



An
Bord
Pleanála

Inspector's Report PL06F.249130

Development	22 Apartments, vehicular entrance and site works.
Location	17 Sutton Road, Sutton, Dublin 13
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F16A/0541
Applicant(s)	G. Gallagher
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	(1) T.C. & Patricia Smyth (2) David Smeed
Observer(s)	Ann Thornton/Hillwatch
Date of Site Inspection	25 th November & 5 th December 2017
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The site has a stated area of 0.3563 and is located to the east of Sutton Dart station on Station Road, Sutton, Dublin 13. The site largely comprises the lands between the rear of 17 Station Road and the Dart line. The southwestern boundary of the site largely comprises the rear boundary walls of 17, 18, 18A and 18B Station Road. There is an element of this boundary which defined by a timber lath fence separating the lands to the rear of the 17 Station Road from the roadside garden/parking area subject to appeal number PL06F.249121. The south eastern boundary adjoins 16 Station Road, the northern boundary adjoins a coastal walkway and then the Dart line, and the western boundary adjoins Saffron House (shown, incorrectly, as Sutton House on the OS map). The application site is uneven and may have been subject to some filling and but has a slope, generally, south to north.
- 1.2. Saffron House apartments is a three storey apartment building with an access to Station Road between the application site and Sutton Dart station. The building has over ground residents' car parking and shared open space behind the building located along the boundary with the application site. Because the application site is uneven but generally slopes south to north the boundary wall between Saffron House and the application site varies in height from about 1m to about 1.5m but is higher on the application site's side than in the rear/side garden of Saffron House.
- 1.3. 17 and 18 Station Road are a pair of semidetached partly two/partly three storey Victorian Houses which are protected structures. 18A and 18B Sutton Road are two modern two storey houses constructed in the side garden of 18 Station Road. Adjoining these is Saffron House. Immediately to the south east of the application site is 16 Station Road (an appellant's house). The road side boundary of the site of PL06F.249121 comprises a castellated capped and rendered boundary wall with a splayed vehicular/pedestrian entrance. This wall and the existing entrance will be amended to accommodate an access road serving the proposed house under PL06F.249121 and the apartment block under PL06F.249130.

2.0 Proposed Development

- 2.1. The proposed development comprises lands adjacent to 17 Station Road, Sutton, Dublin 13 where it is proposed to erect 22 apartments in a three storey over

basement block. 18 two bed units and 4 one bed room units are proposed. Car parking, bike parking, bin store and plant room at basement level. A new/relocated vehicular entrance is proposed to Station Road, boundary treatment, bike parking and associated works all at 17 Station Road, Sutton, Dublin 13.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted planning permission subject to 30 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning authority initially requested further information;

- Submit details of the northern boundary in relation to the Dart line and the coastal pathway.
- Submit an assessment of the impacts on lands to the north.
- Submit details of the access and boundary arrangements along Station Road.
- Submit details of bike parking in the basement.
- Revise north facing balconies as winter gardens, in particular for apartment number 11.
- Submit a colour scheme/finishes for the building.
- Submit a noise impact analysis of the railway on the units.
- Submit revisions to landscaping including a playground.
- Demonstrate that the trees are viable in relation to the underground structure.
- Submit an assessment of the impacts on birds using the estuarine mudflats opposite the apartment block.

The applicant responded to the request for further information on the 7th July 2017.

3.2.2. Other Technical Reports

The **Transport Planning Section** (reported 7th December 2016) reviewed the parking provision and reported no objection.

Water Services Section (reported 8th December 2016) reported no objections subject to conditions.

The **Biodiversity Office** (18th January 2017) sought additional information on the impact on birds.

Conservation Architects (20th January 2016) reported objections to a three storey block, screening, materials and boundary treatment along Station Road. A second report (20th July 2017) raised issues, inter alia, concerning access to Station Road, boundary treatments and planting along the rear of 17 and 18 Station Road.

Parks Section (19th January 2017) reported that the tree to be retained should be protected during construction works. A second report (20th July 2017) raised issues of tree protection, boundary treatment, playground equipment.

3.3. Prescribed Bodies

Irish Water (reported 9th December 2016) stated no objection to the application.

Irish Rail (letter dated 19th December 2016) objected on the basis that the applicant did not have title to all the lands outlined in the application documents. Further conditions relating to boundary treatment were set out.

3.4. Third Party Observations

Observations were received from T.C. & Patricia Smyth, 'Hillwatch' and David Smeed raising issues, generally, set out in the appeals.

4.0 Planning History

- 4.1. Under PL06F.244406 Permission was refused for 6 houses to the rear of 17 Station Road, Sutton, Dublin 13 for the reason that;

Notwithstanding the submissions made further to the issuing of a S137 notice, the Board considered that the proposal constituted an inappropriate architectural response to this back land site, which did not achieve densities compliant with Sustainable Residential Development in Urban Areas as issued by the DoECLG in 2009, was suburban in nature and did not, because of its layout provide for a high quality of urban design or an adequate level of amenity to future residents due to the absence of usable public open space. The Board also considered that house unit No. 1 failed to respect the elevational treatment of its neighbours and would detract from the visual amenity of the streetscape. The proposal would therefore be seriously injurious to visual and residential amenities of the properties proposed and of properties in the vicinity and would not be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered that the design approach being proposed was an inappropriate response to the site given the pattern of development in the area, the proximity to nearby public transport facilities and the recommendations of National guidance.

5.0 Policy Context

5.1. Development Plan

- 5.2. The site is zoned RS 'to provide for residential development and protect and improve residential amenity' in the Fingal County Development Plan 2017 to 2023 where residential development is permitted in principle.

5.3. Natural Heritage Designations

See Appropriate Assessment Section below.

6.0 The Appeal

6.1. Grounds of Appeal

- Drawing 2261-P-001 is unclear as to the detail of how foul water is to be discharged from the site. Condition 7(a) relates to the discharge of surface water to the public sewer. This condition should be met prior to commencement of development.
- The proposal to pump surface water which enters the basement to the foul sewer is in conflict with condition 13(c).
- Numbers 17 and 18 Station Road are now protected structures. The proposed apartment building should be reduced to two storeys as suggested by the Conservation Officer in order to maintain the architectural integrity of the setting of Numbers 17 and 18 Station Road.
- The apartment block (specifically the third floor) will overlook the private amenity space/garden of 18 Station Road and devalue this property. The car parking will give rise to noise impact on the amenity of the rear garden of 18 Station Road. There is a deficiency in car parking provision which will lead to on-street parking.
- Saffron House has 9 apartments but is not a precedent for the proposed development. The planning authority granted permission for 9 houses at Burrow Heath at a much lower density¹. The appeal decision in PL06F.244406 was based on design – not density.
- The proposed development is too close to Saffron House and the planning authority's request that it be moved 1m closer exacerbates the negative impacts.
- The car parking will impact on the amenity of Saffron House. The proposed development will negatively impact on daylight and sunshine to apartments in Saffron House. Unit 2 overlooks Saffron House.

¹ PL06F.243240 appeal withdrawn/not determined in June 2014.

- The proposed development is liable to flooding and has been refused permission previously for this reason under PL06F.235622.
- The application is deficient in open space provision.

6.2. Applicant Response

- The application resolves the issue of excessively low density raised in PL06F.244406 (6 units amended to 11 units through further information). The site is 150m from Sutton Dart station. The proposal complies with the Sustainable Residential Development Guidelines.
- 32 car parking spaces are being provided with bike parking at basement level.
- Access is via an existing but slightly relocated entrance to Station Road.
- The proposed development is located 39m distant from any protected structure. The proposed development is 13.1m from the closest point to the Saffron apartments; the Development Plan recognises that in certain circumstances the 22m separation distance may be reduced.
- The application demonstrated by way of additional information that no noise impact will arise for future residents of the proposed apartment block from the Dart line. Traffic entering/existing the underground car park will not give rise to noise impacts on adjoining property having regard to the walls and planting area. Amending the layout would mean the loss of a significant tree on site.
- Apartment 2 is a ground floor apartment with no potential to overlook Saffron House.
- The planning authority's Water Services section is satisfied that there will be no flooding of the proposed development.
- The proposed development provides 1,700m² of public open space.
- Surface water from basements contain high levels of pollutants and should not drain to clean surface water drains. The drawings submitted are clear but some detail is lost in black and white scanning.

6.3. Planning Authority Response

- Significant additional information was submitted in relation to this application.
- The planning authority has considered the issues raised in the appeals.

6.4. Observations

Ann Thornton/Hillwatch commented that;

- Baldoyle Bay SAC and SPA would be impacted upon by the proposed development.
- The proposed development will negatively impact on the Baldoyle public amenity walkway. The boundary wall/balustrade will be 2.9m high. The foundations will undermine the walkway.

6.5. Further Responses

T.C & Patricia Smyth commented on the appeals as follows; the number of residential units on this stretch of Station Road has more than doubled from 22 to 48 since 1969. The site may be subject to flooding and the boundary wall between 16 and 17 Station Road is not designed as a retaining wall.

T.C & Patricia Smyth commented in relation to the applicant's response to the appeal that the issue of foul and surface water drainage remains unresolved.

Saffron House Management Committee commented in relation to the applicant's response to the appeal that Saffron House does not constitute a precedent for 3 storey development on Station Road. The proposed development will negatively impact on protected structures. The car parking entrance could be revised without damage to the tree to be retained on site.

David Smeed commented on the applicant's submission to state that the proposed development will negatively impact on protected structures, the proposed development will contribute to traffic congestion on Station Road. The apartments will not mitigate the housing shortage.

7.0 **Assessment**

7.1. **Development Plan Policy**

7.2. The site is zoned RS 'to provide for residential development and protect and improve residential amenity' in the Fingal County Development Plan 2017 to 2023 where residential development is permitted in principle.

7.3. **Density**

7.4. There has been a previous application on this site under PL06F.244406. That application was originally for 6 houses giving a density of 14 units/ha. Following submission of additional information to the Board the revised application provided for 11 units and this raised the density to 26 units/ha. The Board decided that this revised density was too low and did not achieve densities compliant with the Sustainable Residential Development in Urban Areas Guidelines.

7.5. The density in the current application 62 units/ha. The sustainable residential development guidelines recommend a minimum net density of 50 units within 1km of light rail or train station. The site is within 200kms of Sutton Dart station and therefore, subject to other issues discussed below, the proposed density is acceptable.

7.6. The amended drawings submitted on the 7th July 2017 provide for 22 apartments. The planning authority's condition number 2 reduced this number of 21. The rationale for this reduction is unclear and I do not recommend attaching a condition requiring it.

7.7. **Protected Structures**

7.8. The appeal makes the point that the proposed development will negatively impact on 17 and 18 Station Road which are protected structures.

7.9. The initial conservation officer's report recommended that the height of the block could be reduced where it is closest to the buildings on the west (Saffron House) and the southwest (rear of 17 and 18 Station Road). The second conservation officer's report (dated 20th July 2017) was primarily concerned with finishes and boundary treatment on Station Road and did not recommend refusal on the basis of impact on protected structures.

7.10. Numbers 17 and 18 Station Road are described as elaborate Victorian Gothic revival style structures and were designated as protected structures in 2016. Development has already taken place in the curtilage of 18 Station Road when 18A and 18B Station Road were constructed. The Architectural Heritage Protection Guidelines (DAHG 2001) (paragraph 13.5) set out guidance in relation to development within the curtilage of protected structures. In particular, new development should not interfere with formal spatial relationships between protected structures and related outbuildings, between protected structures and the public street and new development should not impact on views of the principal elevations of protected structures. Likewise, the development plan (especially objective CH20) provides development can be acceptable close to protected structures where that development is compatible with the special character of the protected structure.

7.11. While recognising that the proposed development is an intervention in the immediate area of the protected structures it may also be noted that the apartment block will not impact on the fabric of the structures and, because it is set back about 87m, from the public footpath it will not be visually dominant set against 17 and 18 Station Road which are, in their own right, substantial buildings (site sections/contiguous elevation drawing AI 200 submitted as additional information illustrates these relationships viewed from Station Road). Having regard to the advice set out in the Guidelines and in the development plan it may be concluded that the proposed apartment does not interfere with views of the protected structure from the road, or with its principal elevation when viewed from the public realm and while the proposed development will absorb some of the curtilage of a protected structure it will not undermine the overall integrity of the protected structure so as to materially contravene a development plan policy or national guidance.

7.12. Having regard to the foregoing I further conclude that the proposed development will not impact negatively on the ACA.

7.13. **Residential amenity**

7.14. The appeal makes the point that the proposed development will overlook the rear of 18 Station Road and impact on the residential amenity of that property and that the car parking/ parking access will give rise to disturbance to 18 Station Road. The

appeal makes the further point that, in particular, the western elevation is too close to the Saffron House apartments and overlooking occurs from apartment 2.

- 7.15. The revised site layout submitted on the 7th July 2016 (see layout drawing AI_001 Option A and layout drawing AI_001 Option B) differ only in relation to the form of the proposed access which is discussed below. In relation to impacts on amenity the site layout illustrates a 17m separation distance between the southern façade of the proposed development and the boundary of rear gardens of 17, 18, 18A and 18B Station Road. A rule of thumb is that 22m separation distance between opposing rear windows is sufficient to protect residential amenity. In the present case the southern windows of the apartment block would be circa 30m off the rear elevations of these houses. The southwestern corner of the new apartment block has been dropped to two storeys and is 13m distant from the wall of Saffron House apartments. It may be noted that there is a stone wall along this boundary (which the application states is about 5m high from within the application site at the rear/side wall of Saffron House) and the proposed two corner apartments at ground and first floor levels have been fitted with spy windows which will limit overlooking of the adjoining site. The planning authority has required that the living room windows of apartment numbers 2 and 10 be revised to high level and I recommend repeating that condition. The rear and side of the Saffron House site addressing the application site comprises shared open space and to the west over-ground car parking spaces. None of the apartments in Saffron House have direct access into this shared open space. I conclude therefore that overlooking from the proposed development, with the amendments to apartments 2 and 10, will not seriously injure the amenity of property to the south or southwest of the site.
- 7.16. The basement of the apartment building is set out in 27 car parking spaces, and additional 4 visitor spaces, 25 bike spaces bin storage, lift and stairs. The appeal makes the point that the activity generated by the cars entering/exiting the basement will seriously injure the amenity of the houses backing onto this access. This point was also raised in the conservation officer's report which commented that the planted strip may be inadequate. The parks department makes a somewhat similar point in its second report dated 20th July 2017.
- 7.17. The constraints on amending the layout of the basement access ramp include the position of the only important tree on site which is proposed to be retained. The

applicant states that the proposed development is a reasonably modest development and the car movements will be concentrated at particular times in the day. The planning authority included a condition requiring planted strip along the boundary of 17 and 18 Station Road in order to mitigate the impacts of traffic accessing the underground car parking. Overall I conclude that the foreseeable traffic impacts from vehicular movements within the site will not materially impact on adjoining property and may be mitigated by boundary treatment as recommended by the planning authority.

7.18. A point is raised in the appeal that noise impacts from the Dart line will impact on the residential amenity of the apartments. The planning authority required the applicant to submit a noise impact assessment by way of a request for additional information. The applicant submitted an assessment of railway noise and vibration arising from the proximity of the proposed development to the Dart line; see ICAN Acoustics report received by the planning authority 7th July 2017. The report relies on UK and Scottish guidance for noise receptors located close to railways in the absence of Irish guidance. The report concludes that noise from Dart trains will be relatively low, *inter alia*, because they move relatively slowly in and out of the nearby Dart station. This appears to be a reasonable conclusion and it has been found that railways do not generate complaints relating to noise. Therefore I recommend that the proposed development should not be refused permission on the basis of noise impacts on the apartments from proximity to the Dart line.

7.19. A related point arises from condition 8(a) which requires that the north facing terraces of the development to be enclosed winter gardens. Notwithstanding that some of these units are dual aspect I consider that uninterrupted views across the bay towards Portmarnock contribute significantly to the amenity of the development and I recommend that these balconies should remain as private open space.

7.20. **Apartment Standards**

7.21. The Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities (DOECLG 2015) sets out standards for new apartment developments and take precedent over standards set out in individual development plans. Drawings numbers AI_100 and AI_101 illustrate that the proposed residential

units meet or exceed the minimum standards set out in the guidelines for apartment size, private open space, orientation and storage.

7.22. Open Space

7.23. The appeal makes the case that inadequate public open space is being provided. The private open space provided by the terraces satisfy the requirements of the Sustainable Urban Housing Guidelines. The applicant states that the proposed development provides is 1,700m² of public open space.

7.24. Section 12.7 of the County Development Plan deals with open space. Class 1 open space is generally regarded as larger open areas whereas and class 2 open space generally is smaller 'kick about' areas and pocket parks. The planning authority's Parks Section describes the open areas provided in the site layout as 'semi-private' open space and seeks a contribution towards the provision of public open space in accordance with the Development Plan standards. Condition 30 in the manager's order seeks a contribution for a shortfall of 356m² of public open space. The applicant has not appealed that condition. I have attached a draft condition which allows the planning authority and applicant to agree the appropriate amount of a special contribution and in default of agreement on the matter to refer the matter to the Board for determination.

7.25. I conclude that the applicant is satisfied to make a contribution towards a shortfall in public open space provision but having regard to the quantum and layout of open space provided for in the application I conclude that such a shortfall will not seriously injure the amenity of future residents of the apartments or the amenity of property in the vicinity of the site.

7.26. Parking Provision.

7.27. The appeal makes the point that the proposal makes insufficient car parking provision. Table 12.8 in the County Development Plan set out the parking requirements for residential developments. The proposed development provides a total of 31 spaces including those for residents, visitors and two disabled spaces. The planning authority's transport planning section is satisfied with this provision. Having regard to the parking standards set out in the Development Plan, the proximity of the site to good transport links, the provision for cycle parking and the

relatively modest scale of the proposed development I conclude that the parking provision is sufficient and that the proposed development will not give rise to on-street parking on Station Road or endanger public safety by reason of traffic hazard.

7.28. **The Northern Boundary/Coastal Path**

7.29. At present the northern boundary of the application site abuts a pedestrian coastal path which in this area runs from an access off the public car park at Sutton Dart station to Lauder's Lane to the east of the site. The path is poorly surfaced and varies in width but generally is about 2-3m wide. It is separated from the Dart line by a security fence. It is separated from the application site and the rear gardens of Saffron House apartments by a concrete block wall with supporting piers which has two kinks, the first kink at the junction of the boundary of the application site with the Saffron House site and the second kink at the junction of the boundary of the application site with the site of 16 Station Road.

7.30. CIE (at application stage) raised concerns regarding the relationship of the proposed development with the DART line and the objector at appeal stage raised concerns regarding the relationship of the proposed development with the coastal footpath along the boundary.

7.31. The planning authority sought details by way of additional information of the exact line of the northern boundary of the site demonstrating that it will not impact on the coastal path and will align with the boundary wall of 16 Station Road; effectively removing the kinks in the present boundary. The applicant submitted a revised site drawing (drawing number AI_300) which revised the northern boundary by setting back the western half of it into the application site and aligning it at the eastern end with the boundary wall of 16 Station Road. Outside this realigned boundary a strip of land is marked on drawing AI_002 as area to be ceded to CIE/FCC. CIE submitted a letter to the planning authority (see CIE letter dated 24th July 2017 submitted to the Board on 2nd November 2017) which states that the applicant had not communicated with CIE and that the red line indicating the site boundary included an element of land in the ownership of CIE. CIE also includes a marked up copy of drawing AI_002 indicating a blue line which it states is land within the ownership of CIE. Comparing the original and marked up drawing AI_002 it appears that the area to be ceded by the applicant is co-terminus with the area claimed as its property. It is *ultra vires* a

planning authority to require that land be ceded to a third party as a condition of a grant of planning permission.

7.32. The planning authority has imposed a condition requiring the repositioning of the apartment block 1m south. Having regard to the separation distances between the proposed apartment block and the relative heights of the apartment building *vis a vis* neighbouring property I do not consider that such an amendment would seriously injure the amenity of adjoining property.

7.33. The objector (Hillwatch) makes the point that proximity of the apartment block will impede the coastal walk and overlooking from the proposed development will diminish its amenity value. It may be observed in this regard that the coastal walk is poorly surfaced and hemmed in between the walls of the properties (including the application site) facing onto Station Road and the security fencing along the Dart line. The application proposes setting back the site boundary and making available a wider strip to facilitate the coastal path. This widened path will meet an already wider part of the path as it approaches Lauders Lane from the junction of the application site boundary with the boundary wall of 16 Station Road and this will enhance its amenity value. It may be further observed that the Sustainable Development in Urban Areas Guidelines make the point that overlooking of public open space (and a coastal path may be considered public open space) is a significant contribution to its security and amenity value.

7.34. **Traffic Safety**

7.35. Access to the site is to Station Road where the speed limit is 50kph. The proposed development proposes a shared access with the house proposed under PL06F.249121 and illustrated on Option A drawing number AI-1001 submitted to the planning authority 7th day of July 2017. This drawing also provides for the new access to serve the existing house at 17 Station Road through an existing vehicular gate in the plinth wall/railing separation that site from the application site in appeal 06F.249121.

7.36. While accepting that there is some congestion on the road network in the area between Sutton dart station and Sutton cross and having particular regard to the provision of adequate on-site parking and proximity to good transport links I conclude

that the proposal will not add materially to traffic volumes in the area and therefore that it will not give rise to traffic hazard.

7.37. Surface and Foul Water.

7.38. The appeal raises issues in relation to the disposal of foul and surface water. The point is made that the drawings (specifically 2261-P-001) are unclear and that a condition should specify that the applicant should satisfy the planning authority prior to commencement of development that foul and surface water may be disposed of satisfactorily. The applicant (see response to appeal received 28th September 2107) states that there may have been a copying/printing error in the drawings and includes an explanation (see MTM Consulting Engineers) that there is foul drainage available.

7.39. A further point arises in relation to the disposal of surface water from the basement car park. The appeal states that there is a contradiction within the conditions applied by the planning authority which requires all surface water to drain to the surface water system while foul water goes to the foul system but that surface water within the basement drains to the foul system. The applicant explains that surface water from car parks will contain contaminants and should be directed, through an interceptor, to the foul system.

7.40. In my view the amount of surface water arising within the basement will be very limited and good construction practice would ensure that there is no ingress of surface water into the basement from outside. Nonetheless I prefer the applicant's explanation for the diversion of basement surface water to the foul system. I attach a draft condition requiring the developer to agree the detail of surface and foul water drainage arrangements prior to commencement of development.

7.41. The appeal raises a related point in relation to flooding and the stability of the boundary wall between the application site. This issue is addressed in the planning authority's water services section's report (8th December 2016). The point is made that the water table may vary within the site over the course of a year and that specific measures including storage capacity and limiting discharge to the surface water sewer should be agreed with the planning authority prior to commencement of development. I conclude that the details of this matter may be managed through a condition attached to any grant of permission as set out below.

7.42. **Appropriate Assessment**

7.43. In response to a request for further information the applicant submitted an NIS. The NIS lists the European sites which have the potential to be impacted upon by the proposed development as;

- Baldoyle Bay SAC (000199),
- Baldoyle Bay SPA (004016),
- South Dublin Bay and River Tolka SPA (004024)
- South Dublin Bay SAC
- Poulaphouca Reservoir SPA (0004063).
- Howth Head SAC (000202),
- North Dublin Bay SAC (000206),
- North Bull Island SPA (004006).

7.44. The request for further information specifically requested an assessment of the likely impact of the proposed development on the mudflats immediately opposite the apartment block. The NIS included such an assessment and observed that Dart trains did not disturb foraging or roosting birds whereas walkers with dogs did cause birds to respond by walking or flying away. The application site is immediately south of the Baldoyle Bay SAC (000199), Baldoyle Bay SPA (004016) (see figure 1 in the NIS) and separated from these by the coastal walk and the Dart line. It is immediately north of North Dublin Bay SAC (000206) and North Bull Island SPA (004006) (see figure 1 in the NIS) and separated from these by housing and a rugby club. The NIS sets out the qualifying interest of these European sites and their conservation objectives. The NIS concludes that there are no likely significant effects alone or in combination with other plans or particulars arising from the proposed development on any European site.

7.45. The site of the proposed development is zoned for development and has been subject to anthropogenic change over a considerable period. I consider that the site is not, of itself, ecologically significant. The foreseeable emissions of surface water and foul water will drain to existing public systems. The proposed development will

be insignificant in terms of emissions to air. Accordingly applying the source-pathway-receptor methodology I agree with the submitted NIS that there are no foreseeable significant adverse effects for European sites arising from the proposed development.

- 7.46. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Baldoyle Bay SAC (000199), Baldoyle Bay SPA (004016), North Dublin Bay SAC (000206) or North Bull Island SPA (004006) or any other European site, in view of the sites' Conservation Objectives.

8.0 Recommendation

- 8.1. Having regard to the foregoing I recommend a grant of permission for the reasons and considerations and subject to the conditions set out below.

9.0 Reasons and Considerations

The proposed development is located in an area zoned to provide for residential development and protect and improve residential amenity in the Fingal County Development Plan 2017 to 2023. Having regard to the modest scale of the proposed development, the pattern of development in the area and subject to compliance with the conditions set out below is considered that the proposed development would not seriously injure the residential amenity of property in the vicinity or give rise to traffic hazard and would otherwise accord with the proper planning and sustainable development of the area.

The Board considered the Natura Impact Statement the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Baldoyle Bay SAC (000199), Baldoyle Bay SPA (004016), North Dublin Bay SAC (000206) or North Bull Island SPA (004006) in

view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged with the planning authority on the 7th day of July 2017, 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. 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.

3. The access to Station Road shall be as set out in "Option A" in drawing number AI-1001 submitted to the planning authority 7th day of July 2017.

Reason: In the interest of traffic safety.

4. Prior to commencement of development the developer shall submit plans and particulars for the written agreement of the planning authority providing for the following;

(a) The living room windows of apartments 2 and 10 shall be clerestory windows.

(b) The apartment block shall be moved 1m south.

Reason: In the interest of amenity.

5. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

6. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this

development in the interest of residential amenity.

7. Prior to commencement of development the developer shall submit for the written agreement of the planning authority plans and particulars of the proposed boundary treatments between the application site and adjoining property and between the application site and Sutton Road.

Reason: In the interests of residential and visual amenity

8. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of 2 metres from the trunk of the tree or the centre of the shrub, and to a distance of 2 metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

9. The landscaping scheme shown on drawings numbers PP141-03-OP. A and PP141-03-OP. B as submitted to the planning authority on the 7th day of July 2017, shall be carried out prior to occupation of any of the units permitted by this grant of permission.

In addition to the proposals in the submitted scheme, the following shall be carried out:

- a) A planted buffer strip shall be provided along the southern boundary with numbers 17 and 18 Station Road. Details of this strip including width, depth of soil and appropriate species shall be submitted to and in writing with the planning authority prior to commencement of development.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

10. Details of the materials, colours and textures of all the external finishes within the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

11. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity

12. Public lighting shall be provided in accordance with a scheme 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.

13. Proposals for a naming and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

15. 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 public open space to be provided by the planning authority in compensation for any deficit in public open space provision within the proposed development. 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. 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.

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.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Hugh Mannion
Senior Planning Inspector

7th December 2017