale Lawns Residents Association Sean & Sondra Boyle Paul and Maura Mullarkey Matt Cullen.

Date of Site Inspection

24th September 2024.

Inspector

Paul Kelly

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Screening for Appropriate Assessment

1.0 Site Location and Description

- 1.1. The subject site is located at Ryevale Lawns, Leixlip, Co. Kildare. Ryevale Lawns is an established residential development consisting primarily of a mix of terraced and semi-detached two-storey suburban character dwellings within a mature setting which is characterised by aged trees and open space amenity areas at the location of the site. The site has a private entrance from the residential service road serving Ryevale Lawns via Station Road to the south. It is adjoined to the west by the public amenity area known as 'Squirrel Wood' and to the east by a grassed public open space area. Established residential development is located to the north and northeast of the site, and to the south exists a residential service road and further residential development.
- 1.2. The site is occupied by Ryevale House, a two-storey period dwelling which is a Protected Structure (RPS No. BS11-115 refers) together with stable buildings and sheds within the curtilage of the site. The site has evidently been subject to recent tree felling and landscape clearance works. The boundaries of the site consist of a mix of mature deciduous and leylandii planting (primarily to the northeast, east and southern boundaries) together with partial stone walling (limited to the north and northeastern boundaries of the site) and a shiplap timber fence. The site has an area of 0.718ha (1.78acres).

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
- Permission for perimeter landscaping/planting works and conversion of 2no. existing sheds from storage to ancillary residential use, and
 - Retention for works carried out within Ryevale house comprising: (i) the construction of a new stud wall and door to lower ground floor rear return; and (ii) the re-panelling of internal doors to provide fireproofing.

In addition to the submitted plans and particulars, the planning application is also supported by the following reports:

- A planning report prepared by HUGHES PLANNING & Development Consultants. This report describes the site and its planning history, and

discusses the proposed development in the context of the Leixlip Local Area Plan, 2020-2023 and the Kildare County Development Plan, 2023-2029. It opines that the development is in accordance with the provisions of the local area plan and development plan, that the internal (house) and shed conversion works do not detract from the interest of the protected structure and that the external works contribute to the setting of the structure and the visual amenity of the area.

- A conservation report prepared by BURY ARCHITECTS. This is a relatively limited report which is silent in relation to the proposed landscaping and planting works. The report sets out a description of the protected structure and focuses on its internal features and condition. The report submits that the property was in a condition of neglect and that the applicant rescued the building, stables and sheds from the 'brink' as a result of repair and maintenance works which have been undertaken. The report does opine however that the replacement of original historic doors with fire doors should be reversed and that the applicant has been instructed to this effect. The report concludes that without the applicants intervention it is felt that the fine example of 18th Century architecture would have been lost. Photographs of the house and demesne are appended to this particular report.

3.0 Planning Authority Decision

The Planning Authority's (PA) assessment of the application was very much based on its opinion that Ryevale House has been subject to an unauthorised material change of use from a single residence to a multiple occupancy residential centre for persons seeking international protection. In support of its position the PA referred to:

- A Declaration which it had made under Section 5 of the Planning and Development Act, 2000 (as amended) ('the Act') determining that the change of use from a dwellinghouse to an accommodation centre for persons seeking

international protection is Development and is not Exempted Development (PA Case Ref. ED 1021 refers), and

- An Enforcement Notice dated 12th May 2023 which it had issued requiring the cessation of the unauthorised use of Ryevale House and associated outbuildings as a commercial multi-occupancy building and restoration to a single occupancy residence (UD 8225 refers).

The PA also considered, further to an inspection of the site, that 1no. of the existing sheds (Shed A (the subject of the application)) had already been converted for non-storage purposes. For these reasons, and for architectural conservation reasons, the PA did not consider that the proposed retention element of the application, or the permission element for conversion of 2no. existing sheds to ancillary residential use, was acceptable.

Notwithstanding this position, the PA proceeded to consider the permission element of the application for perimeter landscaping/planting works and considered that the submitted proposals were insufficient and required further information.

The Board should note that case Ref: ABP 317271-23 refers to a current live referral to the Board in respect of the subject property for a determination under Section 5 of the Planning and Development Act, 2000 (as amended) in relation the following question: *Whether (a) the use of the dwellinghouse and coach house at Ryevale House as long term private residential accommodation for protected persons is or is not development; and (b) whether certain associated internal works to the dwellinghouse and coach house at Ryevale House is or is not exempted development.*

3.1. Further Information

On 11th January 2024 the PA requested further information in respect of the following matters:

- A revised landscaping plan providing for: the planting of native species; mature tree planting; and accurately presented drawings. The PA considered

that the inclusion of non-native species ran contrary to the provisions of the Kildare County Development Plan, 2023-2029 ("KCDP") which required new planting to consist of local native plant types with consideration given to provenance and origin of plants native to the area. The proposed planting height of 3-4m was also considered to be too low for perimeter plating. Furthermore, it was considered that the existing boundaries of the site were not accurately detailed with regards to the extents(s) of an existing wall and fence, relative to the extent of new (replacement) fence and boundary treatment works proposed; and

- A revised landscaping proposal to include areas of additional woodland planting in particular to the west and southwest of Ryevale House. The PA was concerned that the site had been stripped of extensive woodland planting and that inadequate provision had been made for replacement planting.

3.2. Clarification of Further Information

A response to the Further Information Request was received on 12th March 2024. The response proposed a revised landscaping scheme and planting schedule consisting solely of native species of 4-5m+ in height together with an accurate representation of boundary treatments. This Plan (Dwg ref:PP412-01 & 02) was prepared by a registered Landscape Architect. Otherwise the response submitted that the clearing of trees within the site was exempted development and that the applicant was not restricted in this regard by any Tree Preservation Orders or otherwise. The response provides for additional planting only to the northern and eastern boundaries of the site and proposes to maximise the wider gardens for amenity value.

In its assessment the PA noted that additional planting had not been proposed to the west and southwest of Ryevale House as requested and considered that clarification of the further information response was necessary as follows:

- The applicant was requested to submit revised proposals to include areas of additional woodland planting in particular to the west and southwest of Ryevale house.

A request for clarification of Further Information was issued in these terms on 4th April, 2024.

A response was received on 29th April, 2024 in which the applicant re-submitted the landscaping proposals previously submitted in response to the further information request and submitted that they comprehensively addressed the request and were in line with the requirements of the Development Plan. It was otherwise submitted that the applicant was entitled to remove trees within the site and to retain the area to the west and southwest of the site free of tree planting to maintain the space as a potential future development area.

3.3. Decision

The Planning Authority (PA) decided by Order dated 15th May 2024 to issue a split decision to:

- Grant permission for the perimeter landscaping/planting works on site subject to 6no. conditions, and
- Refuse permission for conversion of 2no. existing sheds from storage to ancillary residential use and for retention for works carried out within Ryevale House comprising: (i) the construction of a new stud wall and door to lower ground floor rear return; and (ii) the re-panelling of internal doors to provide fireproofing.

The conditions of permission generally provide that: development is carried out in accordance with the lodged and revised plans submitted; landscaping works take place outside of the bird nesting season; the hours of site development works shall be limited; that provision shall be made for off carriageway parking during construction; and that no spoil shall be deposited on the public road.

Of note, and particular relevance to this appeal, is the provisions of **Condition No.2** which requires that “*the perimeter landscaping works, boundary treatment works and the landscaping on site shall be carried out in accordance with the landscape specifications received by the Planning Authority on 29/04/2024*” and that “*all landscaping works on site shall take place outside of bird nesting season 1st March-*

31st August.” The stated reasons is “in the interests of biodiversity and natural heritage protection”.

Condition No.3 was also a precedent condition requiring that revised landscaping plans providing for additional tree planting to the west and southwest of Ryevale House be submitted for the written agreement of the Planning Authority within 2 months of the date of permission.

Permission was refused for three reasons which can be summarised as follows:

1. The Planning Authority considers that Ryevale House has been subject to a material change of use which is unauthorised and that to permit retention of the works within the house would further facilitate its unauthorised use, would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.
2. The Planning Authority considers that the unauthorised works to Ryevale House materially affect the character of the structure and would be contrary to Section 57 of the Planning and Development Act, 2000 (as amended) and Objective AH O21 of the Kildare County Development Plan 2023-2029 which seeks to refuse permission for inappropriate development that would, inter alia, cause loss or damage to the special character of the protected structure.
3. On the date of inspection it was determined that the conversion of one of the sheds for recreation use for occupants of the parent dwelling had already taken place and that therefore the public notices were inaccurate and that to permit development where works have already taken place would be contrary to the proper planning and sustainable development of the area.

3.4. Planning Authority Reports

3.4.1. Planning Reports

- **Planning Report No.1** dated 9th January 2024
- The first report of the Executive Planner sets out a description of the development, the site location and context and summarises the main issues raised in third party submissions on the application.

- The relevant planning history of the site is set out, including: (i) reference to the Kildare County Council unauthorised development file and associated Enforcement Notice (UD8225 refers); (ii) reference to the Declaration under Section 5 of the Act by Kildare County Council (ED1021 refers); and (iii) reference to the current live referral case to An Bord Pleanála for a Declaration under Section 5 of the Act (ABP 317271-23 refers) – all as described in Section 3.0 of this report.
- The relevant local and statutory development plan policy context is then summarised with an emphasis on Built/Natural Heritage and Biodiversity policy context together with a summary of internal reports received as well as prescribed bodies.
- The report concludes on the basis of a preliminary examination that EIA is not required. The report concludes on the basis of a screening determination that Stage 2 Appropriate Assessment is not required.
- The report notes the conservation report, planning report and landscaping scheme submitted in support of the application and opines that:
 - (i) The submitted plans and particulars do not indicate the precise location of the proposed perimeter planting as set out in the public notices;
 - (ii) The submitted landscaping plan does not comply with the biodiversity objectives of the Plan as it proposes to include the planting of non-native species;
 - (iii) It is noted that extensive clearing of woodland planting within the site has taken place and that compensatory planting proposals are not included;
 - (iv) That an existing stonewall on the northeastern boundary is shown incorrectly on the plans and that from site inspection a short section of wall only exists at this location. Therefore the proposal to erect a new 1.8m concrete post and timber panel fence to replace an existing post and timber panel fence at this location requires clarification; and

- (v) That on the date of site inspection it was determined that: Shed A was already in use for purposes other than storage; and that all original internal doors had been replaced for fire regulation purposes.
- This report opined that Ryevale House has been subject to an unauthorised material change of use and that: it would not be appropriate to consider permission for works which would facilitate such unauthorised use; and that such works have materially affected the character of the Protected Structure. Notwithstanding this position the report opined that the submitted landscaping plan was insufficient for the purposes of assessment and recommended that further information be sought.
 - A request for further information consistent with the Executive Planners report issued on 11th January 2024. A response was received on 12th March 2024.
 - **Planning Report No.2** dated 2nd April, 2024.
 - This report, by a Senior Executive Planner, is based on the applicants further Information response. It notes that in response to the first item of further information revised drawings are submitted which indicate a planting schedule solely to include native species at a height of 4 to 5m + and that the landscape plan drawing had been revised to provide an accurate representation of existing boundary treatments. In response to the second Item of further information the report notes that the applicant maintains that the removal of woodland from the site was exempted development and did not otherwise require a tree felling licence. Whilst this response is noted, the report remained concerned that the submission of landscaping proposals for additional planting was not submitted as requested. The report recommends clarification of Item No.2 of the further information response requiring the applicant to submit revised landscaping proposals to include additional areas of woodland planting in particular to the west and southwest of the house.
 - A request for clarification of further information consistent with the Senior Executive Planners report issued on 4th April, 2024. A response was received on 29th April, 2024.

- **Planning Report No.3** dated 13th May 2024.
- The report by the Executive Planner notes that in response the applicant again contends that it is their prerogative to keep the area west and southwest of the house free of planting so as to maintain the space for future development and that the previous further information landscaping response (submitted on 12th March, 202) was re-submitted.
- The report recommends that, notwithstanding the applicants reluctance to submit additional planting proposals as requested, it is appropriate to require same by condition of permission.
- The revised perimeter landscaping and boundary treatment proposals (submitted on 12th March 2024 (re-submitted on 29th April 2024)) in relation to the first item of the further information request were deemed to be acceptable.
- The report of the Planning Officer recommends a split decision for permission with conditions and refusal reasons that are consistent with the split decision made on 15th May 2024 and as described in Section 3.1 above.

3.4.2. Other Technical Reports

- Water Services, report dated 10th October 2023. Seeks further information in relation to existing layout and condition of water, foul and surface water services. *(It is noted that this report pre-dates the submission of the application and its receipt by the Local Authority. Given that it references the development and the application Ref.No. correctly, it is possible the date of the report is an error).* Second report dated 13th November 2023 – no objection subject to conditions.
- Report from Unauthorised Development Section of the Local Authority dated 23rd November 2023. This report confirms that an Enforcement Notice issued on 12th May 2023 seeking the cessation of the unauthorised change of use of Ryevale House and associated outbuildings as a commercial multi-occupancy building and its restoration to a single occupancy residence.(UD 8225 refers)

- Chief Fire Officer, report dated 19th December 2023. No objection subject to applicant obtaining a Fire Safety Certificate in accordance with Building Control Act.
- Transport, Mobility and Open Space Department, report dated 3rd January 2024. Seeks further information in relation to: sight lines; traffic types and volumes; swept path analysis; entrance and access surfacing requirements; car parking proposals; EV charging points; and cycle parking. Second report dated 25th March, 2024 – no objection.

3.5. Prescribed Bodies

- Department of Housing, Local Government and Heritage, Report dated 14th December 2023. In respect of Nature Conservation the report notes the proximity of the site to the Rye Water Valley/Carton Special Area of Conservation (SAC)(Site Code: 001398) estimated at 115-120m at its closest point. The report notes that the European site is protected due to the presence of specified Qualifying Interests and advises that the site is particularly vulnerable and care needs to be taken in any works carried out within close proximity. The report notes certain objectives of the Kildare County Development Plan including: BI 026; LR 083; EC 073 and the soft landscaping development management standards set out in Chapter 15. The report recommends that planting of native trees and hedgerows is a condition of permission and that such works be carried out outside of the bird nesting season from 1st March – 31st August 2024.
- The Board referred the appeal to the Heritage Council on 29th July 2024. No response has been received.

3.6. Third Party Observations

There were 44no. third party submissions made to the Local Authority in respect of the application. Sheehan Planning prepared a detailed report in a submission made on behalf of Ryevale Lawns Residents Association (C/O John Deignan). This report was also submitted separately in respect of 8no. other third party submissions which

supported the content of the report. The observations raised in the report can be summarised as follows: (i) The property is the subject of an Enforcement Notice and the unauthorised use of the site is a material consideration; (ii) To grant permission would represent a material intensification of the unauthorised use or the established residential use; (iii) the phrase ‘ancillary residential accommodation’ is vague; (iv) the residents are concerned that unauthorised works and uses other than those referred to may have been carried out; (v) Extensive vegetation, historic trees and landscaping which formed part of, and/or contributed to, the setting of Ryevale House has been removed to facilitate unauthorised use; (vi) and that clarification should be sought in relation to the works which have taken place to the property and in relation to what is contended to be inaccuracies in the application information regarding the planning history of the site.

32no. other third party submissions support the report by Sheehan Planning and the submission made on behalf of Ryevale Lawns Residents Association and/or raise matters otherwise covered in the said report or the grounds of appeal.

A submission on the application was also made by Cllr. Joe Neville, Kildare County Council, Cllr. Nuala Killeen, Kildare County Council and Deputy Catherine Murphy TD. These submissions support the residents of Ryevale Lawns and the report by Sheehan Planning on their behalf.

4.0 Planning History

- **Plan.Reg.No. 97/1036** refers to an application at the subject site for the change of use of existing coach house to office/studio and conversion of existing grain store to 2 residential units with new vehicular access off Ryevale Lawns. The PA decided to grant permission subject to 18no. conditions on 21st November 1997. It is noted that Condition No.16 required that an existing pedestrian gateway to the rear of the proposed apartments shall be closed and the opening blocked up in stone. Conditions No. 9, 17 and 18 of this decision were then the subject of an appeal to the Board and it was decided by order dated 21st April, 1998 to remove Condition No.17 and to amend Conditions No. 9 and 18 as regards development contributions. ABP Case Ref.PL. 09.105084 refers.

- **Plan.Reg.No. 07/464** refers to an application at the subject site for: the erection of 40no. dwellings consisting of six number one bedroom units and 22 number two bedroom units in three number three-storey terraced dormer blocks; refurbishment of existing Grain Store to accommodate one number one bedroom, three number two bedroom and one number three bedroom dwellings; refurbishment of existing main house to accommodate six number one bedroom and one number two bedroom dwellings; and, inter alia, construction of new two metres high boundary wall in concrete posts on point foundations with concrete panels between. The PA decided to refuse permission for two reasons which related to a detrimental impact on the curtilage and setting of Ryevale House and the character and preservation of the protected structure. This decision was appealed to the Board and ABP Case Ref. PL 09.230610 refers. The Board decided to refused permission on 17th February 2009 for one reason which can be summarised as follows:

It was considered that the proposed development would interfere with and seriously detract from the architectural and historic character of Ryevale House by reason of: (a) the subdivision of the house into apartments and the termination of its historic use as a single dwelling, (b) the removal of a significant part of the open space and mature trees which currently provide an appropriate setting for the house, and the size, scale and location of the proposed terrace of houses to the front and the apartment building to the side of the protected structure. To permit the development would materially contravene the provisions of Section 20.4.2. of the Kildare County Development Plan, 2005 and Section 03.11.1 of the Leixlip Local Area Plan, 2002.

- **ABP Case Ref: 317271-23** refers to a current live referral to the Board for a determination under Section 5 of the Planning and Development Act, 2000 (as amended) in relation the following question:

Whether (a) the use of the dwellinghouse and coach house at Ryevale House as long term private residential accommodation for protected persons is or is not development; and (b) whether certain associated internal works to the dwellinghouse and coach house at Ryevale House is or is not exempted development.

5.0 Guidelines

Department of the Arts, Heritage and Gaeltacht (DAHG) Architectural Heritage Protection Guidelines for Planning Authorities (2011).

The Guidelines state that conservation is the process of caring for buildings and places and of managing change to them in such a way as to retain their character and special interest. (7.2.1.) and that the best method of conserving a historic building is to keep it in active use, acknowledging that a degree of compromise will be required in adapting a protected structure to meet modern requirements. The Guidelines state that it is most important that the special interest of the structure is not unnecessarily affected or compromised (7.3.1.). Minimum intervention is promoted on the basis of the maxim 'do as much as necessary and as little as possible' and that planning authorities should be satisfied that proposed works are necessary (7.7.1) and that the use of processes which are reversible or substantially reversible is an important conservation principle (7.12). In relation to the curtilage of a protected structure the Guidelines state that proposals to remove or alter boundary features could adversely affect the character of a protected structure and the designed landscape around it and that careful consideration should be given to such proposals to ensure they do not adversely affect the character of the protected structure or its curtilage. The Guidelines do acknowledge that many planted features although forming the setting of a building cannot be described as built features and may not be protected unless by means of a Tree Preservation Order or designation within a architectural or landscape conservation area (Chapter 13).

6.0 Policy Context

6.1. Kildare County Development Plan 2023-2029

The Kildare County Development Plan 2023-2029 ("KCDP") was adopted on 9th December 2022 and came into effect on 28th January 2023.

Leixlip is identified as a 'self-sustaining growth town' in the Core Strategy and Settlement Hierarchy of the Plan and is predicted to continue to attract a moderate level of jobs and services.

Chapter 11 – Built & Cultural Heritage

The Plan recognises that the urban and rural areas of County Kildare contain a wealth of architectural and archaeological heritage. This includes country houses and demesnes. The Plan includes a Strategy for the Architectural and Archaeological Heritage of the County (Section 11.14.2. of Chapter 11), which includes the explicit intention to protect and conserve buildings, structures and sites of special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest.

The Record of Protected Structures(RPS) for County Kildare is set out in Appendix 6 of the Plan and includes Ryevale House. BS11-115 refers.

The Plan states that the placing of a structure on the RPS seeks to ensure that the character of the structure is maintained and any changes or alterations to it are carried out in such a way as to retain and enhance this character.

Policy AH P6

It is the policy of the Council to protect, conserve and manage the archaeological and architectural heritage of the county and to encourage sensitive sustainable development in order to ensure its survival, protection and maintenance for future generations.

The following Objectives of the Plan are also considered relevant:

AH O20 - It is an objective of the Council to: Conserve and protect buildings, structures and sites contained on the Record of Protected Structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest;

AH O21 – It is an objective of the Council to: Protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. Any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future

conservation of the entire built heritage complex and contributes positively to that aim;

AH O23 – It is an objective of the Council to: Require an Architectural Heritage Assessment Report, as described in Appendix B of the Architectural Heritage Protection, Guidelines for Planning Authorities (2011), to accompany all applications with potential for visual or physical impacts on a Protected Structure, its curtilage, demesne and setting. This report should be prepared by a person with conservation expertise that is appropriate to the significance of the historic building or site and the complexity of the proposed works;

This chapter of the Plan also recognises that County Kildare has a large number of country houses and demesnes where the grounds and settings constitute an intrinsic element of their character. The Plan states that piecemeal development of demesnes can be detrimental to the historical and architectural importance of the demesne and country house. In this regard it is an objective of the Council (Sub-section 11.6) to: *prohibit development in gardens or landscapes which are deemed to be an important part of the setting of a protected structure or where they contribute to the character of an Architectural Conservation Area.*

The following associated policies are also relevant to this consideration:

AH P7 – It is a policy of the Council to: Promote appreciation of the landscape and historical importance of traditional and historic gardens, demesnes and parks within County Kildare and particularly where they constitute an important and intrinsic value to the setting of a protected structure;

AH P8 – It is a policy of the Council to: Preserve and protect the historic gardens and designed landscapes identified in the National Inventory of Architectural Heritage Survey of Historic Gardens and Designed Landscapes.

Chapter 12 Biodiversity and Green Infrastructure

BI O28 - it is an objective of the Council to: Promote the integration of boundary hedges within and along development sites into development design so as to avoid “trapped hedges” located to the boundary of houses within the development layout. Encourage the planting of woodlands, trees and hedgerows as part of new

developments and as part of the Council's own landscaping works ideally using native plants of local provenance and origin.

Chapter 15 - Development Management standards

Section 15.2.4. deals with soft landscaping and recommends that planting and landscaping should be used to incorporate new buildings into their surroundings and provide privacy between dwellings. This section requires that new planting should consist of local native plant types with consideration given to provenance and origin of plants indigenous to the area and Table 15.1 (a) – (c) sets out appropriate Native Trees and Shrubs, Street Trees and Open Space Trees respectively.

Section 15.4.5 deals with, inter alia, boundary treatments. This section comments that boundary treatments such as railings or walls around residential developments should be limited to an absolute minimum and that high railings and walls should be avoided.

6.2. Leixlip Local Area Plan 2020-2023 (as extended to 2026)

The Leixlip Local Area Plan 2020 - 2023 ("LLAP") was adopted by the Elected Members of Kildare County Council on 16th December 2019 and came into effect on 5th February 2020. The Plan was extended pursuant to Section 19(1)(f) of the Planning & Development Act, 2000 (as amended) by a further 3 years up to the 30th March 2026, at a Plenary meeting of the Council on Monday 24th October 2022.

The site is located within an 'Existing/Infill Residential' zoning as identified on Land Use Zoning Objective Map 4 of the LAP with the zoning objective to: *protect and enhance the amenity of established residential communities and promote sustainable intensification.*

It is important to note that neither the site nor the immediately adjoining lands are identified as 'Open Space & Amenity' or 'Strategic Open Space' on Open Space Map 6 of the LAP.

Chapter 10 – Built Heritage and Archaeology

Section 10.1.1 – Record of Protected Structures

The LAP states that the Record of Protected Structures, which includes structures in Leixlip, is contained within the County Development Plan and provides that these structures merit protection and enhancement and in many cases have been identified by the National Inventory of Architectural Heritage (NIAH) for that reason. It is noted that the NIAH for Kildare was completed in 2003 and the County Council completed a review of the RPS for the county, including Leixlip, in 2015.

The following Built Heritage Policies of the LAP are considered to be relevant:

Policy BH1 – Protected Structures

It is the policy of the Council to preserve and enhance the buildings identified on the Record of Protected Structures and to carefully consider any proposals for development that would affect the special value of such structures, including their historic curtilage, both directly and indirectly.

Objectives BH1.1

It is an objective of the Council: To ensure the protection of all structures, (or parts of structures) and the immediate surroundings including the curtilage and attendant grounds of structures contained in the Record of Protected Structures.

Chapter 11 – Natural Heritage, Green Infrastructure and Strategic Open Spaces

The Plan recognises that natural heritage in Leixlip includes a wide range of natural features that make an essential contribution to the environmental quality, ecological biodiversity, landscape character, visual amenity and recreational activities of the town.

The following Natural Heritage and Green Infrastructure Objectives and Policies of the LAP are considered to be relevant:

Policy NH1 – Natural Heritage

It is the policy of the Council to support the protection of species and habitats that are designated under the Wildlife Acts 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992 as well as areas of high local biodiversity value and to ensure developments with potential to impact the integrity of the Natura 2000 network will be subject to Appropriate Assessment.

Objective NH1.5

To identify, protect, conserve and enhance wherever possible, wildlife habitats and species of local importance, not otherwise protected by legislation. Such habitats would include woodland, river, grassland areas and field boundaries (hedgerows, stone walls and ditches). Such features form part of a network of habitats and corridors, which allow wildlife to exist and flourish and contribute to compliance with Article 10 of the Habitats Directive.

Green Infrastructure

It is an objective of the Council:

GI1.2 - *To seek to ensure key trees, woodlands and high value hedgerows identified in the Leixlip Habitat Survey, and the linkages they provide to larger areas of green infrastructure and the wider countryside, are retained and integrated into the design of new developments where appropriate.*

*NB – Figure 11-1 ‘Habitat Mapping for Leixlip’ includes ‘Treelines (WL2)’ and ‘Amenity Grassland Improve (GA2)’ within or adjoining the site on the northern and eastern boundaries.

GI1.6 - *To seek to preserve, protect and enhance trees (including woodlands) of special amenity, nature conservation or landscape value within the plan area including at the following locations: (inter alia) **Ryevale House and adjoining public open space at Ryevale Lawns.***

6.3. Natural Heritage Designations

Proposed NHA: Rye Water Valley/Cartron pNHA Site Code 001398 (100m ENE)

Proposed NHA: Royal Canal pNHA Site Code 002103 (600M N)

Proposed NHA: Liffey Valley pNHA Site Code 000128 (900m SE)

Proposed NHA: Grand Canal pNHA Site Code 002104 (4.7km S)

Special Area of Conservation: Rye Water Valley/Cartron SAC Site Code: 001398 (100m ENE)

6.4. EIA Screening

Having regard to the nature, size and location of the proposed development, comprising domestic scale perimeter landscaping/planting works in an established residential 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 pre-screening stage and a preliminary examination or screening determination is not required. Refer to Appendix 1 regarding this pre-screening determination.

7.0 The Appeal

7.1. Grounds of Appeal

A third party appeal was lodged with the Board on 10th June 2024 challenging that part of the Local Authority's split decision to grant permission for perimeter landscaping/planting works only and concerning specifically and solely Condition No.2 thereof, which can be summarised as follows:

- Neither the public notice, nor the application form, nor the reports by Hughes Planning & Development Consultants made reference to the proposed boundary treatment works and therefore the decision of the Planning Authority on this element of the application is wrong in that it failed to ensure that all residents of Ryevale Lawns and others were alerted to all material elements of the application and provided with a fair opportunity to make observations on them;
- No details of the proposed boundary treatment works, such as specification, drawings or samples of materials, were provided in the planning application. The location of the proposed new 1.8m high concrete post and timber panel fence is merely indicated by a red line and the boundary in question runs over an extensive length of shared boundary. The information provided in the application is so limited that it is impossible for anyone to make a reasonable assessment of the suitability of the proposed boundary treatment works, or to arrive at a balanced view as to whether they are consistent with the proper planning and sustainable development of the area;
- Ryevale House is a protected structure and the boundary over which the proposed hard treatment works stretch is significant and will impact on the setting and overall character of the house and associated buildings. It is essential therefore that the boundary works are properly specified and

assessed to ensure they are supportive of the architectural interest and character of the property;

- The boundary forms an important interface with surrounding houses and green spaces in Ryevale Lawns estate, significantly impacts the visual environment and it is not unreasonable for the residents to have an interest in the final decision on any boundary treatment works. No case is made for a particular type of treatment works, only a fair opportunity to make observations based on a reasonable level of information, including a specification which eliminates any ambiguity over what exactly is proposed;
- The existing timber fence is a perfect example of inappropriate and unacceptable maintenance of the property and recent storm damage has revealed sections of the original railing which bounded the property and an interesting historical insight;
- It is difficult to see how a basic 1.8m high concrete post and timber fence could possibly do justice to the setting and character of a substantial Georgian House of historic and architectural interest. Any significant change to the grounds of the property has the potential to undermine its setting and damage its character;
- It is submitted that the boundary treatment works are not inconsequential to either the subject site or the immediate public realm and that to the contrary a clear and material question arises as to whether the works proposed are consistent with the PA objective of protecting and enhancing the amenity of established residential communities;
- The decision by the P.A to grant permission is invalid due to an inadequate public notice and incomplete planning application. Without prejudice to this point the information in the application regarding the proposed boundary treatment works was so limited that nobody could make a reasonable assessment on their suitability. The inadequacy of the public notices and the application unfairly compromised the opportunity for the residents of Ryevale Lawns or others to see and make fair observations on the boundary treatment works based on a reasonable and complete specification.

- The appeal requests that the Board direct that the proposed boundary treatment works are subject to a separate planning application.

7.2. Applicant Response

- The applicants response is set out in the report from Hughes Planning & Development Consultants dated 10th July 2024. This report contends that the landscape plan and specifications drawing, which was prepared by Jane McCorkell Design and submitted at further information stage, illustrates that an existing post and timber panel fence is to be partially replaced by a new 1.8m high concrete post and timber panel fence along the north-eastern, eastern and south-eastern boundaries whilst the existing boundary walls are to be retained on the balance of the site boundaries. The response contends that the boundary treatment is a like for like replacement of existing boundary treatment, which the appellant also notes as being damaged. The report contends that the height and material finish of the boundary treatment is clear as the proposal is a like-for-like replacement and that it is unclear as to what other details are missing.
- The response contends that the boundary treatment works were adequately detailed on the submitted documentation and public notices under the reference to perimeter landscaping/planting works.
- The response requests that the Board grant planning permission as per the plans and particulars submitted at further information stage.

7.3. Planning Authority Response

- The Planning Authority confirmed its decision and requested that the Board refer to the planning reports and reports from internal departments and prescribed bodies in the assessment of the application.

7.4. Observations

There are 5no. third party observers to this appeal: Ann & Gerard Hall, John Deignan, Secretary of Ryevale Lawns Residents Association, Sean & Sondra Boyle,

Paul & Maura Mullarkey and Matt Cullen. The observations made by Ann & Gerard Hall, John Deignan and Matt Cullen are covered in the grounds of the appeal. The issues raised by Sean & Sondra Boyle and Paul & Maura Mullarkey can be summarised as follows:

- The removal of established boundary trees within the site has resulted in overlooking of third party residential property;
- In respect of the property at Glenwood specifically it is contended that a new 14ft permanent structure is required along the shared boundary with the dwellinghouse to maintain the status quo and prevent overlooking and that the appropriateness and suitability of this structure would need to be carefully planned;
- The existing Leylandii trees of over 20m in height (on the northeastern boundary of the site) pose a real, immediate and serious danger to neighbouring property and residents. How these trees are to be dealt with is not clear. It is accepted that these trees need to be cut and made safe but a health & safety plan for this was not covered in the application;
- The 20m high Leylandii cause overshadowing which prohibits PV panel installation efficiencies; and
- A Gate in the stone wall was never approved and needs to be removed.
- Other points of observation are made in relation to the accuracy of the documentation submitted with the application, which are addressed in the consideration of the appeal or are not considered germane to the case.

8.0 Assessment

8.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and having inspected the site, and considering the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Section 139 of the Act
- Principle of Development & Merits of Condition No.2

- Impacts on Ryevale House (Protected Structure)
- Impacts on the visual amenities of the area
- Third party/residential amenities
- Appropriate Assessment
- Other

8.2. Section 139 of the Act

I note that the main thrust of the submissions made in respect of the application to the PA concerned issues arising from, and associated with, the alleged unauthorised use of Ryevale House as multi-occupancy centre for person seeking international protection (as described by the PA) and the 'widespread' removal of mature trees from the grounds of the property, and that to a lesser extent this has also been identified in the observations to the third party appeal. It is considered appropriate to establish in the first instance that the use of Ryevale House and the 'widespread' removal of trees from the property was not the subject matter of the application for permission to the PA and therefore there is no jurisdiction to visit these matters in the consideration of this appeal, either in a 'de-novo' scenario or otherwise.

With regard to the current live referral to the Board for a Declaration under Section 5 of the Act (Case Ref. ABP-317271-23) I am satisfied that this appeal can be determined without regard to same, for the reason that the question concerning the use of Ryevale House and the application for permission for perimeter landscaping and planting works are severable issues with no interdependency and which can be determined on their own respective merits.

In the event that unauthorised development considerations are confirmed at the site (by separate processes to this appeal), then this would remain a separate matter outwith the remit of the Board and in respect of which the PA has recourse to its functions and powers under Part VIII of the Planning and Development Act, 2000 (as amended).

In respect of the PA decision to refuse permission for the conversion of the sheds from storage to ancillary residential use, and for the retention of internal stud wall and fore door works, I am satisfied that these matters also stand alone from the

permission decision for landscaping/planting works and I see no reason to visit these issues 'de novo' in this appeal.

Accordingly, the third party has appealed 'specifically and solely' Condition No.2 attached to the Planning Authority's split decision to grant planning permission for the proposed perimeter landscaping/planting works. Under Section 139 of the Planning and Development Act, 2000 (as amended), where a condition only is appealed, the Board has the discretion to determine such appeals without undertaking a de novo assessment of the entire proposal. In this case, Condition No.2 pertains to perimeter landscaping/planting works including the replacement of existing boundary treatments at an established property and I consider that this matter and the considerations arising can be determined as a separate and standalone issue and so I consider that the Board should exercise its discretion to determine the appeal against this Condition under Section 139.

8.3. Principle of Development & merits of Condition No.2

The subject site is zoned as 'existing/infill residential' lands in the LLAP with the stated zoning objective to 'protect and enhance the amenity of established residential communities and promote sustainable intensification.'

The site is occupied by the existing period residential property known as Ryevale House and Condition No.2 concerns proposed perimeter landscaping/planting works on site, inclusive of replacement of 'like for like' timber panel fencing and a detailed planting regime to the northeastern, eastern, southeastern and southern site boundaries. This is a shared boundary with an adjoining suburban development known as Ryevale Lawns, although there is a direct interface between the proposed works and 1 no. dwelling only on the northeastern site boundary (Glenwood, W23Y2H2). The majority of the boundary on which works are proposed interfaces with adjoining open space (to the east) and a residential service road (to the south). From an inspection of the site, and the general end of life condition of the existing timber panel fence it is considered that the proposed development is reasonable, justified and necessary in principle in the interests of general property maintenance. I therefore have no objection to the principle of development which is considered to be consistent with the stated land use zoning objective and applicable national guidelines.

Condition No.2 as attached to the decision of the Planning Authority states:

The perimeter landscaping works, boundary treatment works and the landscaping on site shall be carried out in accordance with the landscaping specifications received by the Planning Authority on 29/04/2024. All landscaping works on site shall take place outside of bird nesting season 1st March – 31st August.

Reason: In the interests of biodiversity and natural heritage protection.

The first ground of the third party appeal is concerned with the contention that the public notices made no reference to the proposed boundary treatment works, nor did the application form or the reports submitted by Hughes Planning & Development Consultants (on 13th November 2023, on 12th March 2024, and on 29th April, 2024). It is submitted therefore by the appellant that the permission decision by the PA is wrong/invalid in that it failed to ensure that all residents of Ryevale Lawns and others were alerted to all material element of the application and provided with a fair opportunity to make observations on them.

Article 18 of the Planning and Development Regulations, 2001 (as amended) (The Regulations) governs the prescribed content of a newspaper notice for a planning application. Form No.1 of Schedule 3 of the Regulations governs the prescribed form and content of a Site Notice for a planning application. In this regard the provisions of the Regulations in respect of both public notices require that only a brief description of the proposed development be given. Section 3.2 of the (DEHLG) Development Management Guidelines for Planning Authorities (2007) gives further guidance on interpretation of this matter and advises that, in respect of public notices, it is only necessary to give a brief description of the nature and extent of a proposed development and that it is not required to go into excessive detail.

The public notice in respect of the application which was published in the Irish Daily Star newspaper on Wednesday 1st November 2023 included, inter alia, reference to the following description: “*The development will consist of: planning permission for perimeter landscaping/planting works on site.....*”. The copy of the Site Notice erected on site (as submitted with the application) includes the same wording in the development description.

In this regard I am of the view that the development description as set out in the public notices, and which made reference to '*perimeter landscaping/planting works*', gave sufficient detail in relation to the nature of the proposed development having regard to the requirements of legislation and guidance on this matter and that therefore, there is no material deficit in this regard.

The second ground of the third party appeal takes the view that the plans and particulars submitted in the application were limited, did not include specifications, drawings or samples of materials and as such it was not possible for anyone to make a reasonable assessment of the proposed boundary works or to arrive at a balanced view as to whether or not they are consistent with the proper planning and sustainable development of the area.

The landscaping proposals originally submitted by the applicant as a part of the application received by the PA on 13th November 2024, can be summarised as including the following information:

- A Landscaping Plan (Dwg Ref. PP412-01) which sets out existing features and structures of the site; existing leylandii trees, other existing trees and shrub vegetation; a proposed woodland screen planting regime; proposed native hedge planting; proposed new specimen trees; existing boundary walls to be retained; and existing post and timber panel fence to be replaced with a new 1.8m high concrete post and timber fence.
- A Landscape Specification (Dwg.Ref. PP412-02) which sets out: the location, specimen variety, size, height and quantity of trees to be planted; methodology and guidance notes; landscape notes; a woodland planting mix including the specification, % mix, size and quantity of species to be planted; and a hedgerow specification including specification, % mix and size.
- Of note is that: 39no. trees were proposed to be planted ranging in height from 2-4m; 3000no. plants were proposed in the woodland screen planting; a detailed methodology was submitted including a proposal that all landscaping works would be undertaken by an ALCI approved landscape contractor who would be responsible for plant establishment for 18 months of establishment maintenance with any trees or shrubs dying, damaged or removed being replaced within the following planting season.

- The plan and specifications were prepared by Jane McCorkell Design, Registered Landscape Architect.

In respect of the adequacy and accuracy of the plans and particulars submitted in relation to the proposed boundary treatment works, it is accepted that the details originally submitted required augmentation and correction. This was identified and addressed by the PA in its request for further information dated 11th January 2024.

A response to this request was received by the PA on 12th March, 2024, and which included for the following revisions:

- A revised Landscape Plan (Dwg.Ref. PP412-01) which set out an accurate representation of the existing stone wall boundary (navy line) and the extent of the existing post & timber panel fence to be replaced with a new 1.8m high concrete post and timber panel fence (pink line). It is noted that the PA was satisfied with the accuracy of this information.
- A revised Landscape Specification (Dwg.Ref. PP412-02) which set out revised tree specimen varieties to be planted of native species, including location(s), specification, size, quantity and height ranging from 2 - 5.5m; revised woodland planting mix including increased quantities of planting; and a revised native hedgerow specification.
- Of note is that the woodland planting mix was increased from 3000no. plants to 5280no. plants and hedgerow plants were quantified at 1,150no. plants, with 5no. plants per linear metre.

This response was considered satisfactory by the P.A. I note however that the PA did not consider whether or not the further information contained significant additional data having regard to the provisions of Article 35 of the Regulations. An affirmative decision in this regard would have necessitated further public notices and provided the opportunity for observations on the further information. It is accepted therefore, notwithstanding any opinion as to whether A.35 should or should not have been invoked by the PA, that the appellant or others did not get the opportunity to comment on the further information submitted. In any event I am of the view that this particular matter is now remedied by the third party appeal and the opportunity for observations thereto, and that further consideration of this particular point of appeal is not necessary.

In terms of the adequacy of the perimeter landscaping/planting information submitted, I consider that there is no basis on which to justifiably sustain an argument that it was limited, or limited to such an extent, that a reasonable or balanced assessment of what was proposed could not be made. I consider that the information submitted in relation to landscaping plan and specification to be particularly well detailed. What was revised in this regard was the omission of 2no. non-native species (Hornbeam & Beech) from the 10no. species proposed, to be replaced with Field Maple and Crab Apple species. In terms of the replacement of the existing post and timber panel fence with a new 1.8m high concrete post and timber panel fence, I also consider this to be adequate information for the purposes of assessment. I accept the responding position of the applicant, that this is a like-for-like replacement and the extents and location of same is identified on the approved plans which are controlled by Condition No.2. I do not consider that the revisions to the landscaping scheme, which provide for native species only of greater maturity and a correct definition of the extent of existing stone wall v replacement fencing, points to a limitation in the information submitted but more to a correction of it, and which in any event does not materially change the nature of the proposal the subject of the application. I am satisfied therefore that the revised plans submitted are sufficiently clear and detailed so as to enable a proper assessment of them; and that Condition.No.2 which is based on same, is therefore also sufficiently clear in relation to what is permitted and required by the terms of the permission.

I note that the reason stated for condition No.2 by the PA was 'in the interests of biodiversity and natural heritage protection' and I concur that this a relevant reason for the condition having regard to the natural heritage policy provisions of the LLAP.

I consider the merits of Condition No.2 to be sound in principle.

8.4. Impacts on Ryevale House (Protected Structure) and its setting

A further ground for the third party appeal includes an opinion that the boundary over which the 'hard treatment' works are proposed is significant in scale and will have a material impact on the setting and overall character of the protected structure and that it is therefore essential that they are properly specified and assessed to ensure that they are in keeping with the architectural interest of the property.

Ryevale House is a Protected Structure included in the Record of Protected Structures set out in Appendix 6 of the KCDP and identified thereon as 'House' with the Ref.No. B11-115 refers. There is no additional commentary or narrative provided.

It is noted that the property does not appear to be identified on the National Inventory of Architectural Heritage (NIAH) and it is established that it is not plotted on the National Built Heritage Service (NBHS) Historic Environment Viewer, is not listed in the national surveys and does not have an NIAH Ref.No, description or appraisal. There is limited information on the NBHS website where the property is described as being located in the Barony/Municipal Borough of North Salt, Leixlip, Co. Kildare and the general notes available confirm: that houses have been constructed over much of the original site; that woodlands are a landscape feature of the site but that the woodland footprint has changed; and otherwise that the principle building is the architectural feature and that formal gardens and/or walled and productive gardens or vistas are not a landscape feature of the property (Site ID: 1929 refers).

The property is described in the Bury Architects Conservation Report, prepared by a Conservation Grade II RIAI Architect, as a two bay double fronted two-storey over basement Georgian home built circa 1741, with a substantial 3 storey over basement extension added to the rear before 1913. The external and internal features of the property are then described, but there is no comment in relation to the external grounds other than to note that the stables and sheds within the curtilage of the property are not protected structures. It is otherwise commented that the house was known as "Robertsville" after its owner Robert Lawe who was a founder member of the Kildare Knot, a charitable order, who also had Arthur Guinness and Captain Brady of Liexlip House as members.

From the information available, including historical mapping resources, it is considered clear that the original grounds and setting of the protected structure have been significantly altered by adjoining suburban housing development(s) and that whilst the woodland landscape is a feature of the property this has been subject to change and the gardens of the property were not of themselves a landscape feature or reason for which the property has been placed on the Record of Protected Structures. The status of Ryevale House as a protected structure is based on its particular architectural and historic interest reasons and woodland setting. It is therefore considered that the proposal for perimeter landscaping/planting is open to

consideration and the primary consideration is whether or not the proposed works would impact the naturalised setting of the structure. In this regard the replacement of the existing decayed fence with a like-for-like fence is considered acceptable. The primary function of the existing fence at this location is essentially as an external boundary screen between the subject property and adjoining residential properties and it is considered that it performs this function well. It is itself assimilated within the soft landscaping of the site with limited internal site visibility and has no material impact on the setting or interest of the protected structure. Its main visibility and impact is external and therefore with the wider amenities of the area including the adjoining Ryevale Lawns residential development and this matter is considered separately in the next point of assessment below.

I am of the view that the implementation of the proposed planting regime, is a more important intervention requiring attention in respect of protected structure considerations. In this regard I consider that the proposal to introduce a detailed and considered planting regime to the site boundaries (on the inside/site side of the proposed replacement fence) and consisting of: the planting of mature native tree species, transitioning to a substantial native woodland area, then bounded by a native hedge, is a welcome and meritorious intervention at the site which will, with maturity and time, reinstate appropriate naturalised boundaries to the site and contribute to the restoration of a woodland setting that is more sympathetic to the protected structure and its landscape features of interest.

The planning history of this site is relevant as it gave rise to similar assessment considerations. I note that the Inspector in his assessment of impact(s) on the setting of the protected structure in respect of appeal case Ref: PL09.230601 considered that a proper appreciation of the scale, proportions and design of the house requires a reasonably large open area in front of the house and between it and the driveway which approaches it and that the open space around the house plays an important role in establishing the setting and character of the protected structure. I would concur with the inspector on that case in this regard and note that the proposed perimeter landscaping/planting works to the boundaries and peripheries of the site will not materially impact the setting of the protected structure or the views on approach to it, but will serve to secure the naturalised setting of the structure and its visual separation from the suburban developments which adjoin its boundaries.

Having regard to the guidance available in the Architectural Heritage Guidelines (DEHLG 2011) and on the basis that: the gardens of Ryevale House are not a special interest feature of the property; that a minimum intervention is proposed (replacement of an existing timber panel fence); which works are reversible; and that there are no Tree Preservation Orders or Landscape or Architectural Conservation designations affecting the site, I consider that the proposed perimeter landscaping/planting works are acceptable from a conservation point of view.

I therefore consider that the proposed development is consistent with the built and natural heritage policies of the KCDP and LLAP which seeks to protect the special interest features of protected structures and their setting. In relation to Objective AH 023 of the KCDP specifically, I do not consider that an Architectural Heritage Assessment Report is required as: there is sufficient information available to determine that the limited nature of the boundary works, including maintenance, will not adversely affect the architectural or historic interest features of the property; and there is no requirement to record fixtures or features of special interests as they will not be lost or altered by the works.

8.5. Impacts on the Visual Amenities of the area including Ryevale Lawns and open spaces.

A further ground of the third party appeal concerns the interface between the property (subject site), Ryevale Lawns and its public realm environment and an opinion that the proposed works will have a significant impact on the overall amenity of Ryevale Lawns estate.

The proposed perimeter landscaping/planting works will interact with the visual amenities of the area and the residential environment of Ryevale Lawns to the south and east/southeast of the site. At this location the perimeter of the subject site is adjoined by a footpath and residential service road (to the south) and open space (to the east/southeast) serving Ryevale Lawns. Dwellinghouses at this location are sited at a remove to the opposite side of the service road or are located opposing the open space. The environment is one of soft landscaping and various boundary treatments, with mature trees present including leylandii. At this location an existing picket style fence runs for a distance of approx.60m along the southern site boundary and inspection of the site confirms that it is not incongruous in the context

of its environment or surroundings. I note that an existing shiplap fence is located within the site to the rear of this picket fence and is in a particularly poor condition. I also note that the picket fence is not particularly robust and is displaying unstable/leaning characteristics. I have no objection to the proposed replacement fence in the context of the amenities of the area at this location and the need for replacement or maintenance of this boundary is clear.

I note from the planning history on the site that the Inspector in his assessment of impact(s) on the character of the area in respect of appeal case Ref: PL09.230601 considered that the mature trees on site improved the visual environment of the suburban housing surrounding the site and mitigated the impact of that housing on the protected structure at Ryevale House. I would again concur with the inspector on that case in this regard and take the view that the proposed perimeter landscaping/planting works to the boundaries and peripheries of the site will improve the visual environment of housing around the site and serve to mitigate its impact on the protected structure.

Having established that the detail of the proposed works required by Condition No.2 are adequate and give sufficient certainty as to what is proposed, and that the proposed development is acceptable having regard to the interest features of the Protected Structure and the visual amenities of the area, I consider that there are no remaining grounds on which to sustain an appeal against the decision of the PA or Condition No.2.

I note the presence of established leylandii at this location and the screening benefit which they provide. Given the limited lifespan of this species it is considered imperative that a detailed landscaping and planting regime as proposed in the application is implemented to ensure the naturalised setting of the protected structure and its strong landscaped boundary relationship with adjoining suburban developments is maintained.

8.6.

There are 2no. observations to the appeal, which raise additional concerns in relation to potential impacts on third party residential amenities.

In respect of the property at No.198 Ryevale Lawns, this is a semi-detached property, located to the far side of No.199 and to the opposite side of an internal cul-

de-sac road (from the development). It is approx. 30m from the boundary of the site, 43m from the nearest stable building and 60m from Ryevale House itself. I do not consider that any residential amenity considerations arise in respect of the location of this property as a result of the proposed perimeter landscaping/planting works.

This observer raises concerns in relation to the use of an existing coachhouse and grainstore within the subject site, but these matters are not the subject of the application and cannot be considered in the appeal. This observer also raises health and safety and overshadowing concerns in relation to existing leylandii within the site and at this general location. It was noted on the date of site inspection that these Leylandii had been cut down/cropped, and that in any event they did not immediately adjoin a boundary with the property at No.198 Ryevale Lawns. Notwithstanding, this was an existing situation outwith the scope of the application and the appeal and is therefore a civil matter between the respective parties.

This observer also contends that an existing gate in the stone wall boundary was not approved and should be removed. The gate in question is a solid metal door in the stone wall boundary to the northeast of the site. I note that the terms of planning permission 97/1036 required an existing pedestrian gateway to be closed and blocked up in stone and this maybe what the observer is referring to. It is unclear if the benefit of this permission was ever taken, or if the matter is enforceable by the PA given the statutory time limits, but in any event this matter is entirely outside the scope of this appeal and the Board.

In respect of the property at Glenwood, Ryevale Lawns it is noted that this property shares a boundary with the subject site over a distance of approx. 45m, and that there is a limited separation distance between the gable of the dwellinghouse (Glenwood) and the site boundary. At this location it is proposed to erect a replacement 1.8m high post and timber panel fence as governed by Condition No.2 of the permission. This observer is correct in stating that the original plans submitted with the application detailed an existing stone wall at this location and that is incorrect. An existing timber panel fence forms the boundary at this location and this is corrected in the revised plans and particulars submitted in response to the further information request and as governed by Condition No.2 of the permission.

I am of the view that the concerns raised by this observer in relation to overlooking directly relate to the current use of the Ryevale House as a multi-occupancy accommodation centre for persons seeking international protection and that this use is a matter which is outside the scope of this appeal for reasons already articulated in this report. I do not therefore consider that the observers request for a permanent 14ft hard boundary treatment would be a proportionate or orderly form of development at this location nor is it an appropriate boundary treatment having regard to the provisions of the KCDP. I am satisfied that the 1.8m post & timber fence and planting regime is an appropriate boundary treatment sufficient to protect respective residential amenities and that any objection on the basis of overlooking associated with the current use is a separate matter outwith the matters for determination in this appeal.

This observer also raised health & safety concerns in relation to the height and condition of '20m high' leylandii which adjoined the property boundary, however on the date of site inspection it was noted that the leylandii at this location had been cut/cropped and therefore this issue is presently addressed. Notwithstanding same, this was again an existing situation (not the subject of the application, appeal or Condition No.2), and considered to be a civil matter between the respective parties.

I note that replacement of the existing timber panel fence on the shared boundary, may or may not require access to third party property at this location to carry out the proposed replacement works, and that the removal of the existing fence may have implications for some planting appended to it within the adjoining third party property. This is, however, a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the Planning and Development Act, 2000 (as amended).

8.7. Appropriate Assessment

See Section 9.0 below and Appendix 2.

8.8. Other

It is noted that the terms of Condition No.2 of the permission as set out by the PA requires that the perimeter landscaping works, boundary treatment works and the landscaping on site shall be carried out in accordance with the landscape specifications received on the 29th April 20204. However the landscape specifications submitted on 29th April, 2024 were simply a resubmission of the

revised landscape specifications previously submitted to the Planning Authority on 12th March 2024 in response to the parent further information request. I therefore consider that the revised landscape specifications submitted on the 12th March 2024 are in fact the primary version of the revised landscaping proposals and therefore recommend that Condition No.2 should properly require that development proceeds in accordance with same.

The only remaining question which I consider arises, is whether or not there is certainty on behalf of all parties in relation to what the 'timber panel' within the 1.8m concrete post and timber fence will actually entail. I accept that the applicant has clarified in the appeal that a 'like-for-like' replacement is proposed and that this deals with the matter. However, there are many varieties of fencing panels and timber products available and not all would be a suitable or durable screen at this location. What exists on site is a 'shiplap' type fence and I have no objection to the erection of a replacement 'shiplap' type fence, however I consider that the 'shiplap' style should be specified and that, in the interests of durability and longevity, I recommend the timber used is a tanalised hardwood timber.

I recommend that Condition No.2 be modified to include a requirement that the replacement 1.8m concrete post & timber fence, consists of shiplap timber panelling that is tanalised hardwood.

9.0 AA Screening

Having regard to the limited location, scale and nature of the proposed landscaping and planting works, their location within an existing residential area, the absence of any pathway to, or functional link between, the subject site and a European site, the presence of a landscape buffer between the site and the Rye River and to the location of the development downstream from the Qualifying Interests of the Rye Water Valley/Carnton SAC Site Code: 001398, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

Refer to Appendix 2 regarding this determination.

10.0 Recommendation

Having regard to the above and based on the reasons and considerations set out below, it is recommended that the Planning Authority be directed to amend Condition No.2 as attached to the grant of permission to read as follows:

- 2.a. The perimeter landscaping works, boundary treatment works and the landscaping on site shall be carried out in accordance with the landscape specifications received by the Planning Authority on 12th March, 2024, save as hereinunder otherwise required. All landscaping works on site shall take place outside of bird nesting season 1st March – 31st August.
- b. The timber panels in the replacement 1.8m high concrete post & timber panel fence, shall consist of shiplap style panels and tanalised hardwood timber.

Reason: To define the terms of the permission, in the interest of biodiversity and natural heritage protection and to protect the residential and visual amenities of the area.

11.0 Reasons and Considerations

Having regard to the nature of the proposed perimeter landscaping/planting works at an established residential property consisting of a native planting regime and the replacement of an existing post & timber fence, it is considered that they can be determined as a separate and standalone issue from the other permission and retention aspects of the development, and that therefore it is appropriate in accordance with s.139 of the Act, that the appeal would be considered against Condition No.2 only.

Having regard to:

- The provisions of the Leixlip Local Area Plan 2020-2023 (as extended to 2026) and the landuse zoning of the site as 'Existing/Infill Residential';
- The provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (DAHG 2011);
- The revised native planting regime first submitted to the Planning Authority on 12th March 2024, as opposed to the 29th April, 2024;

- The clarity provided by the applicant in the appeal that a 'like-for-like' replacement fence is proposed; and
- Subject to the requirement that the timber panels in the replacement 1.8m high concrete post & timber panel fence, shall consist of shiplap style and tanalised hardwood timber;

it is considered that sufficient detail has been provided to enable a reasonable and balanced assessment of the proposed perimeter landscaping/planting works and that they would not adversely affect the setting of Ryevale House (Protected Structure BS11-115), would not be injurious to visual and residential amenities of the area and that Condition No.2 should therefore only be modified in the interests of clarity to refer to the revised landscaping plans submitted to the PA on 12th March, 2024, and to otherwise prescribe that the timber fence panels be shiplap style and constructed of tanalised hardwood timber in the interests of visual and residential amenity.

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.

Paul Kelly

Senior Planning Inspector

September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319910-24		
Proposed Development Summary	<p>Permission for perimeter landscaping/planting works and conversion of 2no. existing sheds from storage to ancillary residential use, and</p> <p>Retention for works carried out within Ryevale house comprising: (i) the construction of a new stud wall and door to lower ground floor rear return; and (ii) the re-panelling of internal doors to provide fireproofing.</p>		
Development Address	Ryevale House, Ryevale Lawns, Leixlip, Co. Kildare.		
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	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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion

No	X	N/A		No EIAR or Preliminary Examination required
Yes		Class/Threshold.....		Proceed to Q.4

4. Has Schedule 7A information been submitted?				
No			Preliminary Examination required	
Yes			Screening Determination required	

Inspector: _____ **Date:** _____

Paul Kelly

Senior Planning Inspector

Appendix 2

SCREENING FOR APPROPRIATE ASSESSMENT

[NIS not submitted]

An Bord Pleanála Case Reference	ABP-319910-24
Proposed Development Summary	Permission for perimeter landscaping/planting works and conversion of 2no. existing sheds from storage to ancillary residential use, and Retention for works carried out within Ryevale house comprising: (i) the construction of a new stud wall and door to lower ground floor rear return; and (ii) the re-panelling of internal doors to provide fireproofing.
Development Address	Ryevale House, Ryevale Lawns, Leixlip, Co. Kildare.

1. **Appropriate Assessment- Screening Compliance with Article 6(3) of the Habitats Directive**

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

2. **Background on the Application**

A screening report for Appropriate Assessment was not submitted with this application/ appeal case. Therefore, this screening determination has been carried out *de-novo*.

3. **Screening for Appropriate Assessment- Test of likely significant effects**

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

4. Brief description of the development

The proposed development, as controlled by Condition No.2 of the permission, consists of the erection of a replacement 1.8m concrete post and timber fence to part of the site boundaries and the implementation of an internal site planting scheme consisting of: (i) native trees, (ii) native woodland planting, and (iii) native hedgerow.

5. Submissions and Observations

The Department of Housing, Local Government and Heritage, in its report to the PA dated 14th December 2023 noted the proximity of the site to the Rye Water Valley/Cartron Special Area of Conservation (SAC)(Site Code: 001398) estimated at 115-120m at its closest point. The report notes that the European site is protected due to the presence of specified Qualifying Interests and advises that the site is particularly vulnerable and care needs to be taken in any works carried out within close proximity. The report notes certain objectives of the Kildare County Development Plan including: BI 026; LR 083; EC 073 and the soft landscaping development management standards set out in Chapter 15. The report recommends that planting of native trees and hedgerows is a condition of permission and that such works be carried out outside of the bird nesting season from 1st March – 31st August 2024.

6. European Sites

The development site is not located in or immediately adjacent to a European site. The closest European site is Rye Water Valley/Carton Special Protection Area (SAC Site Code: 001398) which is located approx.100m east of the proposed development site at its closest point.

A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

Table A. Summary Table of European Sites within a possible zone of influence of the proposed development:

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway/receptor)	Considered further in screening Y/N
Rye Water Valley/Carton SAC Site Code: 001398	Petrifying springs with tufa formation (Cratoneurion) [7220] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]	0.1km (100m) (E)	None There is no direct hydrological connectivity or functional link with this site or the Rye River itself which is 100m east of the site. A significant landscape buffer in the form of established public amenity areas exists between the site and the Rye River. It is noted that the Qualifying Interests are located upstream of the subject site.	N

7. Identification of likely effects

- In respect of this sites Qualifying Interest 7220 'Petrifying springs with tufa formation (Cratoneurion)' these are described in the Conservation Objectives as being surveyed by Lyons (2015) at Louisa Bridge in Leixlip. Petrifying springs are springs that typically form small calcareous or 'tufa' deposits. The habitat is described as being dynamic and one which is likely to be significantly impacted by any reduction in water supply. It is noted that Tufa sites may also decrease naturally due to natural blockages of upswelling springs. Its noted from the NPWS Conservation Objectives that seepage flow rates are crucial for the development of tufa and that Petrifying springs rely on permanent irrigation, usually from upswelling groundwater sources or seepage sources and that water flow should not be altered anthropogenically.

It is also noted that this Qualifying Interest is vulnerable to changes in nutrients and invasive species and that whilst scrub encroachment poses a threat to the habitat, this has been kept under control by manual removal of seedlings in recent years (see Lyons, 2015) and that Algal cover is indicative of nutrient enrichment from multiple sources.

In this regard it is considered that the proposed development has no potential to give rise to a significant effect on this Qualifying Interest of the European Site. The subject site is not connected hydrologically to the European Site and is located downstream and a remove from the location where the QI was surveyed. The proposed development is of a limited nature and scale and has no functional link to the site or QI, such that will impact the QI by reason of a reduction in water supply, change in nutrient levels or encroachment by shrub vegetation.

- In respect of this sites Qualifying Interest 1014 'Narrow-mouthed Whorl Snail (*Vertigo angustior*)' it is noted that this QI was last recorded in 1997 and that the species was not found in 2006, 2010 or 2016 and that further work is required to definitively establish the status of the species in this SAC. It is noted that the area that supported narrow-mouthed whorl snail (*Vertigo angustior*) was in a narrow zone between the saturated ground

influenced by the tufaceous springs and the river floodplain at Louisa Bridge, Leixlip and that the delicate hydrology at this location may have been negatively impacted by increased flooding or by changes to the springs. In this regard it is considered that the proposed development has no potential to give rise to a significant effect on this Qualifying Interest of the European Site. The subject site is not connected hydrologically or by a functional link to the European Site and is located downstream and a remove from the location where the QI was surveyed in 1997. The proposed development is of a limited nature and scale, and at such a remove that it will not impact the QI or its habitat, or the hydrology of its habitat, by reason of flooding or other.

In respect of this sites Qualifying Interest 1016 'Desmoulin's Whorl Snail (*Vertigo moulinsiana*)' it is noted that this QI is known from one site in Rye Water Valley/Cartron SAC, at Louisa Bridge, within the 1km grid square N9936. In this regard it is considered that the proposed development has no potential to give rise to a significant effect on this Qualifying Interest of the European Site. The subject site is not connected hydrologically or by any functional link to the European Site and is located downstream and a remove from the location where the QI was surveyed. The proposed development is of a limited nature and scale, such that will not impact this QI or its habitat.

8. Mitigation measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

9. Screening Determination

Finding of no likely significant effect

I have considered the proposed development in light of the requirements of Section 177U of the Planning and Development Act 2000 (as amended). The

proposed development is located approx. 100m west of the Rye Water Valley/Carnton Special Area of Conservation (SAC Site Code 001398). Having carried out Screening for Appropriate Assessment of the project, it has been concluded on the basis of objective information that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Rye Water Valley/Carnton Special Area of Conservation (SAC Site Code 001398) or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on the following:

- The distance of the proposed development from the European Site and demonstrated lack of any pathway, functional link or ecological connections between the subject site, the features of the proposed development and the Qualifying Interest. Having visited the site and having reviewed the Environmental Protections Agency's AA Mapping Tool, I note that there are no direct hydrological connections between the subject site and any designated site and that the proposed development is located downstream of the Qualifying Interests of the European site. Having considered the limited nature, scale and location of the project, its location within an established residential area and presence of a landscape buffer between the site and the Rye River, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.

Inspector: _____

Date: _____

Paul Kelly

Senior Planning Inspector