



An
Bord
Pleanála

Inspector's Report ABP-300466-17

Development	Construction of a seven storey/ four storey building (23 No. apartments)
Location	40-41, Stoneybatter, & 1-3 Blackhall Place, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3538/17
Applicant(s)	Bartra Real Estate Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First & Third Party
Appellant(s)	Bartra Real Estate Limited; Andrew Sheridan
Observer(s)	C&N Marsh; Louisa Kelly
Date of Site Inspection	4 th April 2018
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located in northwest Dublin inner city, approx. 350m north of the River Liffey, at the intersection with Blackhall Place and Stoneybatter, opposite the junction with North King Street. It comprises Nos. 1-3 Blackhall Place and Nos. 40/41 Stoneybatter.
- 1.2. The site, which has a stated area of 670sqm, comprises an east facing, vacant brownfield site. It is bounded at the street edge to the north by a single storey building occupied by a pharmacy, a two storey building occupied by a hairdressers and along the northern boundary away from the street frontage are the rear gardens of single and two storey dwellings which front onto Arbour Hill. To the west is the angled rear garden of a dwelling on Arbour Hill and to the southwest and south is an existing five storey apartment development.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction on a vacant infill site of a rectangular block of 23 apartments, part four storey/part seven storey in height.
 - A communal open space area is provided on the western portion of the site.

3.0 Planning Authority Decision

3.1. Decision

GRANTED, subject to 17 conditions, including the following:

C2: Section 48 contribution

C3: Section 49 contribution in respect of the Luas Cross City Scheme

C4 (a) Seventh floor to be omitted

(b) Privacy strip of 1.5m required for apartments onto Blackhall Place

(c) Stairwell windows at fifth and sixth level to be obscured

(d) Minimum floor to ceiling height of 3.5m for all ground floor units

Reason: In the interests of respecting the existing character of the area in terms of height, massing, scale, visual and residential amenity.

C5: Section 48 (2)(c) contribution required in respect of public open space

C16: Section 96 and provision of social and affordable housing

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. Further Information was requested in relation to the height, scale and massing of the building, particularly the seven storey element; overlooking of neighbouring properties on Arbour Hill and Blackhall View; ground floor use; boundary treatment for ground floor terraces; and external finishes to the building. Upon receipt of Further Information, permission was granted subject to conditions.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to condition.

Roads and Traffic Division: No objection subject to condition.

Waste Management: No objection subject to condition.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A number of third party submissions were received, which are largely addressed in the grounds of appeal.

4.0 Planning History

6034/07 – Permission GRANTED for addition of a basement level to previously permitted seven storey building.

6439/06 – Permission GRANTED for construction of a part 7 storey, part five storey mixed use development. Following further information, the five storey element was reduced to four storeys.

1717/06 – Permission REFUSED for part five storey/part six storey building.

PL29N.211350 (reg ref 6070/04) – Permission REFUSED for a five storey apartment block, with ground floor retail units fronting the street, and a two storey block to the rear. Reasons for refusal related to scale of development inconsistent with the streetscape; non-compliance in relation to size of apartments and open space; loss of privacy, natural light and outlook for properties at Arbour Hill.

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)

5.2. Dublin City Development Plan 2016-2022

- Two land use zoning objectives, Z1 and Z3, are applicable to the site. Z1 relates to the western/rear portion of the site and Z3 to the eastern/street edge. Zoning objective Z1 is ‘to protect, provide and improve residential amenities’. Zoning objective Z3 seeks to ‘provide for and improve neighbourhood centre facilities’.
- South of the site at Blackhall Place is a Conservation Area.
- Chapter 5: Quality Housing
- Section 16.5, Plot Ratio: Indicative plot ratio 0.5-2.0 for Z1 and 1.5-2.0 for Z3, with a higher allowance in certain circumstances.
- Section 16.6, Site Coverage: Site Coverage- 45-60% for Z1 and 60% for Z3, with a higher allowance in certain circumstances.
- Section 16.7.2, Building Height: Up to 24m (residential) for inner city.
- Section 16.2.2.2 and 16.10.10, Infill Development.

- Section 16.10.1 Residential Quality Standards, Apartments.

The following policies apply to the site:

- **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...

5.3. Natural Heritage Designations

The nearest Natura sites are the South Dublin Bay SAC (000210), South Dublin Bay and River Tolka Estuary SPA (004024), and the North Bull Island SPA (004006), approx. 6km east of the site and separated from it.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The applicant, Bartra Real Estate Limited, has submitted an appeal, as has a third party, Andrew Sheridan, a resident of Arbour Hill.

First Party Appeal

- 6.1.2. Bartra Real Estate Limited are appealing Condition 4(a) and 4(b) of the permission issued by Dublin City Council. The grounds of appeal are summarised as follows:

Height - Condition 4(a)

- Condition 4(a) omits the seventh floor of the proposed building. The site is within the low rise inner city area, as defined in the Dublin City Development Plan, which has a height limit of 24m. The proposed building is 23.5m high.

- The site is located at the transition from Blackhall Place to Stoneybatter and is therefore suited to the development of a landmark building, marking the southern entrance to neighbourhood of Stoneybatter. The design of seven storeys, which is two storeys higher than the building to the south, drops down to four storeys to the north, acknowledging the transition in area.
- The building is at the end of the axis of North King Street and a higher building is an appropriate terminating feature of this street accentuating the verticality of the building at the termination of the street's view in a westerly direction. A reduction in height will diminish the significance of the building.
- Reg ref 6439/06 permitted a seven storey and four storey building. Nothing has materially changed in relation to the context of the area since then. The planner's report on the previously permitted developments considered the seven storey element served as an effective westerly limit to the open urban area of North King Street and distinguished the transition from Blackhall Place to Stoneybatter and a four storey element would not be unduly dominant on Arbour Hill.
- There are a number of examples in the area where there is a significant height difference/step up between a new building and adjacent buildings.
- Minister Eoghan Murphy in October 2017 stated that he would be lifting height caps. It is government policy to facilitate the delivery of more apartments in our cities.

Privacy Strip – Condition 4(b)

- A 1-1.6m strip is proposed, with a low wall and railing, and screen planting within the strip. A 1.5m strip is unnecessary in this instance and is not a mandatory development plan requirement.
- To set back the building further without modification of the rear building line, would result in some apartments not meeting minimum room sizes and would necessitate structural changes to the building.

Third Party Appeal

- 6.1.3. Andrew Sheridan, a resident of Arbour Hill, has submitted a third party appeal. Arbour Hill comprises a number of single and two storey dwellings. The applicant's

dwelling is located north of the appeal site and backs onto the appeal site. The appeal is summarised as follows:

- Apartments have been granted permission at ground level. That part of the site is zoned Z3 and apartment use at ground floor level is contrary to this. Within the updated apartment guidelines 2018 it is recommended that adaptability be considered in design of ground floor units to allow change from residential to commercial use by requiring ceiling heights of 3.5-4m.
- The proximity of the development coupled with the height will destroy the privacy enjoyed by residents of no. 60 and other residents along Arbour Hill to the north and west of the site, contrary to the zoning of the development plan.
- Drawings are inadequate to illustrate the context.
- Proposal will result in overdevelopment of the site and impact on amenity of adjoining residential development.
- Overlooking - Views from the third floor have been indicated relative to no. 60, but not from the balconies above this. The drawings are misleading.
- Overbearing Impact – Proposed four storey blocks will be 8.8m from no. 60 Arbour Hill. The proposal will be overbearing.
- Overshadowing of adjoining residential development on Arbour Hill will result and of private amenity space of no. 60.
- Proposal will limit development opportunities along Arbour Hill given its proximity to the boundaries of this development.
- If the Board are minded to grant permission, a condition is required to reduce the bulk and height of the development and proximity of balconies.

6.2. Planning Authority Response

None.

6.3. Observations

Three observations have been submitted from residents of the apartments in Blackhall View. The issues raised in the observations are summarised as follows:

- Overdevelopment of the site will result due to building scale, height and proximity to site boundaries.
- Proposed development would injure the amenities of the existing residential development at Blackhall View and adversely affect the value of no. 26 Blackhall View.
- Proposed development would significantly overshadow and overlook the communal common areas and private open space areas of the apartment units at Blackhall View. The courtyard and balconies of Blackhall View predominantly face north toward the applicant's site. The proposed balconies in the development will directly overlook apartments in Blackhall View.
- The already limited daylight factor for this north facing amenity is significantly and detrimentally affected by the size, bulk and scale of the seven storey element of the development. The proposed development will affect privacy and level of light available to the neighbouring apartments.
- Scale of development will overwhelm the existing streetscape and neighbouring developments and is out of character with the area and is not welcome on the skyline of Stoneybatter.
- Adverse micro climates may be created in the common areas of Blackhall Place, such as wind down draughts due to height and proximity along the northern boundary of Blackhall View.
- Lack of parking will add to traffic congestion.

6.4. **Third Party Response to Applicant's Grounds of Appeal**

Height & Scale of Development

- Condition 4(a) and (b) should be retained in the interests of respecting the existing character of the area and reducing the impact on neighbouring residential amenity.
- The site is within a 'transitional zone' as defined by the development plan. The proposed building will have an abrupt impact in the context of the dwellings on Arbour Hill and the sensitive Architectural Conservation Area to the south.

- Visual impact drawings/3d images are submitted with this response, which highlight the overbearing impact the proposed development will have on residential amenity of no. 60 and other dwellings on Arbour Hill.
- Scale and form of development on this site should be more appropriate to the space available and to its surroundings. The proposal is oppressive as can be seen from 3d images submitted.

Overlooking

- The separation distances between no. 60 Arbour Hill and the balconies of the proposed apartments from first to seventh floor, ranges from 8.4m-10.8m from dwellings on Arbour Hill and 10.3m-10.5m from apartments in Blackhall View. Overlooking and loss of privacy will result given the distances to boundaries.
- If the Board is minded to grant permission, a separation distance of at least 15m should be achieved between proposed balconies and the private open space of no. 60 Arbour Hill.

Zoning and Ground Floor Use

- Use of street level units for apartments is contrary to the development plan. Retail/commercial uses should be provided or at least community uses to serve the proposed development.
- 1.5m privacy strip should be maintained in the interests of residential amenity, if apartments are to be provided at ground level.

6.5. Applicant Response to Third Party's Response

Height & Scale of Development

- The issue of overall height has been addressed in the applicant's previous appeal submission.

Overbearing

- In relation to no. 60, the new building is located to the south-east and not to the immediate south, ie rear, of no. 60 and therefore proposal will not be visually oppressive or overbearing.

Overlooking

- Majority of dwellings on Arbour Hill have full site coverage. As submitted at FI stage, to obviate any potential overlooking, opaque screens will be provided along the side elevations of the balconies on the four storey section of the building. Balconies on the western section of the seven storey element of the building will comprise a 1.8m high obscured screen for 0.8m along the western elevation of these balconies at the northern side of this element of the block. This will focus views in a westerly direction away from Arbour Hill. To prevent overlooking of apartments in Blackhall View, obscure screens are proposed for 1.2m width along the western elevations of the most southerly balconies in the development.
- Given distance of the balconies on the fourth, fifth and sixth floors from the first floor terrace of no. 60, the oblique angles of the view from there of the terrace at no. 60 and the provision of opaque screens, there will be no significant overlooking of no. 60.
- In order to achieve high density apartment development on infill sites, some limited overlooking of adjacent properties may arise.

Overshadowing

- A detailed shadow analysis was lodged with the application. The apartment guidelines acknowledge that some element of overshadowing is inevitable and this has to be weighed up against the need to ensure an appropriate scale of urban residential development. Impacts of the proposed development, being located primarily to the north and east, will be marginal.

Zoning and Ground Floor Use

- Residential use is permissible in both Z1 and Z3. As per a land use survey submitted to the planning authority, there is no requirement for additional commercial units in this area and there is an urgent need for apartments. The proposed ground floor to ceiling height is 3.5m.

7.0 Assessment

- 7.1. The subject site is an infill brownfield development within the inner city, at a central location with high quality access to frequent bus and Luas services. The proposal is for a residential development comprising 23 apartments on a site of 0.067ha. The

proposed building is part four storey and part seven storey in height (14.5m - 23.5m high) and addresses Blackhall Place/Stoneybatter to the east, with approx. 22m of street frontage. The scheme has a plot ratio of 3.2, and site coverage of 56.3%. No car parking is proposed and 24 cycle spaces are proposed. An area of 175sqm of communal open space, including a play area, is provided on the western portion of the site. No public open space is proposed given the restricted nature of the site.

7.2. While the applicant has appealed condition 4(a) and (b) only, a third party has submitted an appeal addressing a wider range of issues in relation to the proposed development. Having regard to the nature of the development proposed, I consider a de novo consideration of the proposal is warranted.

7.3. The primary issues for assessment include:

- Zoning
- Height & Impact on Visual Amenity of the Area
- Residential Amenity of the Area
- Appropriate Assessment

Zoning

7.4. The subject site falls within two zoning categories, Z1 and Z3. The zoning objective Z1, seeks 'to protect, provide and improve residential amenities'. The zoning objective Z3 seeks to 'provide for and improve neighbourhood centre facilities'.

7.5. The third party considers that the ground level should not be for residential use and that an entire residential proposal in Z3 is not in accordance with the zoning objective. The applicant considers that residential use is appropriate considering the proximity to existing commercial/retail facilities in Stoneybatter, governed by zoning objective Z5, and having consideration for the level of vacant units in the area as submitted by way of a land use study undertaken at further information stage.

7.6. It is indicated in the development plan that Z3 neighbourhood centres should not be entirely residential, however, with regard to infill vacant sites, the Dublin City Development Plan allows for a relaxation of the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed. I consider the proposal for an entire residential infill scheme at this

location to be entirely appropriate and do not consider the proposal will affect the vitality of the Z3 zoned area. Given the proximity of Stoneybatter village, zoned Z5, which comprises a strong mix and supply of existing ground floor commercial uses, I consider the proposal for an entirely residential use reasonable. Furthermore, as per the guidance within the national Design Standards for New Apartments (2018), the ground level floor-to-ceiling height at 3.5m is such as to allow for future adaptability of ground floor areas from residential to potential commercial use in the future should this be required.

- 7.7. I consider the proposal is in compliance with national policy guidance, the zoning objectives for the area, and is acceptable in principle subject to assessment of normal planning criteria.

Height & Impact on Visual Amenity of the Area

- 7.8. The applicant considers the height proposed appropriate for what they consider a landmark location at the entrance to Stoneybatter and at the termination of North King Street. The applicant consider condition 4(a) of the planning authority to remove the seventh floor of the development should be omitted. The third party and observers consider the height to be out of character with the area and visually dominant. 3d visuals have been submitted by the third party to demonstrate their point.
- 7.9. The proposed development, which is 23.5m high, is within the height guidance set out in the development plan for this area of the city, which is 24m. I note the planning history of this site, whereby a part four storey/part seven storey development was permitted under reg ref 6439/06. This permission was not subject to appeal and comprises largely the same footprint and height as proposed in this application.
- 7.10. With regard to the height context of the area, a number of modern developments have occurred in recent years, principally to the south toward the river Liffey and east along North King Street and the Smithfield area, with developments primarily of five/six storeys. Immediately adjoining the site to the south is a five storey apartment scheme and to the north, the buildings in Stoneybatter are predominantly two/three storeys in height, with the buildings on Arbour Hill being primarily single storey. While the building at seven storeys is two storeys higher than the neighbouring apartment building, I consider that this inner city infill brownfield site can accommodate the

proposed stepped height of seven storeys and four storeys, given the site's position within the curve of the street, moving from the character of modern infills as one travels north from the river Liffey, to the more traditional scale neighbourhood of Stoneybatter. This site visually marks the entrance to Stoneybatter and the step down to four storeys as one turns the corner is, in my view, a sufficient transition in height terms and will not detract from the visual amenity and character of the area. The location of the building at the termination point of North King Street furthermore lends this site to a building which rises above those surrounding it. The transition and step up in height will not in my view detract from the visual amenities or character of the area to such an extent as to warrant the loss of one floor.

- 7.11. The appeal site is highly accessible and served by a high quality frequent bus route and both red and green Luas lines, while also being within walking distance of a range of services. 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 a higher building can be accommodated without detriment to the character of the area and consider further hereunder the impact of the development in terms of the residential amenity of the area.

Residential Amenity of the Area

- 7.12. The third party appellant and observers have outlined their concerns in relation the height, scale and impact on residential amenity of the proposed development, with particular concern in relation to overlooking of houses and private open space on Arbour Hill and on the apartments in Blackhall view; loss of light and overshadowing of neighbouring residences; overbearing impact; and overshadowing/loss of light on neighbouring residences. The applicant highlights that a number of amendments to the screening arrangements proposed at Further Information stage have addressed the issue of overlooking from balconies of the surrounding residences, including the private amenity space of no 60 Arbour Hill. It is argued that a limited amount of overlooking and overshadowing is to be expected from an infill site and the impacts are not so significant as to warrant amendments in terms of height or scale of the development in this instance.

7.13. The proposed development is built up to the northern and southern boundaries of the site and is 18.5m-21.5m deep, beyond which to the rear there are ground floor terraces and balconies above. The depth of the building (excluding the balconies) is largely in line with the adjoining single storey pharmacy to the north and steps 5.5m beyond the adjoining apartment block to the south, with the building stepping further back in the centre of the site by an additional 2m.

Impact on Arbour Hill

7.14. The building is four storeys in height at the northern boundary and separated from the first three houses on Arbour Hill by the two existing commercial units. The building increases to seven storeys in height at a distance of 4m at its closest point from the northern boundary. A shadow analysis has been submitted. I consider the design of the building, in terms of the footprint and height, is of a scale to be expected within an inner city urban area, where there is an existing mix of high density apartment type living alongside traditional single and two storey housing. While there will be some loss of outlook for those residents in Arbour Hill and an increased perception of overlooking, I consider the design in terms of the footprint, height and the amendments to the opaque screening of the balconies and redesign of windows on the northern elevation (submitted at Further Information stage), has had regard to the context of the amenities of surrounding residential houses on Arbour Hill, including no. 60 (located northwest of the scheme). Overall I do not consider the issues of overlooking, overshadowing, or overbearance on Arbour Hill to be so significant as to warrant a reduction in depth or height of the proposed building or further amendment/relocation of balconies. The protection of the amenities of the neighbouring single/two storey dwellings must be balanced against national policy to deliver housing at a sustainable density within our cities and in my view the design proposed has mitigated the impacts on dwellings to the north to a satisfactory level.

Impact on Blackhall View

7.15. The outlook for the apartments on the southeastern side of the block, in Blackhall View, will be affected given the step up from four to seven storeys at this boundary, in particular where the building line steps beyond the adjoining building at the boundary by approx. 5.5m. The rear section of the existing building will also be

affected given the orientation of windows toward the proposed block. However, overall I do not consider the impact on outlook, given the presence of a central courtyard serving the adjoining development and the orientation/aspect of the neighbouring building, to be so significant as to warrant a reduction in height. Furthermore the courtyard arrangement associated with Blackhall View, based on the overshadowing analysis submitted and considering the position of the proposed building north east of the courtyard, will not be significantly affected in terms of overshadowing. I consider the amendments to the screening of the balconies projecting from the rear/western elevation, as submitted by the applicant at Further Information stage, is reasonable in addressing the concerns raised in relation to overlooking of existing apartments. I note that no direct overlooking between windows will occur. I have no information before me to believe that the proposed development, if permitted would lead to devaluation of property values in the vicinity, as raised in an observation to the planning authority. Overall, I do not consider the proposal will result in such significant overlooking, overshadowing or overbearance of Blackhall View as to warrant an amendment of the layout or repositioning of the balconies and windows.

Privacy Strip - Condition 4(b)

- 7.16. The proposed building has a step back at the street edge of 1m-1.5m to the front of ground level apartments, with a section of the building comprising a 'services' room built up to the street edge, adjoining a recessed lobby. The applicant seeks the omission of condition 4(b) which requires a minimum privacy strip of 1.5m for all ground floor apartments fronting Blackhall Place. The third party considers this privacy strip to be required for the amenity of residents.
- 7.17. I note that the main balcony/terrace areas are to the rear serving the living/dining spaces. These are a minimum of 1.5m deep and will serve as the primary private amenity area of the apartments. The issue arising relates to privacy and whether the proposed arrangement will protect the amenity of future residents given the high pedestrian footfall along this street. While the privacy strip at ground level is narrow along the northern section at 1m, it is in my view sufficient to protect the amenity of future residents given the boundary will comprise a wall and railing, behind which screen planting is proposed and condition 4(b) is unwarranted.

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

- 7.18. The Guidelines for Planning Authorities on Design Standards for New Apartments (March 2018) contain several specific planning policy requirements with which the proposed 23 apartments must comply. 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). 4 of the apartments have a single aspect, none of which are north facing.
- 7.19. Room sizes, storage spaces, private open space and communal open space appear to be in line with the standards set out in the guidelines, as per the schedule submitted.

Other Matters

- 7.20. No public open space or vehicular parking is provided as part of the site. Given the restricted nature of the site and its high accessibility to public transport this is considered acceptable. A development contribution in lieu of public open space is required, in accordance with Dublin City Council's section 48 development contribution scheme.

Conclusion

- 7.21. On balance, having considered the need to make the most efficient use of this highly accessible infill brownfield serviced site against the need to protect the amenities of existing dwellings/apartments surrounding the site, I consider the proposed development has been designed to respect existing amenities in so far as is reasonable within this inner city urban context and is of a height that is visually acceptable at the entrance point to Stoneybatter/termination of North King Street.

Appropriate Assessment

- 7.22. The applicant has submitted an Appropriate Assessment Screening Report. The nearest Natura sites, which are approx. 6km east of the site 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).

- 7.23. 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.
- 7.24. 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.
- 7.25. 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*.
- 7.26. 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.
- 7.27. The appeal site is located approx. 350m north of the River Liffey, which flows into the area of the aforementioned sites. The appeal site itself is of low biodiversity value given its current brownfield status. The applicant proposes to utilise the roof areas as green roofs to aid attenuation of stormwater and an underground attenuation tank is proposed to manage surface water runoff. There are limited relevant pathways between the development and the 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

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.

- 7.28. 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 the proposed development, comprising 23 apartments, be granted subject to conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed infill apartment development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the area. 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 27th 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. This permission is for 23 apartments only.

Reason: In the interest of clarity.

3. 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.

4. 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.

Reason: In the interest of public health.

5. 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 shall be agreed in writing with the Planning Authority before 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.

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

6. 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.

7. 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.

8. 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.

9. 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.

10. 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

11. 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

12. 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.

13. 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.

14. 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.

15. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

49 of the Act be applied to the permission.

Una O'Neill
Senior Planning Inspector

23rd April 2018