



An  
Bord  
Pleanála

## Inspector's Report PL 06D.248770

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<b>Development</b>	Demolition of the Old School House, 59 apartments, café and kiosk
<b>Location</b>	The Old School House, Eblana Avenue, Dún Laoghaire, County Dublin
<b>Planning Authority</b>	Dún Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D16A/0548
<b>Applicant(s)</b>	Vigodon Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First & Third Party
<b>Appellant(s)</b>	Vigodon Limited Shane Dorley & Others
<b>Observer(s)</b>	The Dún Laoghaire Club Liudmila Sorgassi Andrew Rankin Neil & Annette Wallace

An Taisce

**Date of Site Inspection**

28<sup>th</sup> September, 2017

**Inspector**

Kevin Moore

## 1.0 Site Location and Description

1.1. The site of the proposed development is located on the north side of Eblana Avenue opposite its junction with Sussex Street in Dún Laoghaire town centre. It comprises the Old School House and its associated curtilage. The site is located to the rear of the County Hall and the new Harbour Square development. It is flanked to the east by properties fronting onto Marine Road and to the west by residential properties on Eblana Avenue. The Old School House on the site is an early nineteenth century structure ranging in height from two to four storeys. A surface car park runs along the eastern boundary of the site and there is a right of way provided here to the rear of properties on Marine Road.

## 2.0 Proposed Development

2.1. The proposed development would comprise the demolition of the Old School House building and the construction of 59 apartments, a café and a kiosk on a stated site area of 0.282 hectares. The development would be 5-6 storeys in height over basement level and would have a gross floor area of 6,575 square metres. The residential development would contain 15 no. one bedroom units, 33 no. two bedroom units, and 11 no. three bedroom units. The scheme would provide a total of 59 car parking spaces (17 at surface level and 42 at basement level), as well as 88 bicycle parking spaces, bin storage, plant areas, an ESB substation, a communal roof terrace, and a new pedestrian walkway allowing access from Eblana Avenue to Crofton Road. Vehicular access would be provided from Eblana Avenue.

2.2. Details submitted with the application included a planning application report, a design statement, an infrastructure report, a traffic and transport assessment, a mobility plan, a construction demolition and operational management plan, an energy statement, an architectural heritage impact assessment, and a visual impact assessment. A letter on behalf of the management company for Harbour Square, Crofton Road was also submitted which consented to the application being made allowing for connection of certain drains from the proposed development to the drainage line within its development prior to discharge to the public system on Crofton Road.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 30<sup>th</sup> May, 2017, Dún Laoghaire-Rathdown County Council decided to grant permission for the development subject to 31 conditions. Condition 2 required the omission of the fifth floor element of the development. Conditions 3, 4 and 5 requested elevational changes to the development. The decision reduced the residential component to 50 apartments.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted the site's planning history and third party observations made. Interdepartmental reports received were repeated within this report. The proposed provision of a pedestrian link through the site, identified in the Dún Laoghaire Urban Framework Plan, was noted. Development in the vicinity was described. A building of the size proposed was considered appropriate, having regard to the town centre context, the form and scale of development's in the vicinity, and the proximity to public transport services, town centre services and amenities. The proposed building was considered sufficiently set back from existing residential and commercial properties to the north-west and south-east. Concerns were expressed about the street front elevation's uniform height and scale. Design revisions were considered to be needed. The 'tower element' and western elevation were considered to have a visually overbearing impact on the existing streetscape and revisions were seen to be needed. Design revisions due to the visual impact on the Harbour Master's Lodge to the north were considered necessary also. Concerns were also raised about the effectiveness of the focal point on Eblana Avenue for the proposed public pedestrian route and the need for a commercial unit at first floor level at this location. Concerns were also expressed about the inadequate mix of uses and dead street frontage. Clarity was considered necessary on the treatment of the public walkway, landscaping, materials, storage spaces, and relocation of balconies. It was submitted that no significant overlooking issues would arise, with the exception of impacts on No. 2 Marine Road and revisions were recommended. No significant impacts by way

of overshadowing were seen to arise. The mix of residential units was considered acceptable. The demolition of the existing building was considered acceptable subject to the redevelopment proposal being of an appropriate standard. The raised walkway within the site was considered acceptable as it provided access to a number of own door units and communal building entrances. Clarity was considered necessary in relation to land ownership applicable to drainage proposals. Further information was recommended.

### 3.2.2. Other Technical Reports

The Conservation Officer noted the planning history associated with the site and development plan policies. It was submitted that, from a purely conservation standpoint, there would be a preference for the retention of the original H-Plan section of the Old School House but it was acknowledged that a precedent had been established. The form, scale and massing of the proposed development was considered inappropriate and overbearing when viewed from Eblana Avenue, Crofton Road and Sussex Street. The design was seen to be big box architecture that would result in a diminution of the receiving environment. Furthermore, its scale, height and massing was seen to be visually intrusive on the adjoining Harbour Master's Lodge (a protected structure), it was found to dominate the streetscape along Eblana Avenue, and the public walk through the site required changes. It was concluded that significant remodelling was required for the scheme.

The Health Service Executive's Environmental Health Officer had no objection to the proposal subject to conditions.

An officer from the Communications Section in County Hall referred to the need to maintain the existing right of way through the site and raised concerns about vermin infestation and rock breaking and excavation works.

The Parks and Landscape Architect had no objection subject to one condition.

The Environmental Health Officer of the Air Pollution and Noise Control Unit had no objection subject to conditions.

The Housing Officer noted the proposal is capable of complying with the requirements of Part V.

The Drainage Engineer referred to drainage shortfalls that required further information.

The Transportation Planning Engineer requested further information relating to rights of way, boundary treatment, gates, service access arrangements, and parking.

### 3.3. **Prescribed Bodies**

An Taisce submitted that an evaluation is required that demonstrates that all issues arising from the previous refusal of permission have been resolved.

Irish Water requested further details on foul sewage discharge proposals.

### 3.4. **Third Party Observations**

Objections were received from Brendan J. McLaughlin and Leone Murdock, Liudmila and Marco Sorgassi, Atlantic Projects Company, Edel Kennedy, Nando's Chickenland (Ireland) Ltd., Shane Doorley, Avril Wilson-Rankin, Marco Sorgassi, Carraighill Capital Limited, Cllr Ossian Smyth, Tír na nÓg Creche & Montessori School, Padraig and Anne Thornton, Andrew Rankin, and Neil and Annette Wallace. The third party appeal and observations address the principal planning issues raised.

A request for further information was issued by the planning authority on 19<sup>th</sup> September, 2016. The applicant responded to this request on 11<sup>th</sup> January, 2017. This response reduced the number of apartments to 52, introduced office space, reduced car parking and private open space, and increased site coverage.

Following this submission, additional third party observations were made by Shane Doorley, Marco Sorgassi, Carraighill Capital Limited, Cllr Ossian Smyth, Neil and Annette Wallace, Tír na nÓg Creche & Montessori School, Brendan McLaughlin and Leone Murdock, Padraig and Anne Thornton, Liudmila Sorgassi, Edel Kennedy, Andrew Rankin

The reports to the planning authority were as follows:

The Waste Enforcement Officer recommended attachment of conditions.

The Senior Architect requested that the Eblana Avenue elevation to be amended by lowering the main parapet, that the lift and steps leading to the Harbourmaster's Lodge be integrated into the main development and that the wall be opened up to facilitate a pedestrian route through.

The Transportation Planning Engineer requested clarification on set back and treatment along Eblana Avenue, ramped access along the walkway, boundary wall removal adjacent to Harbour Place, cycle facilities, and cycle access.

The Drainage Engineer requested clarification on landowner consent to connect to an existing sewer line.

The Planner repeated his earlier report, restated the further information request and restated the more recent interdepartmental reports received. Further design revisions and changes to uses were considered necessary to be sought by way of clarification.

Clarification of many of the further information request issues was sought by the planning authority on 6<sup>th</sup> February, 2017. A response was received from the applicant on 3<sup>rd</sup> May, 2017. The clarification response included revisions of the further information response in relation to the floor areas of the commercial component, a reduction in gross floor area, and increased private open space. It included a range of setbacks at upper levels, changes of proposed uses at ground and first floor levels, and revisions to elevations.

Following this submission, additional third party observations were made by Brendan McLaughlin and Leone Murdock, Liudmila Sorgassi, Andrew Rankin, and Neil and Annette Wallace.

The reports to the planning authority were as follows:

The Drainage Engineer had no objection subject to conditions.

The Transportation Planning Engineer had no objection to the proposal subject to conditions.

The Parks and Landscape Architect recommended the attachment of a standard condition.

The Senior Architect was not disposed to the omission of the open return to the balconies on the elevation facing Marine Road and asked for flexibility on materials. It was also submitted that the fifth floor element should be omitted.

The Planner repeated each of the reports previously made, the further information request, and the most recently submitted interdepartmental reports. It was recommended that the fifth floor element of the development be omitted and that elevational changes be sought by way of condition. A grant of permission was recommended.

## 4.0 Planning History

### ABP Ref. PL 06D.121894

The Board refused permission for a mixed use development of offices and apartments in a six storey block.

### ABP Ref. PL 06D.214019

The Board refused permission for a mixed use development in a development up to seven storeys in height.

### ABP Ref. PL 06D.225933

The Board granted permission for the demolition of the Old School House and rear of No. 3 Eblana Avenue and the construction of a mixed use development of retail and office accommodation and 71 residential units. The Board, by way of condition, omitted the fifth and sixth floors from the development.

## 5.0 Policy Context

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

#### Zoning

The site is zoned 'MTC' with the objective "To protect, provide for and/or improve major town centre facilities." Uses permitted in principle within this zone include retail and residential uses.



## Residential Development

Policies include:

### *Policy RES3:*

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- ‘Sustainable Residential Development in Urban Areas’ (DoEHLG 2009).
- ‘Urban Design Manual - A Best Practice Guide’ (DoEHLG 2009).
- ‘Quality Housing for Sustainable Communities’ (DoEHLG 2007).
- ‘Irish Design Manual for Urban Roads and Streets’ (DTTaS and DoECLG, 2013).
- ‘National Climate Change Adaptation Framework - Building Resilience to Climate Change’ (DoECLG, 2013).

### *Policy RES4*

It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

## Urban Design

Policies include:

### Policy UD1

It is Council policy to ensure that all development is of high quality design that assists in promoting a ‘sense of place’. The Council will promote the guidance principles set out in the ‘Urban Design Manual – A Best Practice Guide’ (2009), and in the ‘Design Manual for Urban Roads and Streets’ (2013) and will seek to ensure that development proposals are cognisant of the need for proper consideration of

context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

### *Policy UD6*

It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.

### Built Heritage

Policies include:

#### *Policy AR1*

It is Council policy to:

- i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).
- ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011).
- iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

## **6.0 The Appeals**

### **6.1. Grounds of the First Party Appeal**

The applicant is appealing the attachment of Condition 2 with the Council's decision to grant permission and is seeking its removal. The grounds of the appeal may be synthesised as follows:

- Full consideration was not given by the planning authority to the overall design of the building. The overall building cannot work without the fifth floor element. The omission of the top level is not a simple exercise and undermines a lot of the design intent for the penthouse level. Access for all to the roof terrace is required. The design intent was to integrate the core into the design of the penthouse level rather than have the building mass manifest itself as an ungainly protrusion.
- Full consideration was not given by the planning authority to access within the scheme to all levels. The planning authority has erred in their judgement by the attachment of this condition and it is wholly unacceptable. It is a flawed condition.
- The site is prominent and important. The appellant rejects the view that the scheme would significantly detract from the design intent of the tower element for the reason that the tower element alone represents an individual element that alone delivers legibility at this prominent location. The Planner's approach is unbalanced and unjustified.

In conclusion, the Board is asked, if it does not support the applicant's position, to accept that the scheme submitted as part of the Clarification cannot be delivered due to impact on design. The Board is directed to grant permission for the scheme as submitted on 11<sup>th</sup> January, 2017 (the further information stage). The Board is, thereby, asked to consider the case *de novo*.

## 6.2. Grounds of the Third Party Appeal

The third party appeal is made by Shane Doorley, No. 5 Sussex Street, Avril Wilson-Rankin, No. 12 Sussex Street, and Marco Sorgassi, No. 2 Marine Road, Dún Laoghaire. The grounds of the appeal may be summarised as follows:

- The proposed development, by reason of scale, density, height and proximity to neighbouring properties, materially contravenes Zoning Objective 'MTC' 'to protect, provide for and/or improve major town centre facilities'.

- The proposal, by reason of significant loss of amenity to neighbouring properties on Eblana Avenue, Marine Road and Sussex Street due to its scale, density, height and proximity to neighbouring properties, materially contravenes policy RES3 of the Development Plan, which seeks ‘... to promote higher residential densities provided that proposal ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development.’
- The proposal, by reason of scale, density, height and proximity to neighbouring properties, particularly on Eblana Avenue, Marine Road and Sussex Street, materially contravenes policy RES4 of the Development Plan, which seeks ‘... to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.’
- The decision by the Council is a material contravention of Policy RES4 as it bypassed the significant impacts on adjacent residential amenities in favour of high density.
- The proposal, by reason of scale, density, height, proximity to neighbouring properties and traffic generation, materially contravenes Policy UD1 of the Plan, which seeks ‘... to ensure that all development is of high quality design that assists in promoting a ‘sense of place’.
- The proposal contravenes Policy UD6 which seeks adherence to the recommendations of the Building Height Strategy for the County, whose aim is to ensure the protection of general residential amenities while encouraging higher densities.
- The proposal fails to protect buildings, structures and sites contained in the Record of Protected Structures contrary to Development Plan policy. The Old School House predates all other buildings on the street, very little of the original façade has been modified, and this part of the building should be preserved.

- No consideration has been given to traffic management or waste disposal. The traffic assessment does not reflect reality on Eblana Avenue. There is a serious deficiency in parking provision. The underground car park would seriously inhibit the surrounding area and the established right of way.
- The application process was contrary to the spirit and intent of due process as set out in planning guidance, with further information and clarification.
- There is concern that potential impacts would arise from demolition and excavation works on adjoining property.
- The proposal would result in an over-provision of cafes in the area.
- The proposal would impact on key local views on Eblana Avenue.

The appeal included a submission by Edel Kennedy that focused primarily on architectural heritage and urban design impacts.

### 6.3. Applicant Response to Third Party Appeal

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

#### Design Elements

- On balance, the proposal has addressed any significant concerns raised by third parties at planning application stage.
- The particular site has a unique location, being proximate to main streets, key public transport nodes, and the marina area. A proposal of this density, height and scale can only be considered appropriate.
- It is accepted that a certain level of sensitivity was required in relation to the design of the tower element. The plan size was reduced whilst maintaining the height for legibility. The landmark identity afforded by the tower cannot be lost.

#### Density

- The density of development is acceptable given proximity to public transport nodes, the site's general location, and having regard to Development Plan policy.

- The Board has previously granted permission for a density of 171 units per hectare and this is a relevant consideration.
- All issues relating to residential amenity have been addressed.

### Height

- The proposal is compliant with Development Plan policy, complying with more than two upward modifiers that permit additional height – proximate to public transport nodes, promoting higher densities, and delivering a major planning gain with the new walkway.
- There is a clear precedent with the Board granting permission for five storeys.
- The additional set back, comprising a six storey element, has been appropriately designed, providing two apartments that give legibility and definition to the overall scheme, with no impact on existing residential amenity.
- The scheme varies from 3-5 storeys to the rear and there are significant set backs.

### Car Parking

- Office and commercial elements will not require parking given the town centre location.
- Under the Development Plan, reduced car parking standards may be acceptable depending on the location and its proximity to town centre, public transport, etc. The site complies with these criteria.

### Right of Way

- Proposed gates were removed at the clarification stage of the application.
- The applicant accepts that the right of way and wayleave cannot be impeded. There will be clear points of access delivered to each property and the areas will be kept free from obstruction at all times.

### Impact on Residential amenity

- There has been a considerable set back of the building adjacent to No. 2 Marine Road. Only high level windows are incorporated on the immediately opposing gable wall.
- Given the location of the development vis a vis No. 5 Sussex Street and the fact that the latter faces the Eblana Club, overlooking of that property will not occur.
- The application material graphically demonstrates the reality of the impact of the proposal, with verified photomontages.
- The scheme was subject to significant revision and all potential residential amenity issues have been addressed.
- There exists significant planning precedent at the appeal site for a significant level of development.

### Impact on Protected Structures

- The Planner has, on balance, addressed all requests from the Conservation Department. New set backs and revisions to elevations ensure there is no impact on protected structures.

### Devaluation of Property

- It is inappropriate to preclude development on a town centre site for such a reason.

### Procedural Issues

- There was significant pre-planning associated with the site and the overall principle of the scheme was generally agreed prior to lodgement.
- The planning authority's approach was balanced.

### Anti-Social Behaviour

- The proposal provides for activity and supervision at ground floor level and the high quality nature of the proposal will assist in providing passive security along the walkway.
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### Impact on Groundwater

- A construction, demolition and waste management plan was submitted and this outlined how the main contractor would protect water quality.

### Overprovision of Cafes

- The planning authority accepted and encouraged the principle of such a proposal.
- It will enhance the level of activity at this location, which will act as a catalyst for further activity in the immediate area.

### Impact on Views

- The proposed height of the development is framed by the local context. There is clear precedent in the area that far exceed the current proposal, namely The Lighthouse, The Crofton and Harbour Square.

### Precedent for Refusal

- Examples given by the appellants are not considered relevant given significant differences in site context.

### Demolition of the School House

- A clear precedent exists for the demolition of the Old School House.
- The buildings on site are not protected and are not located within an Architectural Conservation Area.

### Proposed Walkway

- This is a significant planning gain.
- The proposal will improve physical linkages, permeability and accessibility between the town centre and waterfront.
- The provision of a pedestrian connection is a key objective within the Dún Laoghaire Urban Framework Plan.



#### **6.4. Planning Authority Response**

In response to the first party appeal the planning authority submitted that, in view of the concerns raised relating to the height of the tower element, Condition 2 was stipulated requiring the omission of the fifth floor from the scheme.

In response to the third party appeal the planning authority submitted that concerns raised by third parties were taken into consideration, a number of changes were made to address various urban design issues, and conditions were included in the decision requiring the omission of the fifth floor element and other design amendments. It was not considered that the permitted development would have any adverse impact on residential amenities or the right of way to adjacent private entrances.

#### **6.5. Observations**

The Dún Laoghaire Club, Eblana Lodge, raised concerns relating to impact on light to the rear garden of the property and functions associated with the Club being in conflict with tenants

Liudmila Sorgassi, No. 2 Marine Road, raised concerns relating to the negative impact on her property due to the size and overbearing impact, loss of privacy, impact on an established right of way, construction and demolition impacts, adverse traffic impacts,

Andrew Rankin, No. 12 Sussex Street, raised concerns relating to inappropriate scale, inadequate pedestrian permeability, traffic impacts, impacts on parking, architectural discordance, erasure of local charm, context and history, and the type and positioning of commercial units.

Neil and Annette Wallace raised concerns relating to procedural issues, precedent, protection of built heritage, visual impact due to scale, height and density, use of photomontages, parking and traffic congestion, anti-social behaviour, and the development mix.

An Taisce raised concerns relating to the proposed building height, undesirable demolition of the Old School House, and impact on protected structures.

## 7.0 Assessment

### 7.1 Introduction

7.1.1 I consider that the principal issues that require consideration are the process to date, the visual impact of the proposal, the demolition of the Old School House, the impact on residential amenity, and the applicability of Condition 2 of the planning authority's decision.

### 7.2 The Process to Date

7.2.1 The proposed development has been subject to pre-application consultation with the planning authority, the making of an application with all of its associated documentation, further information, and clarification. At each stage of this process, the proposed development underwent significant revisions at the request of the planning authority. At the end of this process, the proposed development was required by the planning authority to undergo further substantial change by way of the attachment of Condition 2 which required the removal of another floor of development. It is noted also that Conditions 3, 4 and 5 required further elevational changes. The permitted development is a demonstrably different proposal from that originally sought. At every stage of the planning authority's intervention the proposed development has been altered and the initial scheme has been, to a substantial degree, physically distorted. The first party appeal has accurately indicated how the finished product, resulting from the decision by the planning authority, has ultimately left the applicant with a project that it sees cannot be pursued due to the dysfunction of what remains. This a most unsatisfactory outcome.

### 7.3 Visual Impact

7.3.1 In my opinion, this is a proposed development which has been, from the outset, over-scaled and incongruous in its context in terms of height, design and building form, when due regard is had to the Board's previous decisions relating to this site. Under Appeal Ref's PL 06D.121894 and 06D.214019, planning applications were refused for large blocks for reasons relating to overdevelopment and excessive massing, height and bulk. Under Appeal Ref. PL 06D.225933, An Bord Pleanála

permitted large scale development on this site. However, this was subject to Condition 2 which required the developer at that time to reduce the height of the development by omitting the fifth and sixth floors.

7.3.2 It is notable that the applicant has continued to pursue building height in excess of that which the Board clearly set down as a building height condition considered suitable and most appropriate at this sensitive location, in the immediate vicinity of a number of protected structures, namely the Harbourmaster's Lodge, Nos. 5-7 Eblana Avenue, St. Michael's Church and the houses immediately to the south-east on Marine Road. I note for the Board that the immediate context for this streetscape remains unaltered since these earlier decisions. I acknowledge and accept the scale of new development to the rear of the site in this town centre location. However, a very clear understanding is required of the elevated nature of the appeal site over the lands on which this development and the Harbourmaster's Lodge (a protected structure) is located, requiring very careful integration of any new development on the appeal site to avoid unwanted prominence. The proposed development would be a very overwhelming structure at this location, in my opinion, when the elevated nature of the site is truly assessed against the scale of new development on the east side of the protected structure (appearing as three storeys over the ground level on which the protected structure is sited).

7.3.3 I note that the Board's reasoning for Condition 2 in its previous decision to grant permission was "In the interest of visual and residential amenity". It is my understanding from this that a fifth and a sixth storey would unduly impact on the streetscape and that this also would have adverse impacts on neighbouring residential properties. This would suggest that an overbearing impact arises for both the streetscape and for residents. In acknowledging that the new scheme now before the Board requires to be assessed on its own merits, I cannot but direct the Board to the two previous refusals by the Board relating to this site and to that permitted, which must be understood to provide guidance as to what is not acceptable.

7.3.4 Overall, what has been pared away, shaved off, eroded and altered by the planning authority has not addressed the principal issue of scale, height and form in this streetscape. Indeed, these changes have distorted an original design such that the proposal is now an amalgam of 'elements' that fails to coordinate to address the streetscape relationship and the sensitivity of protected structures and residential

properties in the immediate vicinity. The outcome is a development that is contextually misplaced, one that would be intrusive on the streetscape and adjoining sensitive properties for the following reasons:

- There is an incoherence in design by the interventions of the planning authority, where an intended 'stand-out' feature, the tower, has been subsumed into the main structure.
- The final development that is produced is box-like architecture, a contemporary approach that jars with the character of the streetscape and makes no attempt to respect the type of prevailing development around it. The mundane variety and extent of glazing and openings onto the street, the indented roof form, and the sheer mass of the independent block are but some of the clearly inconsistent design characteristics that do not sit comfortably in this streetscape. The applicant, in response to the third party appeal, contends the particular site has a unique location, being proximate to main streets, key public transport nodes, and the marina area. Indeed, it is a unique location that is required to have regard to what is around it, i.e. its context. I, thus, concur with the Council's Conservation Officer that the design is big box architecture that would result in a diminution of the receiving environment.
- The height of the proposed building, as referenced above, is misplaced and fails to adhere to the one main guidance criterion previously espoused by the Board. A large structure with fifth and sixth floors was not seen to be appropriate previously. Where the physical context remains unaltered, how could it now reasonably be determined to be appropriate? The consequence of permitting the development is such that a large, bulky block will dominate the streetscape and the approaches to the site.
- There is a failure in the relationship of the proposed development with adjoining structures in terms of attempts to grade down and alter elevations. The amount of effort that has gone in to puncture the gables of the structure at a late stage to reduce the extent of blank walling is an example that suggests after-thought about adverse visual impacts on adjoining properties and on the streetscape.

- The incongruity arising clearly demonstrates that the building seeks to function in isolation of its relationship with protected structures and other buildings of architectural merit in the vicinity. While there is evidently a requirement to support higher densities in this town centre location, the form, scale and character of new development must demonstrate a degree of respect to protect and not injure the established built form. This is a 'stand-alone' and 'stand-out' building proposal, which makes it intrusive in its sensitive context.
- Finally, this proposal is implacably deficient in addressing impacts on places where people currently live on and in the vicinity of Eblana Avenue. It is acknowledged that it is a town centre location, thus a degree of interference by way of some loss of privacy is taken as given in such a context. However, the effects of open balconies, a communal roof garden etc. are compounded by the bulk, height and mass that towers over immediate neighbours and culminates in such a distinctive overbearing impact.

7.3.5 In considering the above, it is my submission that the proposed development seeks to visually dominate the streetscape and to openly compete with the dominant features in the locality, a number of which are protected structures and merit their status as visibly prominent features within the wider townscape. I submit to the Board that the proposed development, with consequential dominant impacts on the wider streetscape, does not merit these impacts as such development is not of equal status, bears a poor relationship with adjoining subservient structures, and merits a more subservient design approach itself, starting with the overall building height. The proposed development would be a domineering structure on Eblana Avenue, highly visible along all approach roads, to the detriment of the form and character of the street and to the setting of many of the protected structures.

7.3.6 With regard to the walkway as an amenity feature that is proposed to be of benefit to the public, I am of the opinion that the dark tunnel through which it would proceed from Eblana Avenue would not be an enticing feature in the current design and is unsuited. For true planning gain, this walkway should be an open lane and not one that hurries passers-by along a bleak, darkened channel. If this planning gain is to be achieved it should be undertaken to be a permanent appropriate amenity addition to the town centre streetscape.

7.3.7 In conclusion, I ask the Board is one or the other of the submitted proposed block, revised block or clarified block a suitable response to achieve desired sustainable development on Eblana Avenue, having regard to:

- the building height,
- the architectural expression of the block,
- the introduction of an appropriate mix of development uses at this town centre location (note the very limited alternative ranges of uses to residential use in this town centre location),
- the creation of an enticing pedestrian link between Eblana Avenue and Harbour Square and onwards to Crofton Road,
- limiting the effects on residential amenity arising from the siting of key amenity features of the proposed residential units, and
- the achievement of a balanced relationship with protected structures in the vicinity and with the overall streetscape (i.e. both sides of the street).

I submit that the proposed development does not achieve these necessary requirements for a development on this site to function sustainably.

#### 7.4 The Demolition of the Old School House

7.4.1 I note the Board, in dealing with Appeal Ref. PL 06D.225933, accepted the principle of the demolition of the Old School House to facilitate new development. This must continue to be accepted as an important precedent. I note this structure is not a protected structure.

7.4.2 While not seeking to re-evaluate this decision, I have the following comments in light of the appeals and observations made:

- A protected structure is one considered in the opinion of the planning authority to be of special architectural, historical, archaeological, artistic, scientific, technical or social interest. It is acknowledged that the Old School House is one of the oldest structures on Eblana Avenue on which there are several protected structures. The Old School House, undoubtedly, has special cultural, historical and social interest and it has been argued that there are

internal features that are of architectural value and that the building itself contributes positively to the streetscape.

- The Council's Conservation Architect submitted that, from a purely conservation standpoint, there would be a preference for the retention of the original H-Plan section of the Old School House. An Taisce submits that the demolition of the structure would be undesirable.
- The existing structure is seen as one which is long established and without any intrusive impact on the streetscape.

7.4.3 Having regard to the physical attributes of this structure, to its contribution in building form to the character of the streetscape and to its important social history, one could reasonably ask why such a structure should not form a benchmark for replacement development. This is not a condemned structure and the original building is a building of some architectural merit in this streetscape. There are clearly many ways of coming up with innovative design options to facilitate an expression onto the street that does not so overwhelm the street and its immediate environs. Retention of the older section of the building and development behind is but one option. I do not accept the need for complete demolition and do not accept the proposed development merits consideration in its place because of the very significant streetscape distortion that results from it.

## 7.5 Impact on Residential Amenity

7.5.1 Reference has been made above to the overbearing impact of the proposed development on neighbouring properties. In my opinion, there can be no doubt that the scale, height, mass and bulk of the proposed building would result in a very significant overbearing impact on the adjoining properties due to the proximity of the large structure. Overbearing impact is one that cannot be minimised in this instance with the proposed building's height, scale, mass and bulk.

7.5.2 There would be a notable impact for adjoining properties by way of overshadowing due to orientation and proximity to adjoining properties. However, this is a town centre site and there can be no expectation of unimpeded or unaltered light conditions to properties as a town centre site such as this undergoes redevelopment.

7.5.3 With regard to overlooking, I must again acknowledge the town centre location and commence by submitting that protection of privacy in such a context to the standard heretofore attained may not be guaranteed where a significant town centre site is undergoing redevelopment. However, one cannot ignore the range of uses that adjoins this location and there must be an expectation that a reasonable degree of protection is afforded to established residents where a new development seeks to be superimposed at a location which has not to date posed significant threats to privacy. The applicant has gone to some lengths to alter the design to address adverse impacts arising from overlooking. To achieve a satisfactory level of protection, balconies causing difficulties for No. 2 Marine Road were revised. This response diminished the relevant gable elevation by creating a very large blank wall. However, it is apparent that the concern of direct overlooking from balconies has been eroded by the design changes.

## 7.6 Condition 2 of the Planning Authority's Decision

7.6.1 I note that the planning authority, in making its submission to the Board in response to the first party appeal, has not actually addressed the grounds of the first party appeal. The applicant is understandably frustrated with the processing of this application, with the proposed scheme having had to undergo many physical alterations and changes to uses within the proposed structure. The applicant has appropriately identified the failure by the planning authority to understand the impact of the intervention on the design and functionality of the proposed development by the imposition of Condition 2 with its decision. The building design, with its clear intent as a functioning structure with accessibility to all levels, has been compromised and the consequences for the final presentation of this development, I would submit, have not been understood by the planning authority before making its decision. The building composition as originally formatted has been subject to any array of stuttering interventions that has culminated in a permitted development that the applicant cannot now pursue.

7.6.2 While I firmly recommend that the proposed development, in all of its forms, is not appropriate on this street, I consider that, in the event that the Board disagrees with this position and considers a grant of permission is appropriate, then the Board



should seriously consider acquiescing to the applicant's request to permit the development proposal submitted to the planning authority on 11<sup>th</sup> January, 2017. I recommend this only to ensure that an adequately functioning building would result, if this proposed design is to be followed.

## 7.7 Miscellaneous Issues

7.7.1 I note that several other issues arose in submissions to the Board. My considerations on the main planning issues are as follows:

- The proposed development would clearly increase the volume of traffic onto Eblana Avenue. This is a town centre street. This site has been the subject of a previous grant of permission for intensive development. I do not consider that there are any particular traffic concerns arising now that would merit a refusal of permission because of vehicular movements into and out of this site resulting from the development.
- The proposed development would be sited in a town centre in immediate proximity to several public transport options. It is suitable and desirable to seek to limit the extent of parking at this site. I am satisfied that the proposed parking provision is adequate.
- I am satisfied to conclude that adequate measures are proposed to ensure that rights of way to properties fronting onto Marine Road are protected and unimpeded access would be maintained. This would not be a gated development.
- Having regard to the extent of development that has taken place in the immediate vicinity of this site, I cannot reasonably conclude, in the absence of information to the contrary, that the proposed demolition and excavation works would have significant adverse impacts on adjoining properties.
- With regard to the over-provision of cafes at this location, this is not a matter of particular concern in this town centre location which allows for uses of this nature in accordance with the zoning provisions for the area. A more serious planning issue is the failure to come up with a more imaginative mix of land uses for this site. The proposed development is ultimately a residential block,

where the applicant has been cajoled into providing very minor alternative uses in the hope that these would in some way stimulate visual interest for the building, rather than seeking to achieve a better balance of uses in a valuable town centre location where an opportunity to expand the range of uses may be lost.

## 8.0 Recommendation

- 8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

## 9.0 Reasons and Considerations

1. The proposed development, by reason of its excessive height, massing and bulk relative to the established pattern of development on Eblana Avenue and its immediate environs, would constitute a discordant structure which would be visually obtrusive on the streetscape, would seriously detract from the visual setting of nearby protected structures, and would, as a consequence, seriously injure the built form, scale and character of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the incongruous form, excessive scale, bulk and height of the proposed development and its proximity to adjoining residential properties, it is considered that the proposed development would be seriously injurious to the amenities of these adjoining properties by way of significant overbearing impact and would, thus, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore

Senior Planning Inspector

28<sup>th</sup> September, 2017.