



An
Bord
Pleanála

Inspector's Report ABP-300456-17

Development	Removal of existing outbuilding and the construction of a four storey apartment development, comprising 11 apartments.
Location	Blackhorse Avenue, bounding the wall of Phoenix Park (a protected structure), Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2925/17
Applicant(s)	Andre McQuiad, Claudine Healy and Edith Wynn
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	OPW; Bernard Farrell and others; Jelena Vasic and others; Anthony Cleary and others
Observer(s)	Navan Road Community Council; Joan Burton TD

Date of Site Inspection

26th April 2018

Inspector

Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located on Blackhorse Avenue, adjoining the Phoenix Park and opposite the junction with residential street Skreen Road, west of Dublin City Centre.
- 1.2. The site, which has a stated area of 1529sqm, comprises an existing shed and is being utilised for the storage of wooden pallets. The site, which is triangular in shape, has an 80m frontage to Blackhorse Avenue to the east/northeast, off which there is a vehicular entrance. A road improvement scheme has been recently carried out along Blackhorse Avenue and the site comprises a new stone wall along the streetscape which was constructed as part of these works. The site is bounded to the south/southwest by the Phoenix Park and adjoins the North Road, which runs within the park, parallel to Blackhorse Avenue. On the opposite side of North Road in the park is Dublin Zoo. The site is bound to the northwest by Park Crescent House Apartments.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Demolition of a shed/outbuilding
 - Construction of a 4 storey apartment building, comprising 11 apartments (9 x 2 bed and 2 x 3 bed).
 - The floor area of the new build is stated to be 961 sqm.

3.0 Planning Authority Decision

3.1. Decision

GRANTED, subject to 15 conditions, including the following:

C2: Section 48 development contribution.

C3: Revised external finishes to comprise brick, stone and glazing.

C4: Section 48(2)(c) special contribution in respect of public open space.

C9: Archaeology

C14: Section 96 agreement

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 in relation to the following:

- Size of the apartments.
- Query over use of proposed reflective cladding.
- Landscaping plan required identifying all public and communal open space and green roof options.
- Requirement for a flood risk assessment and 3m set back from two public sewers running through the site.
- Archaeological Impact Assessment to assess the potential physical and visual impacts of the development on the protected structure, ie the Phoenix Park boundary wall.
- Concern over proposed gated access and request for separate open pedestrian access.
- Location of bin stores.

Upon receipt of further information, which included a revised layout relocating the building 1m east to the east and extended 1m to the south, a decision to grant permission was issued.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to conditions.

City Archaeologist: No objection subject to conditions.

Roads Traffic Division: No objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A number of third party submissions have been received and the issues raised are addressed within the grounds of appeal.

4.0 Planning History

2775/13 – Blackhorse Avenue, Section 2 Road Improvement Scheme. This scheme adjoins the site and was undertaken by Dublin City Council which acquired a part of the site adjoining the road and constructed a new wall bounding the road.

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

- Zoning objective Z1, the objective for which is ‘to protect, provide and improve residential amenities.’
- The site adjoins a Conservation Area and a zone of Archaeological Interest.
- The site is adjacent to the perimeter enclosing stone wall of the Phoenix Park, which is a Protected Structure, RPS ref 6781.

- Plot Ratio: 0.5-2.0 for Z1 zoned lands.
- Site Coverage: 45%-60% for Z1 zoned lands.
- Building Height: 16m in the Outer City.
- Parking: Zone 3, 1.5 spaces maximum per residential dwelling.

The following policies are relevant:

- **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...
- **GIO14(ii):** To protect and conserve the historic landscape of the Phoenix Park and its archaeological, architectural and natural heritage whilst facilitating visitor access, education and interpretation, facilitating the sustainable use of the park's resources for recreation and other appropriate activities, encouraging research and maintaining its sense of peace and tranquillity.

5.3. The following OPW publication is also of relevance:

- The Phoenix Park Conservation Management Plan, September 2011. The following is the overall Vision of the plan:

To protect and conserve the historic landscape character of The Phoenix Park and its archaeological, architectural and natural heritage whilst facilitating visitor access, education and interpretation, facilitating the sustainable use of the Park's resources for recreation and other appropriate activities, encouraging research and maintaining its sense of peace and tranquillity

5.4. Natural Heritage Designations

The nearest Natura sites are the North Dublin Bay SAC (000206), and the North Bull Island SPA (004006), some 7km to the south east and separated from the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

Four third party appeals have been submitted, from the OPW and from residents of the area. The grounds of appeal are summarised as follows:

- The proposed development will have a negative visual impact on the historic setting and architectural character of the Phoenix Park.
- The Phoenix Park, including the boundary walls, are listed in the RMP. The proposed development within metres of the protected park boundary wall will have a significant detrimental impact on the integrity of the boundary wall and its setting at this location. The foundations of the building will undermine the stability of this recorded monument and protected structure. The Archaeological Impact Assessment examined subsurface remains and not the boundary wall.
- Visual intrusion from development at the boundary wall poses a threat to the historic integrity of the Phoenix Park. There is no tree lined canopy of trees along this section of the Phoenix Park, as along other sections of the boundary, and the proposal will be a visual blight within the amenity setting of the park.

- The proposed building would be intrusive and overbearing when viewed from within the park, will diminish the historical setting and will limit public enjoyment of the park due to overlooking from apartments and glare of lights from the apartments in the evening, causing light pollution.
- The proposal will result in a significant loss of trees within the site and will further expose the perimeter and park setting.
- The site is zoned Z9 and the entire Phoenix Park is a Conservation Area. The proposed development by virtue of its size, scale and design will have a negative impact on the planning and heritage designations of the Phoenix Park. The proposal is contrary to development plan objectives in relation to the Phoenix Park, green infrastructure, and heritage, including GIO14.
- Scale of development is out of keeping with the area and contrary to development plan policy SN2 and section 16.2.1.1 in that it doesn't respect existing context and character of the area.
- Direct visual intrusion from the development into grounds of Aras an Uachtarain and security issues arising from this.
- There is no separation distance from the park, unlike the neighbouring apartment scheme which is set back from the park and Blackhorse Avenue.
- Proposal will likely be visible from the African Plains section of the zoo, impacting negatively on the visitor experience.
- Development is one storey higher than neighbouring apartments and the majority of the area is two-storey and single storey in height.
- Visibility into front rooms of houses and rear gardens of properties opposite the site from the upper floors of the building, impacting on privacy.
- The shadow plans submitted are inadequate as they relate to March only. Furthermore a revised set of shadow plans has not been undertaken on the amended scheme, which was raised in height and moved further toward the boundary wall. A new set of shadow plans have been submitted with this submission which indicate a severe impact on current residential amenity of houses on Blackhorse Avenue and Skreen Road, and in particular 297-303 and 1-4 Blackhorse Avenue, opposite the site.

- Inadequate level of parking proposed for the development which will impact on the roads around the site.
- The positioning of the entrance at this location is inappropriate, dangerous and unacceptable.
- Proposal will set a precedent for other character changing type development in the area.
- Ref 3757/05 was refused for a four storey building on the opposite side of Blackhorse Avenue and 20m north of the site due to its size, siting, design and visibility from the park.

6.2. Applicant Response

The applicant has submitted the following response to the grounds of appeal:

- The North Road is a secondary road to Chesterfield Avenue and acts as a commuter road and a traffic corridor serving the N3 and the Ashtown Gate and as an overflow parking area to Dublin Zoo.
- The site is a transient space at the edge of the park. The use of this brownfield infill site is an efficient use of available land for housing and is in compliance with development plan policies. The proposal will not lessen the ability of those using the park to enjoy this transient space.
- The area is characterised also by the existing apartments on the adjoining site which stretch 175m along Blackhorse Avenue and do not detract from the amenity of the area.
- Trees lost will be replaced and will not expose the perimeter and setting of the park.
- This is a limited site bound by 2m high walls with a raised ground level. Overlooking will allow for natural surveillance and security of the park.
- The building will not be overly visible from the zoo.
- The oblique view of gardens is at a distance of 45m.

- An amended sun path analysis is submitted and the proposal is in compliance with BRE guidelines.
- The transportation department of DCC were satisfied with the entrance as proposed.
- The park is a living organism within the city and not a museum. The central courts building on Parkgate Street does not impact on anyone's enjoyment of the park and is a contemporary expression of a developing city.
- The proposal will not visually intrude on Aras an Uachtarain and does not pose a security risk.
- Engineering proposals were submitted, amended and deemed satisfactory by Dublin City Council.
- The proposal will have no impact on the boundary wall of the phoenix park. Best practice construction management will ensure the wall is not undermined.
- A conservation report and archaeological assessment was undertaken.
- The proposed development is external to the park and on a limited access circumference to the park.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

Two valid observations were submitted from the Navan Road Community Council and Joan Burton TD, the grounds of which are summarised as follows:

- Proposed scale of development is out of character with the area and without precedence along the entire North Road.
- Obtrusiveness and overbearing impact will arise due to scale and proximity to adjoining footpaths of proposed development. The position of the building is at the only part of the entire Park boundary wall that has the pedestrian path abutting against it. This maximises the visual impact and makes this the most

damaging possible site on the entire Phoenix perimeter. The proposal would be intrusive when viewed from within the park.

- Overall height should be reduced by one floor to ameliorate impact on the Phoenix Park and on the nearby one and two storey houses.
- Part of the site is subject to a special objective. Proposed development materially contravenes this special objective.
- Dublin City Council has indicated they are not in favour of proposed reflective polished aluminium finish. Objectors have no input to the finish that is proposed.
- Balconies should not overlook the park.
- Proposed development could have detrimental impact on the trees in the park on the other side of the boundary wall, which has little to no foundations, therefore the roots could be located within the site and could be damaged.
- No condition was attached to preclude additional roof top plant to the building.
- Overshadowing study is negligent and not compliant with best practice.
- Number of parking spaces proposed is deficient and location of entrance is at a busy junction.
- Section 3.2 of the OPW 'Phoenix Park Conservation Plan' (2011) seeks to protect the park from threats posed by inappropriate development. Planners have not taken cognisance of this.
- Proposal is contrary to objectives of development plan in relation to value of green infrastructure.
- The proposal by virtue of its height, scale and design is inappropriate at this location.
- Blackhorse Avenue is prone to flooding. The proposal will worsen this situation. The proposal is in an area subject to high pluvial flood risk and flooding from stated 'unknown sources' assumed to be solely overloading of sewers. However, the site sits on a Phoenix Park stream that almost certainly contributed to past flooding. Flood risk assessment report is deficient and based on invalid assumptions.

- Proposed apartment may cause issues with flooding which could impact on the park wall.
- There are security implications for Aras an Uachtarain as the upper floors will be able to see the rear entrance of the building.

6.5. Further Responses

None.

7.0 Assessment

- 7.1. The proposed development is for a four storey apartment development, containing 11 apartments, on a site 1529 sqm in area. The plot ratio is stated to be 0.6 and the site coverage is approx. 19%, with an overall density of 72 units per hectare. The building is on a triangular site and also has a triangular form, being positioned at the southeastern end of the site. Following a request for further information, the site was repositioned approx. 1m east on the site, extended in area approx. 1m to the south and the finished floor level was raised. The overall height of the proposed building is approx. 14m. The building is 38m in width where it fronts onto Blackhorse Avenue and is 29m wide along the boundary with the Phoenix Park. A public open space area of 478 sqm is positioned along the southwestern boundary with the Phoenix Park and this area has a width of 34m. The site is bisected by two foul drainage pipes, with setbacks from the proposed building of 3m. 14 car parking spaces are proposed and 10 bicycle spaces.
- 7.2. The subject site is located within zoning objective Z1, the objective for which is *'to protect, provide and improve residential amenities'*. I consider the proposed residential development to be acceptable in principle within this zoning objective.
- 7.3. The primary issues for assessment include;
- Visual Impact on the Phoenix Park
 - Visual Impact on the Residential Area
 - Residential Amenity
 - Flood Risk Assessment

- Traffic Impact
- Appropriate Assessment

Visual Impact on the Phoenix Park

- 7.4. The third party submissions and a number of observers have raised concerns in relation the height of the proposed development and overbearing impact on the adjoining Phoenix Park, which is a conservation area, with an historic setting and architectural character. It is highlighted that the appeal site directly adjoins the Phoenix Park and is the only section of land adjoining the North Road (parallel to Blackhorse Avenue) where there is no tree/green buffer between the boundary of the park and the internal North Road/public footpath. It is considered that the proposed development will therefore be highly visible and overbearing at this location. The Phoenix Park boundary wall is a protected structure and concern is raised that the proposed development will damage the integrity of this wall. The first party in response, considers that this area of the park is very busy, accommodating a lot of traffic and activity and considers the building can be accommodated within this context without detracting from the amenity of the park.
- 7.5. The proposed development is located approx. 3.5m from the Phoenix Park wall (as amended by Further Information to ensure minimum apartment sizes were met and a 3m separation from public sewers on the site were achieved). The proposed building has a 29m wide elevation onto the Phoenix Park, with the adjoining open space area being approx. 34m in width along the boundary with the park. A conservation impact document has been submitted as part of the application.
- 7.6. As highlighted in the submissions, this is the only section of the Phoenix Park where there is no green buffer/trees between the internal North Wall Road and the Phoenix Park boundary, therefore the proposed building will be clearly visible at this location. The North Road at this northeastern section of the park is an area of the park where there are a number of existing buildings and is the section of the park where developments external to the park come closest to the boundary wall. I note however that this location does not form part of any significant view into/out of the park, as set out within the OPW Conservation Management Plan. While this building will be visible, views of it from the park will be limited to this section of the park and I do not consider its scale and width will be such as to detract from the setting of the Phoenix

Park as a whole and this area in particular, nor will it in my view detract from the enjoyment of the quality amenity space which this historic park provides. The building, which is outside the park boundary, will provide a new addition to the city and will maximise the use of a currently underutilised site, the zoning of which is supportive of residential development.

- 7.7. Given the separation distances involved and existing landscaping, the proposed development will not impact on the visual and residential amenity of Aras an Uachtarain.
- 7.8. The Phoenix Park wall is a protected structure. A Conservation Impact Document was submitted with the application and I note Dublin City Archaeologist requested an archaeological impact assessment of the site and further information was requested in this regard. No follow up internal report has been received from the City Archaeologist and conditions were attached to the original report written.
- 7.9. I am satisfied that the applicant is not intending to remove or impact on the existing boundary wall and that development which is positioned 3.5m from the wall can be accommodated without impacting on the structure of the wall. I do not consider the setting of the wall will be so adversely affected as to warrant a refusal. Should the Board be minded to grant permission, a condition is required to ensure the implementation of a construction management plan which addresses as part of it the protection of the wall during construction stage.

Visual Impact on the Residential Area

- 7.10. Along this section of Blackhorse Avenue, the majority of residential development is located on the eastern side of the road, however there are limited sections of development along its western side adjoining the park. In general development along this route is of varied design and scale, being developed over different periods of time. Immediately northwest and adjoining the site is an apartment development 3 storeys high with occasional 4 storey projections (comprising stairwell/core areas), while the dwellings opposite the site are single storey and two storey in height.
- 7.11. The appeal site is positioned at the end of a straight section of Blackhorse Avenue and at the commencement of a curve in the street, which sweeps around the site and the apartment development northwest of the site. The proposed building is located within the eastern section of the site/within the triangular tip of the site and

also has a triangular footprint. The proposed building at four storeys and approx. 14m high will be the highest building along this stretch of Blackhorse Avenue, however having examined the building in the context of the mixed architectural style of the surrounding area and given its position within the site and within the street at the termination of a straight section/beginning of the curve of the street, I am of the view that the proposed building will provide for a modern insertion in this streetscape, which given its position separate from surrounding buildings and orientation on site, is of a scale and design appropriate to the site and will not significantly detract from the visual amenity of this area.

- 7.12. The appeal site is highly accessible and served by a high quality frequent bus route, while also being within walking distance of a range of services, including the amenity of the Phoenix Park. The proposal is in line with national policy guidance in relation to density and utilising infill sites to support the growth of cities versus their outward expansion, which must be balanced against the evolving character of an area and the existing community. I consider that this four storey building can be accommodated without detriment to the character and visual amenity of the area and consider further hereunder the impact of the development in terms of residential amenity.

Residential Amenity

- 7.13. Concerns have been raised in relation to overlooking of rooms within the dwellings opposite the site and overlooking of private gardens given the overall height of the proposal and ability to view into rear gardens from a higher level. The quality of the overshadowing study undertaken was also called into question.
- 7.14. The applicant in response to issues raised has submitted an amended sun path analysis, which, it is stated, is in compliance with BRE guidelines.
- 7.15. The proposed building is 1.6m at its closest point from Blackhorse Avenue and a distance of 26m-34m from the front of dwellings on the opposite side of Blackhorse Avenue. Given the distances between the properties and position of dwellings northeast of the development, I do not consider that issues of overlooking or overshadowing will be significant in this context.

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

7.16. The Guidelines for Planning Authorities on Design Standards for New Apartments (March 2018) contain several specific planning policy requirements with which the proposed 11 apartments must comply. I have reviewed the schedules submitted and the plans against the 2018 guidelines. Room sizes, storage spaces, private open space as well as public and communal open space appear to be in line with the standards set out in the guidelines.

Flood Risk Assessment

7.17. The applicant in response to a further information request from the Planning Authority, submitted a Flood Risk Assessment Report, which highlights the site is at potential risk from pluvial flooding and mitigation measures are proposed in the design of the building and measures on site to attenuate and control surface waters.

7.18. The third party submissions and observers query the adequacy of the Flood Risk Assessment and consider it to be deficient.

7.19. I have reviewed the information submitted as part of the application, the third party and observer submissions and the report from the Drainage Division of Dublin City Council. I am satisfied that the issue of flood risk has been adequately addressed as part of this application. The Flood Risk Assessment submitted by the applicant comprises a number of design mitigation measures, including a green (sedum) roof, which should be implemented as part of any development. The issue of implementation of mitigation measures can be addressed by way of condition, should the Board be minded to grant permission.

Traffic Impact

7.20. Concern has been raised in relation to the low level of parking applied to the site, the proximity of the entrance to the junction with Skreen Road and the ability of the surrounding road network to cater for the proposed development.

7.21. The proposed entrance to the development has been relocated within the existing boundary wall. 14 parking spaces are proposed for 11 apartments, with the maximum requirement for this area being 1.5 spaces per residential unit. Having regard to the standard of the road network in the area, the availability of public transport links, the relatively modest scale of the proposed development of 11 apartments, the material submitted with the application and appeal, and the reports

of the planning authority, it is my view that the proposed development will not endanger public safety by reason of traffic hazard or congestion.

Other Matters

- 7.22. Concern was raised in relation to the potential of the proposed development to detrimentally impact on the trees in the park on the other side of the boundary wall, given the wall has little to no foundations and the roots may be located within the site, with potential for significant damaged. I note an Arboricultural Report has been submitted with the application and a Landscape Report. The Arboricultural Report considers it highly unlikely that roots from the trees within the Phoenix Park will extend into the site. The Landscape Report states it is proposed to remove 11 of the 18 trees on the site and to replace with 21 new semi-mature trees. 4 of the trees for removal are category U trees, 1 is category C2 in poor condition and 6 are category B2, trees in fair or good condition. I am satisfied from the information submitted that adequate surveying of the trees has taken place and the level of replacement planting proposed is appropriate for this site.
- 7.23. The applicant has provided one larger block of open space on site, 478sqm in area. Following a request for further information the applicant indicated this space was communal and could be used by the public as the pedestrian gate to the site would be open. The planning authority did not consider this space to be public open space. In my view, in addition to the pedestrian entrance being open, the proposed vehicular entrance should not be gated, which is supported by policy QH10 of the development plan. This can be addressed by way of condition. As the development will be open, I consider the open space to be accessible and usable by all and in my view can be considered public open space.
- 7.24. I would draw the Boards attention to condition 4 of the decision to grant permission, which relates to section 48(2)(c) of the Planning and Development Act (as amended) and requires a special contribution in relation to open space. The adopted Dublin City Council Development Contribution Scheme sets out mechanisms under section 10 to cover costs for different classes of public infrastructure and facilities, including parks and open space facilities and furthermore has a section relating to applying costs in lieu of public open space. There is not in my view a satisfactory case presented by the planning authority in relation to specific works and exceptional

costs resulting from this development, as per section 48(2)(c) of the Planning and Development Act 2000 (as amended), which would give rise to a special contribution as set out under condition 4 and any cost which its considered to arise is a cost which can be covered under the adopted section 48 Dublin City Council Development Contribution Scheme. Furthermore condition 2 includes for costs relating to open space and facilities and there is an element of double counting in this regard. Should the Board be minded to grant permission, I recommend condition 4 be removed.

Appropriate Assessment

- 7.25. The nearest Natura 2000 sites are approx. 7km east of the site and are the South Dublin Bay and River Tolka Estuary SPA (004024), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), and the North Bull Island SPA (004006).
- 7.26. The conservation objectives for the South Dublin Bay and River Tolka SPA are to maintain or restore the favourable conservation status of habitats and species of community interest, including Light Bellied Brent Goose, Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern and Arctic Tern and the wetlands which support them.
- 7.27. The conservation objectives for the South Dublin Bay SAC are to maintain or restore the favourable conservation status of habitats and species of community interest, including tidal mudflats and sandflats, annual vegetation of drift lines; salicornia and other annuals colonising mud and sand, and embryonic shifting dunes.
- 7.28. 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*.
- 7.29. 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.

- 7.30. The applicant proposes to following measures for the treatment and disposal of surface water run off: green roof, system of planter beds, system of soak pits, and additional system of surface water attenuation with flow control and permeable paving for the car parking areas. There are limited relevant pathways between the development and Natura 2000 sites and 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 water quality within designated sites is remote. In addition, the proposal for connection to the public foul network would mitigate any potential for impacts from wastewater.
- 7.31. 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), 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 is granted subject to conditions set out hereunder.

9.0 Reasons and Considerations

Having regard to the zoning objective, the design, layout and scale of the development, as well as the historic setting and boundary with the Phoenix Park, it is considered that subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or property in the

vicinity. 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 24th day of October 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. The proposed development shall be amended as follows:
 - (a) 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.

Revised drawings showing compliance with this requirement 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 11 apartments only.

Reason: In the interest of clarity.

4. Details of the materials, colours and textures of all 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.

5. The developer shall employ a suitably qualified archaeologist prior to the commencement of development to assess the site and monitor all site development works, to advise in relation to construction methodology, and to make appropriate recommendations in relation to mitigation. 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.

6. 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 include details for the protection of the boundary wall of the Phoenix Park during construction, and 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

7. The developer shall comply with the requirements of the planning authority in relation to works on the public road and the developer shall submit the following:

- (a) A project traffic management plan for all stages of construction traffic, which 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.

- (b) A minimum of 7 no Sheffield style cycle parking stands shall be provided within the site. Cycle parking shall be secure, conveniently located, sheltered and well lit.
- (c) The proposed new boundary wall and railing along the frontage of the proposed development shall match that of the wall & railing constructed further up the road scheme along Blackhorse Avenue, with the following provisos:
 - (i) The wall should be a minimum of 1m high from footpath level to the top of the stone capping below the proposed boundary railings.
 - (ii) The proposed boundary wall along the frontage of the scheme where it is being reconstructed should be broken up into panel lengths of “full height masonry wall” and “wall and railing” sections to match in with the existing Phoenix Park wall as much as possible.

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

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The following measures shall in addition be complied with:

(a) All proposed flood risk mitigation measures and recommendations as outlined in a Flood Risk Assessment Report dated October 2017 by Tygro Consulting Engineers Ltd. shall be implemented.

(b) A clear distance of three metres shall be maintained between sewers and all structures on site. No additional loading shall be placed on this sewer. Any damage to it shall be rectified at the developer's expense.

Reason: In the interest of public health.

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. 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.

11. 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.

12. 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

13. 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.

14. 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.

15. 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

9th May 2018