



An
Bord
Pleanála

Inspector's Report ABP-300358-17

Development

Demolition of existing garden centre buildings; construction of a two-storey replacement garden centre building including ancillary cafe and office use; construction of a new four-storey (13.275 meters in height) apartment building consisting of 30 no apartment units and communal landscaped open space.

Location

Lands at Blackbanks Garden Centre, 754 Howth Road, Raheny, Dublin 5

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

2824/17

Applicant(s)

Michael Heather, Shane Taggart, Silveroak Blackbanks Ltd.

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Robert & Elizabeth Brant; John Carroll

& Charlotte Cousins & Others; Peter &
Brid Flaherty

Observer(s)

Sean Haughey TD

Date of Site Inspection

6th March 2018

Inspector

Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located on the northern side of the Howth Road east of Raheny village and approx. 9km north of Dublin City Centre. The site is located at the eastern end of the Howth Road, proximate to the junction with the James Larkin/coast road. The site is just 40m from the coast with oblique views over Dublin Bay.
- 1.2. The site, which has a stated area of 0.49ha, comprises an existing garden centre, outbuildings, three disused glasshouses, and display areas, with surface car parking to the front of the site. The site is bounded by a long driveway to the west which leads to a two-storey backland dwelling, set approx. 55m from the Howth Road. Further west the building line is established by a linear stretch of two storey dwellings, with the building line approx. 26m back from the Howth Road. To the east is one two storey dwelling which terminates the street at the junction with Greendale Road. On the opposite side of the Howth Road (south of the site) are a mix of single and two storey dwellings. To the north the site is bounded by the rear gardens of two-storey dwellings on Foxfield Park.

2.0 Proposed Development

- 2.1. The proposed development as described in the site notices was for a block of 30 apartments and a building comprising a garden centre and café with offices above, on a 0.64ha site. Further information was requested by the planning authority on 5th October 2017 and significant further information was received which amended the scheme significantly. Permission was granted for the following:
- Construction of a four storey building comprising 41 apartments, with revised site boundary and an overall site area of 0.49 ha.
 - Demolition of existing buildings on site.

3.0 Planning Authority Decision

3.1. Decision

GRANTED, subject to 21 conditions, including the following:

C2: Section 48 General Development Contribution.

C3: 41 apartment units permitted.

C4: The garden centre use and ancillary offices shall be omitted.

C5: A number of design amendments required, including provision of high level windows, relocation of two balconies and obscure glazing.

C6: Road/traffic measures, including requirement for additional parking spaces to be provided to accommodate visitor parking.

C13: Existing boundary planting with dwelling 764 to the east to be retained where possible and replaced where needed. Access road may need to be realigned as a result.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. I note that Further Information was requested by the planning authority and Significant Further Information was received which omitted the proposed block comprising the garden centre and ancillary offices from the development and in its place increased the area of the proposed apartment block to accommodate a total of 41 apartments (increased from original proposal of 30 apartments).

3.2.2. Other Technical Reports

City Archaeologist: No objection subject to conditions.

Drainage Division: No objection following receipt of Further Information, subject to conditions.

Roads and Traffic Planning Division: No objection following receipt of Further Information, subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A number of submissions were received within the statutory period from residents on Howth Road, Foxfield Park and Greendale Road as well as three submissions from elected representatives in support of local residents. The contents of these submissions are largely covered in the grounds of the appeal.

4.0 Planning History

3747/14: Permission granted for signage and new toilet facilities.

5.0 Policy Context

5.1. National Policy Guidance

- Project Ireland 2040 National Planning Framework (2018)
- Sustainable Urban Housing: Design Standards for New Apartments (2018)
- Sustainable Residential Development in Urban Areas (2009)
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)

5.2. Dublin City Development Plan 2016-2022

- The application site is located within land use zoning objective Z1, the objective for which is 'to protect, provide and improve residential amenities.'
- Chapter 5: Quality Housing
- Section 16.5, Plot Ratio: Indicative plot ratio 0.5-2.0, with a higher allowance in certain circumstances.

- Section 16.6, Site Coverage: Site Coverage- 45-60%, with a higher allowance in certain circumstances.
- Section 16.7.2, Building Height: Max height of 28m. Average height for residential is 3.0m, with ground floor 4.0m, which equates to 9 storeys residential.
- Section 16.2.2.2 and 16.10.10, Infill Development.
- Section 16.10.1 and 16.10.3 Residential Quality Standards, Apartments and Mix of Residential Units:
- Parking: Area 2 and 3 applies to the appeal site.

The following policies apply to the site and are summarised hereunder:

- **SC13:** To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context ... having regard to the safeguarding criteria set out in Chapter 16 (development standards)...and for the protection of surrounding residents, households and communities.
- **QH1:** To have regard to the national guidelines relating to residential development...
- **QH8:** Sustainable development of vacant or under-utilised infill sites, which respect the design of the surrounding development and the character of the area...
- **QH10:** To support the creation of a permeable, connected and well-linked city and discourage gated residential developments as they exclude and divide established communities.
- **QH18:** Promote high quality apartments and amenity within individual apartments and within each apartment development...

5.3. Natural Heritage Designations

The nearest Natura sites are the North Dublin Bay SAC (000206), and the North Bull Island SPA (004006), which are approx. 40m south of the site. Also in close

proximity to the site is the Rockabill to Dalkey Island SAC (003000), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210).

6.0 The Appeal

6.1. Grounds of Appeal

Three third party appellants have made submissions in relation to the proposed development. Robert & Elizabeth Brant of 754 Howth Road (dwelling to the immediate east of the site) & others; John Carroll & Charlotte Cousins others of Foxfield Park (located to the north/rear of appeal site); Peter & Brid Flaherty of 748 Howth Road (further west of the appeal site) & three other residents of Howth Road in proximity to the site. The submissions received are summarised as follows:

Procedural Issues

- The application submitted by way of further information is essentially a new application.
- The company name is misleading/not clear; the further information received, which amended the red line boundary of the site, is not compliant with planning regulations; the proposed development provided for additional apartments at further information stage and should have been re-advertised as significant further information.

Density

- Density proposed is excessive and out of character with the area.
- Density is too high on this constrained infill site bounded by mature low-scale and uniform suburban dwellings.
- Density proposed is contrary to residential density guidelines as the site is 0.46 ha (below 5 ha), is not within 1km of the DART and is contrary to the policies and zoning of the Dublin City Development Plan, policies QH7, QH8, Z1, and section 16.2.2.
- Density, plot ratio, and site coverage are not reasonable given context of the site, which comprises primarily two storey dwellings.

- The proposal would set an undesirable precedent.

Impact on Residential Amenity

- Proposed development is contrary to the zoning objective for the area and does not protect existing residential amenity.
- This four storey building will overbear, overlook, and overshadow proximate residences and their private open space.
- Windows and balconies at second, third and fourth levels will grossly overlook adjoining residential properties.
- Height, scale and bulk of the proposal will have a negative impact on character of the area.
- Proposal will tower over no. 764 to the east, block sunlight/daylight and impact on views along Howth Road.
- Proposed building is 3.5m from the centre of a line of mature evergreen trees. Works will destroy this tree line and its screening of no. 752.
- Building should be reduced in height to three storeys at the eastern and western boundary to protect the amenity of existing dwelling no 752 and no 764.
- Negative impact from blank eastern gable wall on the settings and amenity of no. 764.
- Proposal will have a negative impact on views from Foxrock Park and will result in overlooking and overbearance.
- Impact on amenity of existing dwelling on the site should not be disregarded because the owner benefits from the development.
- No sunlight/daylight analysis has been undertaken.
- ABP has previously refused apartments nearby for issues related to scale and residential amenity - file reference 226635 and 248478.

Impact on Visual Amenity

- Visual impact of the proposal will be overwhelming due to form, height, and location of the building, which is out of character and unsympathetic, and will affect property values.
- Proposed block is monolithic and not in keeping with two storey dwellings in the area.
- Proposal will infringe the building line of Howth Road.
- No visual impact assessment from Foxfield Park has been submitted.

Drainage and Flooding

- Broadbank River is culverted through the site and its exact location is unknown. There is a pump house associated with it in the centre of the site.
- The applicant is required to maintain a 3m set back from the existing public surface water and foul sewers running through the site, but their location is unknown. This could affect the layout of the scheme.
- Flooding has occurred in this area in the past.

Traffic

- One parking space per apartment is too low for this location.
- Development will generate additional traffic in the area and impact on cyclist/pedestrian safety.
- Entrance is too close to the junction, is on a bend, and will impact on those exiting from houses opposite the site.
- A construction traffic and environmental management plan has not been submitted.
- Traffic impact assessment was undertaken in August, during peak holiday season, when schools were closed and when traffic volumes were low.
- Report does not focus on junction analysis.

6.2. Applicant Response

The applicant's response is summarised hereunder:

- The development complies with the Z1 zoning, providing for residential use in the outer city on underutilised development land.
- Height proposed is within development plan thresholds and density, scale and mass respects existing built form.
- Site coverage figure of 26% highlights that this development strives to protect the existing residential amenity of neighbouring dwellings.
- The density proposed of 83 units per hectare on a site area of 0.496 ha will ensure the best use of the land and adheres to the Dublin City Development Plan 2016-2022.
- Revised photomontages of the amended scheme are submitted. The proposed development will not detrimentally impact the neighbouring properties nor appear visually dominant or negative on the landscape.
- The locational context has defined the building height of 13.27m, which is under the max height of 16m as set by the development plan.
- The development has been designed to ensure adequate separation distances, mitigating against undue overlooking and overbearance whilst limiting the potential negative visual impact of the apartment block.
- A Sunlight and Daylight Access Impact Analysis is now submitted with this appeal, which finds there will be no detrimental impacts on the surrounding properties.
- A further Flood Risk report accompanies the appeal and states the Blackbanks Stream does not traverse the site and the pumphouse in the centre of the site serves a well which pumped groundwater for use in the garden centre and will be decommissioned as part of this development. The report notes that pluvial flooding will not be increased on account of the proposed attenuation system to retain storm waters during extreme storm events.

6.3. Planning Authority Response

None.

6.4. **Observations**

One observation was received from Sean Haughey TD raising an objection to the proposed development for reasons relating to the impact on the residents of Foxfield Park including serious overlooking. It is considered that the proposed development is out of scale and character with the surrounding two storey houses and constitutes over development. Severe traffic congestion at the junction of Howth Road and the Coast Road is also raised as a concern. The proposal is overall considered to be contrary to the proper planning and sustainable development of the area.

6.5. **Further Responses**

A further response was received from Peter and Brid Faherty of 748 Howth Road (located approx. 28m west of the site). It is argued that permission should be refused as the proposed development by virtue of its location relative to existing two storey dwellings, design, height, form and scale, will impact negatively on the amenities of existing residences, would constitute over development of a restricted site, would endanger public safety by reason of traffic hazard and would not be in accordance with the proper planning and sustainable development of the area.

7.0 **Assessment**

Proposed Development

- 7.1. The proposed development (as amended by Significant Further Information) comprises a four storey building, accommodating 41 apartments, on a 0.49 ha site. The site is L-shaped in form, with road frontage of approx. 65m and a depth of approx. 90m. The proposed four storey building is rectangular in form (53m wide x 18.5m deep), with two projecting wings to the rear, which are three and four storeys in height. There are three ground floor accesses to the block from the front of the building and three from the rear (where the lift cores are located). Open space is provided to the rear of the building and parking is provided primarily to the front, with some to the eastern side. The overall height of the apartment building is 13.27m. The building is set back from the Howth road by 24-25m. The density proposed is 83 units per hectare. The plot ratio is stated to be 1:0 and site coverage is 26% (in accordance with development plan standards). One vehicular access is proposed

from the Howth Road approx. mid-way along the frontage of the site and a pedestrian only entrance is proposed at the western edge of the site, adjoining the neighbouring vehicular entrance.

7.2. The applicant, following a further information request from the Planning Authority, significantly altered the form of the building originally proposed on the site, omitted the garden centre use, increased the number of apartments from 30 to 41, and increased distances to the boundary to the east. It is this revised scheme which I am assessing.

7.3. As part of the first party response to the appeal, the applicant has submitted revised drawings, complying with condition 5 of the planning authority's permission. The revised drawings indicate the following:

- Apartments 29, 33 and 37 are increased in size to meet minimum floor area standards through omission of balconies on eastern facades and incorporation of that floor space internally into the apartment.
- Relocation of balconies to northern façade to serve apartments 29, 33 and 37, with addition of 1.7m high obscure glazed screening on eastern sides and provision of high level windows to eastern windows serving the living room area of apartments 33 and 37.
- The rear/north facing terraces to apartments 39 & 41 screened on their east side by 1.7m high obscure glazed screens.
- Revised window treatments of louvers or similar solution to reduce the level of direct overlooking between the windows serving Bedroom 1 in unit no.'s 13, 17, 21 & 25 and the opposing bedroom window serving unit no.'s 29, 33 & 37. I note no final elevation of the option chosen has been submitted.
- The north facing window to the western most lift core fitted in obscure glazing to all floors above ground level.
- The glazed screens to the east facing elevation of the lift core and entrance lobby of the eastern most life core at each floor above ground level have been amended from three glazed panels to a single panel one metre in width fitted with obscure glazing.

7.4. I will assess the amended drawings, which were submitted to the Board as part of the response to the appeal, in conjunction with the revised significant further information drawings received by the planning authority.

7.5. The primary issues for assessment include;

- Principle of Development and Density
- Design & Visual Amenity
- Residential Amenity
- Traffic, Access and Parking
- Floodrisk and Drainage
- Appropriate Assessment

Principle of Development and Density

7.6. The appellants argue the proposed development is not in accordance with zoning objective Z1, the density is excessive, and the proposal is not in accordance with development plan policies in that it does not respect the existing context and character of the area, which is of low-scale uniform suburban dwellings. The planning authority and applicant are of the view that the site coverage, plot ratio and density are not excessive and the site is of a scale and width as to adopt its own design and height which need not necessarily follow that of the existing residential two storey dwellings in the vicinity.

7.7. The subject site is located within zoning objective Z1, the objective for which is *'to protect, provide and improve residential amenities'*. I consider a residential development as proposed to be acceptable in principle within this zoning objective subject to assessment of normal planning criteria and policies and objectives in relation to residential amenity and the environment.

7.8. The document Sustainable Residential Development in Urban Areas highlights that land is a scarce resource which should be used as efficiently as possible and a minimum net density of 50 dwellings per hectare is recommended within public transport corridors, subject to appropriate design and amenity standards. Furthermore Dublin City Council's functional area is within the Metropolitan Area, whereby it is policy to consolidate and increase densities within the existing built

footprint of the city, to achieve a more compact urban form and gain maximum benefit from existing assets, such as public transport and social infrastructure.

- 7.9. The appeal site is located within 980m of Kilbarrack Dart Station, is within 50m of a high quality segregated cycle/footpath route which connects to Dublin City centre, and is well serviced by Dublin Bus. There is a church, shops and services approx. 1km east of the site in Bayside and also approx. 1.5km west in Raheny. In terms of amenity, the site is within 40m of the coast and St. Anne's Park is approx. 1.3km to the west. I am of the view that this parcel of serviced brownfield land is appropriately located at a highly accessible location to accommodate a higher density development of 83 units per hectare, subject to design and amenity standards, which are considered further hereunder.

Design & Visual Amenity

- 7.10. As noted above, the scheme comprises one four-storey rectangular block, with two rear wings, one of which is four storey and the other wing (at the eastern boundary) being three storeys in height. The block is positioned centrally within the site. The overall height of the scheme is 13.27m and the width of the apartment block is 54m. The block is positioned 25m back from the Howth Road, with a separation distance of approx. 10/11m from the boundary with the dwelling to the west, approx. 15.8m from the boundary to the east and approx. 20m-29m from the rear boundary.
- 7.11. The appellants have raised concerns in relation to the massing, form, height and scale of the overall development, which is considered incongruous in this area, which is characterised by two storey dwellings.
- 7.12. I consider the set-back of the building from the Howth Road is largely in keeping with the established building line along the Howth Road. The set back and separation distances from the surrounding boundaries enables the building to establish a form and scale different from the historic two-storey design of this locality. The position of the dwelling at the eastern end of the Howth Road also, in my view, allows for a step up in building height which would not be wholly incongruous within the streetscape. The site will be visible from the coast road/James Larkin Road and the upper level south facing apartments will have views over Dublin Bay. Having reviewed the visual impact assessment, I am of the view that the proposed development will sit comfortably within the site at this coastal location. I consider the overall height of the

apartment building at 13.27m, compared to 10m of the neighbouring dwellings, to be acceptable, subject to further assessment of the residential amenities of the area, which I consider further hereunder.

Residential Amenity

- 7.13. I have considered the design of the apartments with regard to the impact on the residential amenity of neighbouring properties, as well as the impact of the design on future residents of the scheme.

Amenity of Neighbouring Residential Properties

- 7.14. It is argued by the appellants that given the scale and design of the proposed development, existing residential amenity is not protected and that this is at the core of the Z1 zoning objective, which the proposed development is contravening. The proximity of the building to the neighbouring dwelling no 752 to the west and no 764 to the east and positioning of windows and balconies is considered to be overbearing and would result in overlooking, overshadowing and loss of amenity. The proximity of the proposal to Foxfield estate to the north will impact in terms of overbearance, overshadowing and loss of outlook. It is stated that no sunlight/daylight analysis has been submitted and reference is made to other refusals in the area.
- 7.15. The applicant argues the development has been designed to ensure adequate separation distances, mitigating against undue overlooking and overbearance whilst limiting the potential negative visual impact of the apartment block. A new report titled Sunlight and Daylight Access Impact Analysis has been submitted with the appeal response.
- 7.16. The proposed apartment building is approx. 10m from the side boundary of the existing house to the west (no. 752) and separated from this boundary by the location of an entrance driveway serving a backland dwelling to the northwest corner of the site. The apartment building steps marginally beyond the front building line of no. 753 and approx. 4m beyond the rear building line. While the proposed building at four storeys (13.27m high) is of a greater scale, than the existing two storey dwelling, I am of the view that, by virtue of the separation distances and position of the proposed building on the site, the proposal will not significantly impact on the neighbouring property in terms of overlooking, overshadowing or overbearance.

- 7.17. The apartment building is approx. 10m-11m from the side boundary with house no. 764 to the east. The main body of the proposed building is approx. 10.6m from the boundary, with first and second floors stepped in by a further 1m, providing for an additional separation distance at the upper levels. The eastern most rear wing element of the apartment building is approx. 15.85m from the eastern boundary. The applicant has submitted revised drawings complying with condition 5 of the planning authority, which comprised requirements for revision of elements of the eastern elevation of the proposed apartment building to address overlooking. The windows on the eastern elevation of the rear wing serve one bedroom and a living room, with the living room window being at a high level. East facing balconies serving two of the apartments in the rear wing have been omitted and replaced with north facing balconies, with a 1.7m high obscure glazing at the eastern side. The remaining balconies within the body of the building at this eastern side have also been amended to incorporate 1.7m high obscure glazing. Overall, given there is a distance of approx. 10.6m-15.8m from the eastern boundary of the proposed building with the neighbouring house, and given the design amendments proposed, I am of the view that, on balance, this element of the proposal will not result in significant overlooking or overshadowing of no. 764.
- 7.18. In terms of overbearance, while the proposal is more dominant in scale than the previous garden centre use, I am of the view that given the separation distances and step in height to the rear, the proposal will not have such a serious negative impact on the neighbouring dwelling as to warrant further amendments or a reduction in height.
- 7.19. The apartment building is approx. 20m from the rear boundary with Foxfield Park at its closest point and 29m at its furthest point. I do not consider the proposed development will result in significant overshadowing or overlooking of the properties to the north. While the views from these dwellings will be limited by the proposed development, these views are not protected views and it is not reasonable to reduce the overall height of the development for this reason.
- 7.20. With regard to the backland dwelling called Blackbanks house, positioned to the northwest corner of the site (within the blue line ownership of the applicant), I note that the western most rear lift and stairwell section of the building is approx. 12m from the front elevation of the existing dwelling and the main amenity space serving

that dwelling, which is to the front of the house. Windows/balconies of the apartments are approx. 25m from the first floor windows of the dwelling. Some west facing windows of the western most wing overlook the front driveway area and are 1.2m from this boundary and 8m from the side elevation of the single storey element of the dwelling. However, given the use of the space as a driveway I do not consider the positioning of the windows in the apartment development would result in a significant amenity issue. While the rear wing of the apartment building at four storeys is significant at this boundary, on balance given the layout and design of this dwelling to the southwest, the level of boundary planting, and the positioning of the driveway, I consider the height and design of the apartment building at this corner of the site can be adequately accommodated. I note the planning authority attached a condition requiring the north facing glazing to the west lift core should be obscured, however I do not consider this necessary given the use of this element of the building. Issues of overlooking and overbearance are not in my view so significant as to warrant a refusal/further amendment of this part of the scheme.

- 7.21. Overall, having considered the need to make the most efficient use of this highly accessible brownfield serviced site against the need to protect the amenities of existing dwellings surrounding the site and of the area as a whole, I consider the proposed apartment block has been appropriately positioned on the site and is of scale and design that respects existing amenities.

Guidelines for Planning Authorities on Design Standards for New Apartments (March 2018)

- 7.22. The Guidelines for Planning Authorities on Design Standards for New Apartments (March 2018) contain several specific planning policy requirements with which the proposed 41 apartments must comply. Schedules were submitted to demonstrate compliance with the standards of the 2015 Guidelines. I have reviewed the schedules submitted and the plans against the 2018 guidelines. The majority of all the apartments exceed the minimum floor areas specified in the guidelines (45m² for a one-bedroom unit, 63 m²-73m² for a two-bedroom units and 90m² for a three bedroom unit). 13 of the apartments have a single aspect (32%), 2 of which are north facing (apartments 14 and 30).

- 7.23. Room sizes, storage spaces and private open space appear to be in line with the standards set out in the guidelines, as per the schedule submitted. However, I note the ground level apartment floor to ceiling heights proposed is 2.475m, while the guidelines state it is a specific planning policy requirement that ground level apartment floor to ceiling heights shall be a minimum of 2.7m. I consider the minor increase in height, which would result from an amendment to the scheme to facilitate this increase, would not result in a significant impact in terms of the visual and residential amenities of the area. Should the Board be minded to grant permission, this issue could be addressed by way of condition.
- 7.24. I note on the floor plans that storage space in some of the apartments is not indicated and some of the rooms for storage are in excess of 3.5sqm in area (contrary to the guidelines). However, the overall floor area of these apartments is in excess of the guidelines and there is overall sufficient space indicated to meet standard requirements.
- 7.25. The apartment guidelines state the amount of sunlight reaching an apartment significantly affects the amenity of the occupants. North facing single aspect apartments may be considered where overlooking a significant amenity and it is stated that particular care is needed where windows are located on lower floors that may be overshadowed. Two north facing apartments are proposed on the ground floor level, apartment no. 14 and no. 30. Apartment 30 in particular has a poor outlook and aspect. This apartment is positioned between the two rear wings of the block (three and four storey in height), with the bedroom served by a window in the corner adjoining the lift shaft. The level of light available to this apartment is questionable given its northerly aspect and given the proximity and height of the two rear wings, and would result in my view in a poor space for future residents. I am of the view that apartments 30 and 31 should be merged to form a larger three bed unit. This could be addressed by way of condition. Apartment 14 is not as severely affected given its location relative to the rear wings of the building and I consider its location overall acceptable.
- 7.26. I note that section 16.10 of the Dublin City Development Plan requires an apartment scheme to provide for a mix of units, and states each apartment development shall contain: A maximum of 25-30% one-bedroom units and a minimum of 15% three- or more bedroom units. The proposed mix, if apartment 30 is to be merged with

apartment 31 as suggested in the above paragraph, will be 25% 1 bed units and 12.5% three bed units. I note it Specific Planning Policy Requirement 1 states there shall be no minimum requirement for apartments with three or more bedrooms. I furthermore consider the mix adequate considering the level of detached and semi-detached houses characteristic of this area.

- 7.27. The ground floor entrances to the rear which accommodate the lift cores have the entrance doors positioned adjoining the ground floor bedroom windows in apartments 16 and 32, which would result in a poor living environment for these two apartments. These rear access doors should be relocated to the northern side of the entrance lobby and a 1-1.5m privacy strip with appropriate landscaping provided outside these apartments, as well as outside the other ground floor apartments along the northern aspect of this building. Furthermore a 1-1.5m landscaping strip should be provided on both the east and west sides of the building to protect the amenity of future residents at ground floor level. This will involve a relocation of the footpath around the west side of the building further west with consequent reduction in the proposed landscape strip along this boundary, which is adjoining the access road to the dwelling to the rear and therefore will not result in any negative way on the neighbouring property. On the eastern side of the building, this will likely result in the loss of the loading bay which I see no imperative requirement for. Should the Board be minded to grant permission, this issue can be addressed by way of condition.
- 7.28. The two rear wings of the apartment building have bedroom windows facing each other, with a separation distance of only 8.3m. To protect the amenity of future residents, I concur with the planning authority that a design solution of either louvred or angled windows is required in this instance. As the applicant has not indicated a precise solution in the drawings submitted, this issue should be addressed by way of condition should the Board be minded to grant permission.

Communal Open Space and Public Open Space

- 7.29. Dublin City Development Plan requires under Section 16.3.3, 10% of a site area to be reserved for public open space. Sustainable Urban Housing: Design Standards for New Apartments (2018) require communal open space to be provided at a rate of 5sqm for a 1 bed apartment, 6 sqm for a two-bed three-person apartment, 7sqm for a two-bed four-person apartment and 9sqm for a three-bed apartment. I calculate the

communal open space requirement for the scheme to be 255sqm. The area of open space provided to the rear of the scheme measures in excess of 700sqm, therefore the requirements are met.

- 7.30. The Guidelines on Design Standards for New Apartments require in a scheme of 25 or more apartments with two or more bedrooms the provision of small play areas (85-100 sqm in area) for the specific needs of toddlers and children up to the age of six. There is adequate rear open space within the scheme to accommodate the provision of this type of play space. Should the Board be minded to grant permission, this issue can be addressed by way of condition.

Traffic, Access and Parking

- 7.31. Concerns have been raised in relation to increase in traffic; impact on the neighbouring junction of the Howth Road and James Larkin Road; timing of the traffic surveys in August and traffic hazard arising from the proposed entrance. Concern is also raised in relation to the low level of parking available in the area.
- 7.32. Further information was requested by the planning authority in relation to traffic generation, turning movements, sightlines and swept path analysis for delivery trucks. The applicant submitted a prediction of trip generation rates, a sightline drawing and swept path analysis which the Roads Section of the planning authority was satisfied with.
- 7.33. I note the appellants concern in relation to the timing of the road traffic survey. However, based on the information before me, I consider that the proposed site, which is highly accessible in terms of bus, DART and a segregated cycle route, can cater for the level of development proposed without a significant negative impact on the road capacity.
- 7.34. The applicant has provided for 33 car parking spaces to the front of the proposed development and 8 car and two motor bicycle spaces to the side and rear of the building. 41 cycle spaces are also proposed to the rear in accordance with the development plan standards. I note condition 7 of the permission issued by Dublin City Council requests that the applicant submit details regarding how visitor car parking is to be accommodated including additional parking spaces, which shall be agreed in writing with the planning department. If parking requirements are applied at the rate indicated for zone 2, which the planning authority accepts for the site and

which I consider reasonable, then the 41 spaces proposed is adequate. However, I acknowledge that visitor parking has not been provided for. Any solution to this issue, however, should be undertaken in conjunction with a landscaping scheme and should not be to the detriment of the landscaping proposed along the northern boundary of the site which is important to integrate the building into the environment and balance the level of hard landscaping proposed to the front of this coastal site. Should the Board be minded to grant permission, this issue can be dealt with by way of condition.

- 7.35. I note that car parking spaces 39-41 to the rear are remote from the building, are adjoining a residential boundary and their provision at this location results in the bin store being positioned in the open space area, removed from the apartments and along an adjoining residential boundary, separated from where the bin lorry can access. In addition, I do not see a need for a separate pedestrian access point from the front of the scheme and it would be preferable that the vehicular access was designed to also cater for pedestrians. In my view the separate pedestrian path should be omitted from the front/west boundary of the site and this space utilised to accommodate the relocated car parking spaces 39 to 41. The vehicular entrance should be redesigned to cater for a footpath on both sides of the entrance, with these paths linking into the pathways proposed within the scheme to create a safe pedestrian environment, with details of how this is to be designed to be submitted and agreed with the planning authority. The bin store should be relocated closer to where the access road for bin lorries terminates and the bicycle spaces reorganised accordingly. Details of the proposed building to accommodate the bin store should be submitted to the planning authority for agreement.
- 7.36. I note gates are proposed to serve the development, which the Roads Section of the planning authority has requested be set back from the entrance. Given that gated communities are not desirable in the achievement of open and integrated communities and are to be discouraged, as set out within policy Q10 of the Dublin City Development Plan 2016-2022, I recommend that a condition be attached to any permission to ensure no security gates, security huts or barriers are erected at the entrance to the development.
- 7.37. The appeal site is an underutilised brownfield/infill zoned and serviced site within an urban area with high quality public transport links. I have considered all the

information presented in relation to analysis of the traffic and all third party submissions. While there may be disruption to the traffic flows in the vicinity and to road users in the construction phase of the development, I do not consider that the development with its easy access to public transport options, will result in so significant a traffic hazard or obstruction to road users as to warrant a refusal of permission in this instance.

Floodrisk and Drainage

- 7.38. The appellants have raised concerns that the exact location of the Broadbank River, which is culverted through the site, is unknown. Flooding has occurred in this area in the past.
- 7.39. The applicant submitted a Flood Risk Assessment upon request at further information stage. The drainage division was satisfied with the response subject to conditions. The applicant has submitted a second Flood Risk Report prepared by Cronin & Sutton Consulting Group to address issues raised in the grounds of appeal.
- 7.40. The applicant's reports on Flood Risk highlight the site is located within Flood Zone C as per Dublin City's Composite Flood Map. Maps referred to from Clair Sweeney's Book 'The Rivers of Dublin', GDSDS Map under Section 2008b, and Dublin City Council's Drainage Records, extracts of which are all included in the report, and which indicate the route of the Blackbanks River culverted under the road to the north and east of the site and not through the site. The report notes that it is not unusual for rows of houses to have communal drains passing in front of the properties and outfalling at one location to the public drainage network. The last public manhole into which the drain outfalls is on the appeal site and indicated on the southeast corner of the site. The report states that local drainage on the site will be maintained and the required 3m separation from pipework maintained. The issue of low water pressure by the appellants is an issue for Irish Water.
- 7.41. The issue of flooding was addressed in a revised report submitted at further information stage and in response to the grounds of appeal. The finished floor level of the development is proposed at 5.00mAOD, which is above the 1 in 100 year flood level. Reference is made to the stormwater attenuation provided for within the site, the level of the site and the natural topography, which flows away from the site down

the Howth Road to the coast. I am satisfied that any flood risk issues have been adequately addressed in the reports.

- 7.42. I note that in response to the planning authority request to incorporate additional/alternative sustainable drainage systems in the management of stormwater, the applicant proposes a larger under ground pre-cast tank to store the volume of stormwater required for the site. The stormwater will pass through an oil separator before outfalling into the public sewer located on the lands, and outfalling into the bay 100m from the site. It is stated that additional SUDS features will include permeable paving where applicable, low usage appliances and rain water harvesting units to allow storm water to be used for local landscaping and maintenance purposes. The applicants cover letter states that permeable paving and rain water harvesting units will be provided. In the interests of clarity, these additional SUDS measures should be addressed by way of condition to ensure they are provided for within the scheme at a minimum.

I am satisfied, based on the information before me, that the proposed development has been assessed in terms of flood risk, will not cause flooding of neighbouring sites, and the attenuation system provided for will adequately address stormwater issues.

Other Matters

- 7.43. Procedural Issues

The appellants contend the proposed development, the red site boundary of which was amended and the number of apartment units increased from 30 to 41 by way of Further Information, should have been re-advertised as Significant Further Information. I note from the documentation presented before me the planning authority did deem the Further Information to be significant and the proposal was re-advertised on 13th October 2017. I note that the first parties representing the dwellings to the east, west and north of the site have made submissions to An Bord Pleanala and the process has not impacted on the rights of those neighbouring the site to comment on and make further submissions to An Bord Pleanala.

- 7.44. Property Values

I have no information before me to believe that the proposed development, if permitted would lead to devaluation of property values in the vicinity. I consider that

the development proposed is acceptable and would not detract from the visual or residential amenities of the area. The apartment building will integrate well with the existing streetscape. I consider that the proposal is generally in compliance with relevant Development Plan policies and that the proposal is consistent with the proper planning and sustainable development of the area.

7.45. Social & affordable Housing: Part V requirements apply.

Appropriate Assessment

7.46. The nearest Natura sites are the North Dublin Bay SAC (000206), and the North Bull Island SPA (004006), which are approx. 40m south of the site. Also in close proximity to the site is the Rockabill to Dalkey Island SAC (003000), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210).

7.47. The conservation objectives for the North Dublin Bay SAC are to maintain or restore the favourable conservation status of habitats and species of community interest, including Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes), Fixed coastal dunes with herbaceous vegetation, Humid dune slacks, *Petalophyllum ralfsii*.

7.48. The conservation objectives for the North Bull Island Bay SPA are to maintain or restore the favourable conservation status of habitats and species of community interest, including Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone, Black-headed Gull and the wetlands which support them.

7.49. The site itself is of low biodiversity value given its current brownfield status. The applicant proposes SUDS measures of permeable paving. An underground stormwater tank and associated oil interceptor is proposed to manage surface water run off before outfalling to the public sewer, which itself outfalls into the bay at a stated 100m from the site. The applicant must apply separately to any planning permission to Dublin City Council for a connection to the surface water network and in doing so must comply with the requirements of Dublin City Council in this regard, including compliance with the Greater Dublin Regional Code of Practice for Drainage

works, whereby all new developments must incorporate SUDS. Any discharge will have addressed the issue of potential pollutants given best practice systems in place.

7.50. I am satisfied that standard construction management practices would be sufficient to avoid an indirect effect on water quality during construction. I consider that adequate attenuation is proposed within the site during the operational phase and therefore the potential for impact on the water quality within the designated sites is remote. In addition, the proposal for connection to the public foul network would mitigate any potential for impacts from wastewater.

7.51. It is reasonable to conclude that on the basis of the information on the file, which I consider to be adequate in order to issue a screening determination that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No 000206 (North Dublin Bay SAC), No. 004006 (North Bull Island SPA), No. 0040240 (South Dublin Bay and River Tolka Estuary SPA), No. 000210 (South Dublin Bay SAC), Rockabill to Dalkey Island SAC (003000), or any other European Site, in view of the site's conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. It is recommended that permission for this apartment development be granted, subject to conditions.

9.0 Reasons and Considerations

9.1. Having regard to the residential zoning of the area and provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would achieve an acceptable standard of urban design and provide a proper level of amenity for its residents, which would not seriously injure the amenities of the area. The proposed development would be acceptable in terms of traffic safety, would not be prejudicial to public health and would not be likely to have a significant effect on any Natura 2000 site, either individually or in combination with any other plan or project. The

proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 submitted on the 5th day of October 2017 and by the further plans and particulars received by An Bord Pleanála on the 16th day of January 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) Apartments 30 and 31 shall be reorganised to provide for one larger apartment unit.
 - (b) The ground level floor to ceiling heights of the apartment block shall be 2.7m.
 - (c) The entrance doors to the lobby/lift areas to the rear of the apartment building serving the two rear wings shall be relocated further north on that elevation, to a similar position indicated for the western-most lobby/lift area.
 - (d) Revised window treatments such as louvers, angled windows or another acceptable solution shall be utilised to reduce the level of direct overlooking between the windows serving Bedroom 1 in unit no.'s 13, 17, and 21 and the opposing bedroom window serving unit no.'s 29, 33 and 37.
 - (e) All bathroom windows shall comprise obscure glazing.

- (f) The pedestrian access from the Howth Road and pedestrian path along the western boundary to the front of the apartment building shall be omitted.
- (g) The developer shall submit a revised parking layout, omitting parking spaces 39 to 41, which shall be relocated to the front and western side of the site, with the bin store relocated closer to the cul-de-sac to the side/rear of the building and the cycle spaces reorganised as required. Where feasible additional visitor parking shall be provided.
- (h) The vehicular access to the development shall be redesigned with footpaths on both sides and these footpaths shall link into the pedestrian paths within the scheme, details of which shall be agreed with the Planning Authority.
- (i) The entrance gates proposed across the vehicular entrance shall be omitted and no gates, security huts or security barriers shall be permitted at the entrance to the development. The development shall remain open and accessible at all times.
- (j) A 1m-1.5m privacy strip shall be provided along the west, east and northern side of the apartment building.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. This permission is for 40 apartment units only.

Reason: In the interests of clarity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than [1:500] showing –

- (i) The species, variety, number, size and locations of all proposed trees

and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder].

- (ii) Details of screen planting and all boundary treatment.
- (iii) Details of roadside/street planting.
- (iv) Hard landscaping works, specifying surfacing materials, furniture, and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation.
- (d) Protection and enhancement measures for the existing hedgerow along the eastern boundary.
- (e) Protection measures for the existing mature tree, adjacent to the vehicular entrance that may be required during the construction works.
- (f) The areas of public open space shown on the lodged plans to the rear of the building shall be reserved for such use and the developer shall provide for a small play area (85-100 sqm in area) for the specific needs of toddlers and children up to the age of six, to be located within the open space to the rear of the building.

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 three 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 amenity, ecology and sustainable development.

5. Rooms identified for storage space shall not be utilised as habitable rooms.

Reason: In the interests of clarity and residential amenity.

6. Details of the bin store shall be submitted to and agreed in writing with the

planning authority prior to the commencement of development.

Reason: In the interests of visual and residential amenity.

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

Reason: In the interest of visual amenity.

8. The developer shall comply with the following road requirements:

(a) A project traffic management plan for all stages of construction traffic shall be agreed in writing with the Planning Authority before demolition, excavation and construction commences. The plan shall detail access arrangements for labour, plant and materials and shall indicate the locations of plant and machine compound.

(c) Prior to the commencement of development all works proposed on the public road shall be subject to written agreement of the planning authority. Any works to the existing public road including footpath modifications, signage, shall be carried out at the applicant's expense at no cost to Dublin City Council.

(d) The car parking spaces shall be permanently allocated to the residential units within the development and shall not be sold, rented or otherwise sub-let or leased to other parties.

(e) At the vehicular access point to the development, the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary to facilitate car entry/exit. Measures shall be implemented including contrasting materials, signing and road markings to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of way.

(f) The proposed roads, junctions, car parking areas, footpaths and hard landscaping areas to be taken in charge, including all materials and public lighting shall be agreed in writing with the planning authority. A Road Safety

Audit shall be undertaken in advance of any areas throughout the development being taken in charge.

(g) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: In the interest of traffic safety and orderly development.

9. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

10. If, during the course of site works archaeological material is discovered, the City Archaeologist shall be notified immediately. It is obligatory under the National Monuments Amendment Act 1994 that such is brought to the attention of the National Monuments Service, Department of the Environment, Heritage & Local Government, and the National Museum of Ireland. In the event of an archaeological find on site, the City Archaeologist (in consultation with the National Monuments Service, Department of the Environment, Heritage & Local Government) shall determine the further archaeological resolution of the site.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

11. Water supply and drainage arrangements, including the attenuation and disposal of surface water, provision of SUDS measures, including permeable paving throughout the development, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

12. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400

hours 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.

13. The management of waste during the construction and operational phases of the development, shall comply with the requirements of the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.

14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

15. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

16. 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.

17. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

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

Reason: To ensure the satisfactory completion of the development.

19. 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 commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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.

Una O'Neill
Senior Planning Inspector

22nd March 2018