

An Bord Pleanála



Inspector's Report

Appeal Ref. No:	PL06D.245945
Proposed Development:	48 residential units, new access and parking
Location:	Newtownpark Avenue, Blackrock, County Dublin.
Applicants:	Health Service Executive
Planning Authority Reg. Ref:	D15A/0036
Planning Authority:	Dun Laoghaire Rathdown County Council
P.A. Decision:	Grant with conditions
Appeal Type:	Third Party Vs Grant/Applicant vs Conditions.
Appellants:	(1) Noel & Cathy Wall/Kevin & Meave Garvey, (2) Patricia M Kenny & Others (3) Health Services Executive.
Observers:	None
Date of Site Inspection:	7 th April 2016
Inspector:	Hugh Mannion

1. SITE AND SURROUNDINGS

The application site is about 1.27ha in area and is accessed to the west off Newtownpark Avenue in Blackrock, County Dublin. The site was originally part of the grounds of Cluain Mhuire – now a HSE run care centre (formerly known as Rockfield House). The front façade of the Cluain Mhuire building and the pillars at the entrance gate on Newtownpark Avenue are protected structures. The Cluain Mhuire building, entrance gates, surface car parking to the front and a car park/service yard and a number of single storey temporary buildings to the rear/south of Cluain Mhuire, have been omitted from the application site and, it appears, will remain in use as a care home.

The resulting application site is L shaped. The long side (western side) of site runs north/south along the boundary with St Teresa's convent on the adjoining site to the west. To the south is the Guardian Angels national school and to the north is the grounds of the Temple Hill Quaker burial grounds. The eastern boundary has three sections; the more southern is onto Newtownpark Avenue and an amended existing access to the service yard will provide vehicular and pedestrian access for the proposed new housing development, the middle section of the eastern boundary abuts the grounds/surface carparking to the front of Cluain Mhuire, and finally, the northern end of the eastern boundary abuts the rear gardens of 21, 19, 17, 15, 13 and 11 Newtownpark Avenue.

The site has significant tree cover (see revised tree survey drawing number 1106-PLA-003 Rev A submitted to the planning authority on the 3rd November 2015). Most of the significant trees are in the southern end of the site - in particular immediately south and west of Cluain Mhuire. In this area they appear to have been deliberately planted but there are trees and shrubs throughout the site. It appears the site has been fenced off from the grounds of Cluain Mhuire for a significant period.

North of the site entrance Newtownpark Avenue has a signal controlled junction with Stradbroke Road. South of the site entrance is the Guardian Angels national school and, adjoining that, a large church with extensive surface car parking around it.

2. PROPOSED DEVELOPMENT

The proposed development comprises the construction of;

- 10 four bedroom two storey with dormer houses.
- 2 five bedroom two storey with dormer houses.
- 6 one bed apartments, 26 two bed apartments and 4 three bed apartments in two three storey blocks.
- New access from Newtownpark Avenue,
- 81 car parking spaces at basement and surface,
- Electricity substation, bicycle parking, open space, landscaping and boundary treatment.

All within the curtilage of a protected structure at Cluin Mhuire, Newtownpark Avenue, Blackrock, County Dublin.

3. HISTORY

There is no recorded planning history for the site.

4. PLANNING AUTHORITY DECISION

The planning authority decided to grant permission subject to 26 conditions. Condition number 2 amended the proposed four houses in the northern part of the site. Condition 7 required agreement on access arrangements and road works in the vicinity of the site.

Irish Water reported on the 12th March 2015 that there was no objection to the proposed development.

The **Department of Arts, Heritage and the Gaeltacht** stated that the site was an area of high archaeological potential and the recommended a condition requiring archaeological monitoring.

Parks and Landscape Section reported on the 12th March 2015 that the original layout did not accord with CS6 of the LAP requiring pedestrian/cycle connectivity with St Teresa's lands, there was a discrepancy in the drawings as to the location of the apartment blocks, a lack of detail in relation to boundary/hard and soft landscaping treatment.

Water Services section reported 26th January 2015 that the application should demonstrate that a 225mm surface water sewer can be laid in Newtownpark Avenue.

The **Conservation Architects Division** reported on 4th March 2015 and recommended refusal because the layout, scale, massing and design quality failed to have regard to the Framework Strategy for the site set out in the Blackrock LAP.

The **Transport Planning** section reported on the 22nd January 2015 requesting additional information in relation to;

- 1) Amalgamation of the proposed signalised junction with the existing school warden crossing on Newtownpark Avenue.
- 2) Improved connectivity between the site and the lands to the west.
- 3) Revisions to the TIA in relation to future development in the vicinity of the site.
- 4) Submission of a quality audit (incorporating a road safety audit, access audit, cycling audit and walking audit).
- 5) Details of cycle parking,
- 6) Provision of street lighting,
- 7) Details of car parking in accordance with development plan standards,
- 8) Details of internal road construction standards,
- 9) Details of the provision of concrete kerbs,
- 10) Details of undergrounding of all cables,
- 11) Provision of a construction management plan.

Initially the planning authority sought further information in relation to;

1. Pedestrian/cycle access to the St Teresa's/Dunardagh lands.
2. The ramp to the basement car park should be amended.
3. Revised signalised junction onto Newtownpark Avenue.
4. Revise application to provide access to Rockfield Park.
5. An updated traffic and transport assessment should be provided.
6. An additional road safety audit/access audit/walking audit and a cycle audit should be submitted.
7. Cycle parking in accordance with the development plan should be provided.
8. Details of street lighting should be provided.
9. Internal access roads should be provided in accordance with planning authority standards.
10. Concrete kerbs should be provided in accordance with planning authority standards.

11. A construction management plan should be provided.
12. The applicant must demonstrate that a 225mm surface water sewer can be laid along Newtownpark Avenue.
13. A revised tree survey and revised boundary treatment should be submitted.

Subsequent to the submission of additional information the planning authority granted permission.

5. APPLICANT'S APPEAL

The applicant has appealed against 21 and 22 of the decision to grant permission which required payment of contributions as follows; €264,000 in respect of roads infrastructure and €132,000 in respect of community facilities, parks and amenities.

The applicant appealed these two conditions on the grounds that they were calculated on the basis of 48 units as applied for and should have been calculated on the basis of 46 units granted.

6. THIRD PARTY APPEAL

The grounds of appeal may be summarised as follows;

- The mass, scale and form of development will negatively impact by way of overshadowing, overlooking, noise and disturbance and inadequate boundary treatment of properties at 'St Maur's and 'Fintona' on Newtownpark Avenue and other property in the area.
- The proposed apartment block B will overlook and overshadow adjoining property. This building could be reduced in scale thereby reducing its impact.
- The access is along neighbouring rear gardens and will negatively impact on the amenity of these rear gardens by way of noise and disturbance.
- The proposed boundary treatment replaces timber fencing/hedge with a rendered block wall of inadequate height.
- The proposed development is excessively dense and has not had regard to the scale, density or pattern of development in the adjoining area.

- The proposed new access is inappropriately located on a blind bend on Newtownpark Avenue which will give rise to traffic hazard. Eventually this access may allow traffic from development at Dunardagh to access Newtownpark Avenue also.
- There is a history of flooding in the area and the proposed development should be assessed in accordance with the Flooding Guidelines.

7. PLANNING AUTHORITY RESPONSE

- The planning authority responded (letter dated 29th January 2016) to the **applicant's appeal** against conditions 21 and 22 to agree that the original calculations of the figures in these two conditions were incorrect and stating that 46 residential units is the correct multiplier and amending their original figures.
- The planning authority (letter dated 27th January 2016) commented in relation to the **third party's** concerns about surface water runoff giving rise to flooding. The planning authority states that runoff from the site would be less than greenfield rates to the local surface water system. This is achieved through the use of green roofs, permeable paving, bio-retention swales and two attenuation tanks. There is no flood risk associated with the proposed development.

8. APPLICANT'S RESPONSE TO THIRD PARTIES

The applicant responded to the third party appeals as follows;

- Proposed block B is 48m from the rear of 21 Newtownpark Avenue (St Maur's). The separation distance and orientation of Block B ensures no overlooking/overshadowing. The dormer windows of house numbered 13 to 16 face north – not towards the rear of houses on Newtownpark Avenue.
- The turning head of the access road is 36m from the rear of 21 Newtownpark Avenue (St Maur's) and vehicular traffic will be limited. An access road serving these lands is indicated in the Blackrock LAP.

- The boundary wall is a standard rendered 2m high – this height can be increased if necessary.
- The scale and height of the proposed development accords with the provisions of the Blackrock LAP. The density is 36 units/ha which accords with the LAP recommendation of 35/45 units/ha.
- The junction accords with the planning authority's Transport Department's requirements, is not on a blind bend.
- The application does not provide vehicular access from the Dunardagh/St Teresa's lands to Newtownpark Avenue but may provide pedestrian/cycle linkage in accordance with LAP CS6.
- Surface water arising from the proposed development will be dealt with in accordance with Greater Dublin Area Strategic Study and the requirements of the planning authority. SUDS, green roofs, permeable parking and driveways, swales, attenuation tank and a restricted flow into the public surface water drain will ensure no flooding arises from the proposed development.

9. FURTHER SUBMISSIONS

The third party (Noel & Cathy Wall/Kevin & Meave Garvey – submission received by the Board on the 29th February 2016) commented that the planning authority was incorrect to state that the amended application reduced the impact on adjoining property.

Patricia M Kenny & Others (submission received by the Board on the 3rd March 2016) made a similar point.

10. OBSERVATIONS

There are no observers in this case.

11. PLANNING POLICY FRAMEWORK

The site is zoned A –“to protect and/or improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

The site is zoned for residential development in the Blackrock Local Area Plan 2015 to 2021. Map 11 of the plan proposes a density 35-45 units per ha while having regard to local settings, neighbouring uses, access topography, access to services and transport network, densities in surrounding and established residential estates, the capacity of the land to create attractive compact areas, limitations including protected structures, high quality design.

12. ASSESSMENT

12.01 I consider that the principal planning issues to be assessed in this appeal are;

- the application of the planning authority’s development contribution scheme,
- zoning and residential density,
- Impacts on residential amenity,
- Residential quality standards,
- Traffic safety
- Impacts on a protected structure
- Flooding, and
- Appropriate assessment

12.02 Applicant's Appeal against Conditions 21 and 22.

12.03 The applicant appealed against conditions 21 and 22 on the basis that the planning authority has calculated the contribution payable on the basis of the originally applied for 48 units whereas only 46 were granted. The planning authority (see submission dated 29th January 2016) agreed with this point and sets out the amended calculations which reflect the figures given in the applicant's grounds of appeal.

12.04 The figures agreed by the parties are €253,000 in respect of roads infrastructure and €126,500 in respect of community facilities, parks and amenities. Having regard to the submissions on file and the adopted Dun Laoghaire Rathdown Development Contribution Scheme (copy attached) I agree with the figures set out by the applicant and planning authority in their respective submissions and I have incorporated them in the draft order below.

12.05 Zoning and Residential Density

12.06 The proposed development is located in an area zoned "to protect and/or improve residential amenity" in the current County Development Plan. The proposed development comprises residential development and therefore, in principle, complies with the Development Plan zoning for the site.

12.07 The appeal makes the case that the proposed development is excessive in terms of residential density. The site is 1.27ha and the amended proposal provides for 46 units which gives a gross density of 36.2 units/ha.

12.08 The Sustainable Residential Development in Urban Areas Guidelines for planning authorities (DOEHLG 2009) makes the point that higher residential densities are to be encouraged on serviced lands close to public transport corridors. Appropriate locations for higher densities include areas within 1km of rail station or 500m from a bus stop. I consider that the site is more than a kilometre from Seapoint DART station but is within 500m of number of bus stops.

12.09 The County Development Plan (see RES3 – Residential Density) makes the point that higher residential density should be promoted subject to the protection of residential amenity and the character of the area. The Blackrock LAP sets out a detailed framework strategy for a number of identified locations within the area of the LAP identifies Cluain Mhuire as

one such site. The recommended density within this Cluain Mhuire framework area is (see CS2-Density) 35-45 units/ha.

12.10 Having regard to the foregoing and subject to the considerations discussed below I conclude that the proposed density of 36.2 units/ha is reasonable.

12.11 Impacts on Residential Amenity

12.12 The appeals make the point that the proposed development because of its height and proximity to boundaries will overlook and overshadow adjoining property.

12.13 The relevant layout is shown on drawing 1106-PLA-001 Revision A submitted to the planning authority on 3rd November 2015. This has been amended by condition 2 which requires a change where by the rear dormer windows would be moved to the front of the houses numbers 13, 14, 15 and 16. The rationale for this amendment is not clear to me since as designed the rear facing dormer windows which serve the master bedroom (see plan for house type 3 on drawing number 1106-PLA-014 Revision A) face north into the rear gardens of these houses which vary in length from a minimum of 14m long to a maximum of 16.7m and thereafter into the Quaker burial grounds (Temple Hill burial grounds). To move these to the front would, arguably, have a greater impact on the rear gardens of houses on Newtownpark Avenue – although in either case I do not consider the impacts on residential amenity to be sufficient to warrant refusal.

12.14 Furthermore this terrace of houses - 13, 14, 15 and 16 are close to the boundary with the rear gardens of houses facing onto Newtownpark Avenue but these gardens in excess of 30m deep. There are no windows on the elevation of house number 13. Having regard to these factors I do not consider that these houses will seriously injure the amenity of houses facing Newtownpark Avenue.

12.15 The appeal makes the case that Block B is too close to the rear gardens of houses on Newtownpark Avenue and in particular 'St Maur's 21 Newtownpark Avenue and 'Fintona' 17 Newtownpark Avenue. The appeal states that the proposed development will give rise to overshadowing and overlooking of these rear gardens.

12.16 The closest apartments which may impact on the rear gardens of houses on Newtownpark Avenue are apartments 7 and 13 at first and second floor respectively on the corner of apartment block B. In the case

of apartment 7 the living room window looks directly onto the proposed electricity substation and then onto the boundary wall of the application site with Cluain Mhuire. The private balcony for number 7 is accessed off the living room and faces due north with a solid wall book-ending the balcony facing east towards the closest corner of the rear garden of 21 Newtownpark Avenue ('St Maur's). Relying on drawing 1106-PLA-006 Revision A the shortest distance between the corner of this balcony and the boundary of 21 Newtownpark Avenue ('St Maur's) is about 10.5m. Similar living room and balcony arrangements and separation distances to the eastern boundary apply to apartment number 13 on the second floor of block B. It is significant in the context of the appellants' fears of overlooking from windows and balconies on block B that it is a relatively modest building being between 9m to 10m high as it faces the rear of houses facing onto Newtownpark Avenue.

12.17 In relation to overshadowing it may be noted that block B lies due west of the grounds of Cluain Mhuire but stops short of the rear boundary of 21 Newtownpark Avenue ('St Maur's) - the closest house facing Newtownpark Avenue which backs onto the site. Having regard to the separation distances; about 10.5m to the rear boundary wall of 21 Newtownpark Avenue ('St Maur's) and about 27m to the boundary with Cluain Mhuire and the relatively modest height of the building and its orientation I am satisfied that no unreasonable overshadowing would occur of property to the east of that block facing on Newtownpark Avenue.

12.18 Having regard to the foregoing and to the proposed density being at the minimum of the range required in the LAP I conclude that it is not necessary to reduce either the length or height of Block B in order to protect the amenity of adjoining property.

12.19 The appellants make the case that the access road within the proposed development will give rise to injury to the amenity of the rear gardens of houses on Newtownpark Avenue.

12.20 The layout of the development is such that the majority of vehicular traffic associated with the development will have finished its journey before it gets to rear gardens of houses facing onto Newtownpark Avenue. Traffic associated with the houses along the southern boundary (house numbers 1 to 12) will have stopped/parked in the vicinity of those houses. The great majority of the traffic associated with the apartments will have gone underground into the basement parking under Block B. There are about 18 spaces beyond the corner of the rear garden of 21 Newtownpark Avenue ('St Maur's). Even adding in the bicycle parking located along the western boundary close to this surface car parking and taking into account

boundary treatment I do not consider that this level of activity would give rise to a level of intrusion on the amenity of these properties to require refusal of permission.

12.21 The appeals make the point that two metre boundary walls are insufficient to protect the amenity of the houses on Newtownpark Avenue which back onto the site. This boundary is heavily overgrown when viewed from within the application site and appears to comprise, at different points, a wall and some timber fencing. The appeal suggests a 3m high wall along this eastern boundary; in my view this may be excessive and detract from the amenity of adjoining gardens. I recommend that the applicant be required to agree the height, materials and other details of the boundary wall along the rear of the houses on Newtownpark Avenue and with the Cluain Mhuire site, which will remain in care home use, with the planning authority. I attach a draft condition number 9 in this regard. Having regard to the foregoing I conclude that the proposed development will not seriously injure the amenity of property in the vicinity by overlooking, overshadowing or general noise and disturbance.

12.22 Residential Quality Standards

12.23 The planning authority in assessing the application had regard to the County Development Plan 2010 to 2016. A new County Development Plan for 2016 to 2022 was adopted on the 7th February 2016. The Sustainable Urban Housing Design Standards for new apartments (the Apartment Guidelines) set new national standards for apartment developments and were made under Section 28 of the Planning and Development Acts in December 2015.

12.24 The Apartment Guidelines require that one bed apartments have a minimum floor area of 45m², two bed units have a minimum floor area of 73m², and three bed units have a minimum floor area of 90m². There are a total of 30 apartments. The proposed floor areas of these units are; one bed – 59m², two bed - 85m², and the 3 bedroom units have 100m² – see drawing 1106-PLA-009 Rev A submitted on the 3rd November 2015. I conclude that the proposed floor areas of the apartments meet the national standards. The Apartment Guidelines also make the point (see paragraph 3.24 and following) that private amenity space attached to apartments should adjoin living rooms, be at least 1.5m deep and be useful from an amenity viewpoint. The Guidelines require the provision of private amenity space per apartment unit as follows; 1 bedroom - 5m², 2 bedrooms – 7m² and three bedrooms – 9m². All the proposed units meet or exceed this standard. The units are dual aspect. Internal storage is also provided.

12.25 Turning to the proposed houses, these are in two blocks; numbers 1 to 12 are laid out along the revised access road off Newtownpark Avenue facing into the application site and backing onto Guardian Angles national school. The County Development Plan (8.2.3.2 (iv)) sets out the requirement that all houses should have private open space behind the building line. Proposed houses numbers 11 and 12 (the two 5 bedroom houses furthest to the west towards the boundary with St Teresa's) have shorter rear gardens than would ordinarily be acceptable, about 5.6m at the shortest. However they will back onto the grounds of the national school and the relatively reduced depth is compensated for by larger overall areas – 195m² for number 11 and 131m² for number 12. I conclude that the proposed house size, variety of house type and private open space provision is acceptable.

12.26 The Development Plan is not prescriptive about the quantity of public open space but refers to the guidance set out in the Sustainable Residential Development on Urban Areas – Guidelines for Planning Authorities (DOEHLG May 2009). These Guidelines make the point that public open space should be accessible to all residents and overlooking by nearby residential units enhances security of open spaces. The Guidelines recommend the provision of public open space in the range 10% to 15% depending on the greenfield or brownfield/infill nature of the site. In the present case I would characterise the site as brownfield and the proposed public open space provision of about 12% is acceptable. Likewise the public open space is well laid out and is directly overlooked from apartments/houses within the site which adds to its utility and security.

12.27 The Development Plan in Table 8.2.3 sets out requirements for parking provision for apartments and housing. Each house has been provided with two car parking spaces for a total of 32 as required by Table 8.2.3. Three visitor car parking spaces have been provided and 43 spaces have been provided for the apartments. This gives a total car parking spaces provision of 78 which the Transport Development (see second report 25th November 2015) accepts as sufficient. Having regard to the development plan standards I agree with the Transport Development and conclude that the proposed car parking provision is acceptable.

12.28 The Development Plan (paragraph 8.2.4.7) sets out a general requirement that adequate cycle parking be provided in conjunction with new development. The further information submission (see drawing number 1106-PLA-001 Rev A) provides 12 bike space across the access road from house number 8 and an additional 16 spaces on the western boundary between apartment Block B and house number 16. I recommend that this is adequate bicycle parking provision.

12.29 Traffic Safety

12.30 The appeal makes the point that the proposed junction of the internal access road with the Newtownpark Avenue is close to a blind bend, that the road network in the area is inadequate and that the development will facilitate vehicular traffic from lands to the west of the site (Dunardagh/St Teresa's lands).

12.31 The application site is on the left hand/western side of Newtownpark Avenue in a suburban area where the speed limit is 50kms per hour. The area is characterised by residential development – generally two storey semidetached houses with front gardens most of which have a combination of driveway/parking and/or garage. There are footpaths on both sides of the carriageway, there is a broken single white median line and there is a bus route along the public road. Immediately to the south is Guardian Angles national school and immediately to the south of that is a very substantial church with three entrances from extensive surface parking onto the public road. There is a slight convex bend in the vicinity of the proposed site entrance but I do not agree that this bend could be characterised as a 'blind bend' and I conclude that there is adequate sightlines in both directions.

12.32 The planning authority sought amendments to the new junction for the estate access road and Newtownpark Avenue. The final Transport Planning section's report (see FI Item No 3 in report dated 26th January 2016) concluded, having regard to the additional material submitted a FI (including the road safety audit) that an additional signalised junction on Newtownpark Avenue was not desirable but that the proposed toucan crossing which would allow both cycle and pedestrian crossing (shown on DBFL drawing 112022-2010 submitted on the 3rd November 2015) was the better option. Having regard to the additional traffic analysis submitted in the DBFL Consulting Engineers report submitted on the 3rd November 2015, the pattern of development in the area and the relatively modest scale of the proposed development I agree with the planning authority on this point. However since the public road/footpath is outside the site boundary I do not recommend repeating condition number 7 which requires the applicant to carry out works on lands he does not control. It is more appropriate to impose a condition under section 48(2)(c) condition allowing the planning authority to recoup the extra exceptional cost of the pedestrian/cycle crossing works which will specifically facilitate the proposed development. Therefore I recommend draft condition number 14 below.

12.33 In relation to access to the underground parking spaces the planning authority were unhappy with the original access arrangements (see drawing 1006-PLA-001 submitted on 26th January 2015) which accessed the parking spaces originally located under Block A directly from the estate access road. This was revised by way of further information (see drawing 1006-PLA-001 Revision A submitted on 3rd November 2015) which provided a be-spoke access route off the main access route to revised parking under Block B. I conclude, in agreement with the Transport Planning section – see FI Item No 2 in report dated 26th January 2015) that this is a preferable arrangement. Furthermore in relation to traffic safety the planning authority was concerned about the details of the access into the rear car park/service area of Cluain Mhuire from proposed revised estate access road close to its junction with Newtownpark Avenue. The planning authority imposed condition 7(b) in relation to this access requiring details to be agreed with the planning authority. Although this access is shown on the revised drawings submitted as further information (see especially drawings numbers 1106-PLA-001 Rev A and 112022-2010) I agree with the planning authority that detailed drawings should be submitted and, preferably, the access should be moved somewhat further west along the estate access road to obviate any queuing close to the junction with Newtownpark Avenue.

12.34 Finally under the rubric of traffic safety the appeals make the point that the application makes provision for traffic from undeveloped lands to the west of the site (the Dunardagh/St Teresa’s lands), if these lands are eventually developed, to go through this application site to access Newtownpark Avenue and thereby exacerbate traffic congestion on Newtownpark Avenue. The applicant makes the point in the response to the appeal that the LAP rules out such access.

12.35 The Blackrock LAP (see Movement -CS6 in paragraph 3.5.2 Site Framework Strategy: Cluain Mhuire) states that “it is an objective of the Council to ensure that a pedestrian and cycle connection is provided between the sites of Cluain Mhuire and St Teresa’s and Dunardagh. Vehicular thorough traffic shall not be permitted”. This clarity is somewhat undermined by the ‘site objectives and movement diagram’ of the LAP¹ which indicates a dotted blue line meaning “two way unrestricted traffic” through both parcels of land. Notwithstanding this confusion the application does not make provision for vehicular access in the submitted drawings and I consider that any future applications on adjoining lands to the west must be dealt with on their merits and in accordance with the LAP for the area then operative. The Transport Department’s reports also refer

¹ See page 30 of the LAP

to pedestrian and cycle access to Rockfield Park. This is an area on the opposite side of the St Teresa's and Dunardagh lands to the west and if pedestrian and cycle access is available to St Teresa's and Dunardagh it may also, in the future be available Rockfield Park. The applicant in this application cannot be required to provide direct access all the way through to Rockfield Park.

12.36 Impacts on Protected Structure

12.37 It is the policy of the planning authority set out in Policy AR1 in the County Development Plan "to protect structures included in the Record of Protected Structures from works that would negatively impact on their special character and appearance". The planning authority's conservation architect's advice was that the entrance did not comply with the LAP requirement to provide access to the St Teresa's and Dunardagh lands, that the layout would limit future potential development of the lands by excluding an area occupied by temporary cabins and the original location of the carpark ramp would conflict with pedestrian and cyclist movements.

12.38 It appears that the conservation architect's advice related to a draft stage of the Blackrock LAP. I am satisfied that the adopted LAP does not envisage motor vehicle traffic between the lands at Cluain Mhuire and the St Teresa's and Dunardagh lands. The amended location of the access road/junction with Newtownpark Avenue and the amended access arrangement for the car parking now located under Block B, whereas it was originally located under Block A, overcomes the second and third objections from the planning authority's conservation architect. Although there is no second written report on file from the planning authority's conservation architect the planner's report records (see planner's report page 22) that there were no further objections from the conservation architect subsequent to the submission of FI.

12.39 The facade of Cluain Mhuire (formerly Rockfield House) and the entrance gates onto Newtownpark Avenue is a protected structure recorded in the County Development Plan to which Policy AR1 applies. The applicant submitted an architectural conservation assessment of the proposed development (see Robin Mandal's report received by the planning authority 26th January 2015) which concluded that the proposed works do not materially affect the character and structure of the protected façade or entrance gates.

12.40 It is fair to say that there will be a loss of some garden area which is within the curtilage of the former Rockfield House but this is balanced against the zoning of the site for residential development and the exclusion

of the protected elements within the site (the façade and entrance gates) from the application. The avoidance of any loss of original fabric of the protected structure is significant in the context of the advice set out at 6.8 of the Architectural Heritage Protection Guidelines 2011 that new development to or in the curtilage of protected structures should occasion the smallest possible loss of original fabric to these structures.

12.41 Having regard to the foregoing and in particular the amendments provided for in the additional information I conclude the proposed development is acceptable in terms of architectural conservation.

12.42 Flooding

12.43 The appeal makes the case that there is a likelihood of flooding in the vicinity of the site. The LAP (paragraph 8.1.3) addresses flooding within the area of the LAP and refers only to a history of flooding in the Carysfort Maretimo stream. This stream has been subject to an improvement scheme and, in any case, is located about 1km away from the site to the northwest. The LAP was accompanied by a Strategic Environmental Assessment which also noted the historic problems with the Carysfort Maretimo stream but did not refer to any history of flooding on the application site.

12.44 The current County Development Plan (see appendix 13) included a strategic flood risk assessment which mapped flood prone areas with the administrative area of Dun Laoghaire Rathdown County Council in accordance with the CFRAMS study. This mapping (see extract copy attached) does not indicate that the site or the immediate vicinity is prone to flooding although it does indicate that there has been a once off flood event on Newtownpark Avenue in the vicinity of the site. The planning authority's drainage section did refer to flooding when considering the application but did seek clarification in relation to the available space on Newtownpark Avenue for a 225mm surface water sewer.

12.45 The planning authority went on to specifically address this issue in a submission to the Board in relation to the grounds of appeal (see planning authority's letter dated 27th January 2016) wherein it made the point that a combination of SUDS, green roofs, permeable paving, bio-retention swales and a storm water attenuation system would ensure that surface water the runoff from the site would not exceed green field runoff rates.

12.46 Having regard to the strategic flood risk assessment and associated mapping undertaken in connection with the recently adopted County Development Plan, the material submitted with the application and the

submissions made in relation to the appeal I conclude that the proposed development will not give rise to risk of flooding either on site or in the vicinity of the site.

12.47 Appropriate Assessment

12.48 The application included an appropriate assessment screening report. The report identifies South Dublin Bay cSAC (code 000210), North Dublin Bay cSAC (code 000206), South Dublin Bay and Tolka Estuary SPA (code 004024) and North Bull Island SPA (code 004006) as the potential European sites on which the proposed development may be likely to have a significant effect either individually or in combination with other plans and projects in view of the sites' conservation objectives.

12.49 The screening assessment concludes that the site is 800m from Dublin Bay but that there is no direct link via water courses or drains, and that separation distance and lack of a pathway along with the nature and scale of the proposed development allows for the conclusion that the proposed development, alone or in combination with other plans or projects will not have any direct or indirect adverse Impact on the conservation objectives of any European site.

12.50 Having regard to;

- the material submitted with the application including the AA screening report,
- the likely emissions arising from the proposed development (source) the absence of a pathway between the proposed development and any European site (receptor),
- the conservation objectives for the four identified sites published by the NPWS

I conclude that there is adequate information available to conclude that the proposed development individually or in combination with other plans or projects would not be likely to have significant effect on any European site in view of the sites' conservation objectives and that a Stage 2 Appropriate Assessment and submission of an NIS is not required.

13. RECOMMENDATION

Having regard to the foregoing I recommend a grant of permission for the reasons and considerations, and subject to the conditions, set out hereunder:

Reasons and Considerations

The proposed development is located on lands zoned to protect and/or improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016-2022 and is subject to a site framework strategy in the Blackrock Local Area Plan 2015 to 2021 which supports residential development on the site.

Having regard to this planning policy for the application site, to the pattern of residential development in the area, the availability of public transport and community facilities in the area and subject to the conditions set out below it is considered that the proposed development would not injure the amenity of residential property in the vicinity, would not give rise to traffic hazard, would not negatively impact on a protected structure and would, otherwise, accord with the provisions of the County Development Plan and Local Area Plan and with the proper planning and sustainable development of the area.

The Board considered and adopted the planning inspector's conclusions in relation to Appropriate Assessment. The Board concluded that the proposed development, individually or in combination with other plans or projects, would not be likely to have significant effect on the South Dublin Bay cSAC (code 000210), North Dublin Bay cSAC (code 000206), South Dublin Bay and Tolka Estuary SPA (code 004024) or North Bull Island SPA (code 004006) in view of these sites' conservation objectives.

Conditions.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted on the 3rd day of November 2015 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The location and design details of the access from the proposed estate road to the parking area/service yard to the rear of Cluain Mhuire shall be as agreed between the applicant and the planning authority. Prior to

commencement of development these details shall be submitted to and agreed in writing with the planning authority.

Reason: in the interest of traffic safety.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park shall be in accordance with the detailed standards of the planning authority for such works.

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

5. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of pedestrian safety.

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

Reason: In the interests of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

8. All rear gardens shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides, to the written satisfaction of the planning authority.

Reason: In the interests of residential and visual amenity.

9. Screen walls shall be provided along the boundary with Cluain Mhuire and the boundary with the rear gardens of houses on Newtownpark Avenue. Prior to commencement of development details of the height, layout, the materials, and external finishes of these screen walls shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of residential and visual amenity.

10. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or the management company as appropriate.

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

11. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, residential units, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

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

Reason: In the interests of urban legibility.

14. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of the provision of a toucan crossing and associated lighting on Newtownpark Avenue. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index - Building and Construction (Capital Goods), published by the Central Statistics Office. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

15. The developer shall pay to the planning authority a financial contribution of €253,000 (two hundred and fifty three thousand euro) in respect of roads, public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

16. The developer shall pay to the planning authority a financial contribution of €126,500 (one hundred and twenty six thousand euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

17. The developer shall pay to the planning authority a financial contribution in respect of surface water infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

Hugh Mannion
Planning Inspector
13th April 2016.