



An  
Bord  
Pleanála

## Inspector's Report ABP-304167-19.

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<b>Development</b>	Demolition of buildings and construction of apartment block ranging in height from 3 storeys up to 6 storeys with a total of 42 units.
<b>Location</b>	Gowan Motors Compound Site, 169-177, Merrion Road, Dublin 4.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	2062/19.
<b>Applicant(s)</b>	1 Merrion Lands Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	1 Merrion Lands Ltd.
<b>Observer(s)</b>	1. Richard McDonald 2. Mary Austin 3. Eamon O'Flynn and David Burlington

**Date of Site Inspection**

28<sup>th</sup> June 2019.

**Inspector**

Irené McCormack.

## 1.0 Site Location and Description

- 1.1. The development site is located on Merrion Road, Dublin 4, c. 4.2km southeast of Dublin City Centre and 6km north of Dun Laoghaire. The site is positioned north of the junction between Merrion Road and the R131 (DART Railway Crossing). The site is bounded to the north by Merrion Road, to the east by residential dwellings (single storey), which also front onto Merrion Road and are protected structures, to the south by Caritas Convalescent Centre and St. Mary's Nursing Centre and to the west by a 4 storey apartment block know as 'Elm Court'.
- 1.2. Merrion Village, Elm Park Business Centre and St. Vincent's Hospital are located within 500m of the site. Sydney Parade Dart Station is located c. 800m from the site and Dublin Bus Services run along Merrion Road.
- 1.3. The site is 1.28ha. in area and is currently in use as 'pay and display; car park. The site was previously used as a car compound by Gowan Motors. There is a storage shed within the compound and 4 no. semi-detached dwellings fronting the public road (no.'s 169, 171, 175 and 177). The site has three accesses off Merrion Road, one into the Gowan car compound and the other two into properties at 175 and 177. The external site boundaries are delineated by stone and block walls.

## 2.0 Proposed Development

- 2.1. The development comprises:
  - Demolition of the existing buildings on site including the numbers 169, 171, the shed at 173 and numbers 175 and 177 Merrion Road.
  - Construction of 1 no. apartment block ranging in height from 3 storeys up to 6 storeys with a total of 42 no.-dwelling units comprising: 6 no. 1-bedroom apartments (ranging in size from c. 48.8sqm to c. 64.3sqm), 30 no. 2-bedroom apartments (ranging in size from 63.4sqm to c. 92.3sqm) and 6 no. 3-bedroom apartments (ranging in size from c. 98.9sqm to c. 119.5sqm) with associated north/south/east/west facing balconies/terraces.
  - An external walkway on first to fifth floor levels on the western side of the building to provide access to the apartments to the rear.
  - A communal open space area will be provided at ground and first floor level measuring c. 958sqm.

- The development will also include the provision of 29 car parking spaces and 42 cycle parking spaces.
- All associated site development works, services provision, cycle parking, bin stores, plant stores, open space, vehicular/pedestrian access, landscaping and boundary treatment works.

2.1.1. The design reflects a modern single block apartment complex with a tiered design approach and sedum (green) roof finish. The ground floor comprises of grey brick and floor to ceiling glazing with balconies separated from the public footpath with a landscaping strip. The design includes a combination of large apertures in solid render walls with floor to ceiling windows and recessed balcony volumes with glazed balustrade panels. The building is set back 2m from the footpath edge in line with the adjoining building lines. A pocket park is proposed between the building and the adjoining protected structures.

2.1.2. The planning application was accompanied by an Arboricultural Impact Assessment, Design Statement, Engineering Planning Report, Mobility Management Plan, Outline Construction & Demolition Waste Management, Outline Construction Management Plan, Outline Operational Waste Management Plan, Photomontages, Shadow Study, Traffic and Transport Assessment, Landscape Design and Assess Statement and a Site-Specific Flood Risk Assessment.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Dublin City Council issued notification to refuse planning permission for the following reasons:

1. The proposed apartment block, by virtue of its height, bulk, scale, mass, and depth, would be monolithic and would visually dominate and harm the streetscape and the setting of the adjacent protected structures to the east. The proposed development would represent poor design and would be an incongruous insertion into the streetscape and would seriously injure residential amenities. As a result, the proposed development would contravene the Z1 zoning objective for this site 'To protect, provide and improve residential amenities' and is therefore considered contrary to the proper planning and sustainable development of the area.

2. The proposed development would fail to establish a satisfactory standard of amenity for future occupants of the proposed ground floor units and would seriously injure the amenities of property in the vicinity by reason of overlooking. As a result, the proposed development would contravene the Z1 zoning objective for this site 'To protect, provide and improve residential amenities' and is therefore considered contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Report

The Planner's Report is the basis for the Planning Authority decision. It includes:

- The demolition of the existing structures of little architectural merit is welcomed to make way for better use of the residential zoned lands.
- The density exceeds the guidance set in the "Sustainable Residential Development in Urban Areas" and such higher densities has to be balanced with the quality of the apartments and the impact of the development on the receiving environment.
- The proposal would be detrimental to the setting of the adjacent protected structures by reason of overbearing impacts, visual dominance and visual incongruity.
- The design lacks legibility and reflects a large bulky block. An increase in building height is acceptable subject to appropriate design.
- Concerns regarding inadequate car parking provision raised.
- Flood risk is deemed acceptable and appropriate flood mitigation measures are being proposed.

### 3.2.2. Other Technical Reports

#### Internal Reports

**The Roads & Traffic Planning Division** in their report of 21<sup>st</sup> February 2019 requested further information in relation to the East Coast Trail cycle route and the Blackrock Core Bus Corridor project, access/egress layout and quantum of car parking.

**Engineering Department – Drainage Division** (report dated 12<sup>th</sup> February 2019) - No objection subject to conditions

**City Archaeologist** (report dated 8<sup>th</sup> February 2019) - No objection subject to conditions

**Conservation Officer** (report dated 6<sup>th</sup> March 2019) - recommended refusal based on bulk, height and architectural articulation and design and impact on architectural heritage.

**Parks and Landscape Services Division** (report dated 5<sup>th</sup> March 2019) - strongly object to the removal of the street tree (London Plane) and the cluster of three Monterey Cypress within the site. All Trees should be retained, excluding T2993 of category U and incorporated into the landscape proposal. The provision of public open space is less than 10% and not satisfactory. It is recommended that a contribution in lieu of public open space be applied.

### **External Reports**

**National Transport Authority** (report dated 21<sup>st</sup> February 2019) state that the development is premature in the context of the East Coast Trail cycle route and the Blackrock Core Bus Corridor project.

### **3.3. Third-Party Observations**

A total of seven submissions were made in relation to the development. A brief summary of the issues raised in the submissions to the Planning Authority are set out below:

- Not opposed to infill in principle.
- Damage to amenity, character and Victorian architectural heritage of the area.
- Proposal has no regard to adjacent protected structures.
- Mass and bulk would have huge negative effect.
- Development is too high at 6 storeys and not in keeping with character of the area.
- Overshadowing and blocking of light to rooms in adjacent houses.
- Loss of privacy and overlooking especially from proposed balconies.

- Loss of mature trees and amenity.
- Loss of value to adjacent homes (planning application 4407/17 referenced).
- Proposal does not protect or improve residential amenity as required by the zoning.
- Congestion and adverse traffic impacts.
- Lack of adequate visibility splays at proposed vehicular entrance.
- Alternative access through neighbouring sites should have been investigated.
- Design is monolithic and needs total revision.
- Suggestion to have 2 storey single row deep units fronting Merrion Road, with parking and landscaping to the immediate rear and have a higher density 4 storey block in the back of the site to align with the Elm Court complex.
- Higher elevations should be concentrated to the rear of the site.
- Ground water levels should be considered as there are underground streams in the area.
- Removal of the existing street tree should not be permitted.
- The nature of the closure to the balconies is unclear.
- The pocket park is sacrificial to be removed once the road is widened.
- Excavation works are proposed for 'ground level' parking. This would exacerbate the level distance between the lower protected structures. Structural damage from excavations is also a real concern.
- Proposal is squeezed onto a site and would be within 2m of cottage no. 179.
- Velux rooflights would be overlooked and associated loss of privacy.  
Before and after survey of nearby buildings should be done and make good any damage caused by construction.
- Not accurate to compare this proposal with Elm Park Green, Tara Towers, St Vincent's etc. as these are setback and don't have the same context as this site.

- Proposal would be difficult to comply with health and safety regulations as there is no way out at the back.
- Doesn't take account of NTA's Bus Connects plans.
- Parking and traffic will cause disruption during construction phase.
- The left-in, left-out proposal will be impossible to enforce.
- Not enough parking provided.
- Dedicated resident parking should be provided on Merrion Road,
- The impacts of the proposal under consideration 4733/18 should be considered in conjunction with the impacts of this proposal.

## 4.0 Planning History

PL29S.226638 (5129/07) – Permission refused for off street car parking for four vehicles in the former side / rear garden to No. 177 Merrion Road.

3241/97- Permission refused for ten no. duplex apartments (5 x 2 bed and 5 x 3 bed) in 1 no. three storey block and 1 no. (1 bed) gate lodge and associated site works with access/egress at existing (widened) vehicular entrance.

## 5.0 Policy and Context

### 5.1. Development Plan

The site is zoned Z1 in the Dublin City Development Plan 2016-2022 which seeks "To protect, provide and improve residential amenities".

5.1.1. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Section 14.1 Zoning Principles -development should be encouraged in established centres, and the re-development of under-utilised and brownfield land in these areas should be promoted
- Parking: Area 2 applies to the appeal site. 1 car parking space is required per residential unit. Parking provision below the maximum may be permitted provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety.



- 11.1.5.3 Protected Structures – Policy Application - In order to protect the city’s Protected Structures, the City Council will manage and control external and internal works that materially affect the character of the structure.
- CHC1 – Preservation of the built heritage of the city.
- CHC2 - To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage.
- Chapter 16 sets out Design Principles and Standards
- 16.2 Design Principles and Standards.

*“All development will be expected to incorporate exemplary standards of high quality sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods.*

*In the appropriate context, imaginative contemporary architecture is encouraged provided that it respects Dublin’s heritage and local distinctiveness and enriches its city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance. In particular, development will respond creatively to and respect and enhance its context.”*

- Policy SC25 – To promote high standards of design
- Policy QH18 – To promote the provision of high-quality apartments
- Section 16.7.2 of the Development Plan includes height limits for development, including a 16m restriction for development in the Outer City and a 24m restriction for development within 500m of rail hubs.
- Section 16.10.1 Residential Quality Standards – Apartments – sets out standards to be achieved in new build apartments.
- Policy QH8 of the Dublin City Development Plan 2016-2022 seeks “*To promote the sustainable development of vacant or under-utilised infill sites*

*and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area”.*

- Street trees

Policy GI28- To support the implementation of the Dublin City Tree Strategy, which provides the vision for the long-term planting, protection and maintenance of trees, hedgerows and woodlands within Dublin City.

Policy GI30- To encourage and promote tree planting in the planning and development of urban spaces, streets, roads and infrastructure projects.

Section 3.3.3 of the Dublin City Tree Strategy 2016-2022 states:

*In the design of vehicular entrances, the impact on adjacent trees will need to be considered. Entrances should be located to avoid conflicts with street trees.*

*Where a conflict is unavoidable and where a tree, located on-street, requires removal to facilitate a new or widened vehicular entrance and cannot be conveniently relocated within the public domain then a financial contribution will be required in lieu”.*

#### 5.1.2. National Policy and Guidelines

- National Planning Framework (2018)

The National Planning Framework 2040 seeks compact urban growth, with the associated objective that at least half of the future housing growth of the main cities will be delivered within their existing built-up areas through infill and brownfield development and 40% in other key towns. The National Planning Framework has a number of policy objectives that articulate delivering on a compact urban growth programme. These include:

- NPO 2(a) relating to growth in our cities;
- NPO 3(a)/(b)/(c) relating to brownfield redevelopment targets;
- NPO 4 relating to attractive, well-designed liveable neighbourhoods;
- NPO 5 relating to sufficient scale and quality of urban development; and
- NPO 6 relating to increased residential population and employment in urban areas;

- NPO13 relating to a move away from blanket standards for building height and car parking etc. and instead basing it on performance criteria.
  - Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
  - Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018)
  - Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)
  - Architectural Heritage Protection Guidelines for Planning Authorities (2004)
- New development should - *“respect the physical, historic and aesthetic character and integrity of cultural property”*.

## 5.2. Natural Heritage Designations

There are two designed sites within 120m of the site.

- South Dublin Bay SAC (site code 00210) is located 100m east of the site.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 116m east of the site.

## 5.3. Environmental Impact Assessment - Preliminary Examination

Having regard to the nature and scale of the proposed development, the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The applicant has submitted an appeal, the grounds of which is summarised as follows:

- The proposed development provides for a high-density residential scheme consistent with the NPF, with a scale and design that avoids any loss of amenity or integrity of adjoining properties, particularly those included on the Record of Protected Structures. It is noted that the planning authority support the principle of the redevelopment of the site.
- The height of the apartment block is reasonable considering national residential policy as set out in the NPF and Urban Development and Building Heights, Guidelines for Planning Authorities (2018), given the location and the proximity to high quality public transport.
- It is set out that the existing streetscape of Merrion Road is not protected as an Architectural Conservation Area and comprises an assortment of building heights and architectural styles. The proposed development is a high-quality modern design which maximises the use of scarce land in an area with high demand for housing. The height, scale, bulk and material complement the surrounding area.
- The subject site is an infill site with a unique opportunity to achieve a local land mark building whilst respecting the amenities and enhancing the character of the area.
- The building has been set back to 4 metres to ensure the visual prominence of the adjoining protected structures.
- It is set out that the design is not “uninteresting” or “monolithic” . The design of the building ensures the mass is broken up when viewed from the Merrion Road and the recessed entrance, along with the stepping of the building floors and the high-quality landscaping create a visually interesting relationship between building and streetscape, ensuring a unique legibility and helps to define a new sense of space along this part of Merrion Road.

- It is stated that the building is not overbearing and the rear of the site will only be visible obliquely from the east side of Merrion Road due to its orientation and the majority of the rear block will not be visible from the public realm to the north, west or south due to the depth of the proposal behind the building's façade and also the adjacent buildings acting as visual barriers.
- The design seeks to mitigate impacts on the adjoining protected structures. The protected structures have large 2 storey buildings in the background which already dominate their setting.
- The proposed contemporary building represents a positive addition to the streetscape.
- Similar precedents in the vicinity are noted.
- It is set out that the design and layout ensure that there is no loss of privacy or any undue overlooking as a result of the development and any outstanding issues of concern can be addressed by providing an adequate screening or alternative view-limiting/diverting measures by way of condition.
- The shadow study establishes limited impact on immediate neighbours to the east, west and south of the development from overshadowing. Overshadowing to the north is limited to the winter months, in the evening time, when the sun is particularly low and not considered to be detrimental to the development.
- It is set out that layout can be revised to omit the cycle parking and alter of the defensible space to the front of the site to create a more open layout. Car parking can be reduced and a GoCar/Shared car system be implemented within the scheme.
- The removal of the London Plane tree to the front of the site is part of the Bus Connects upgrade plans which the applicant has been requested to comply with.
- It is set out that traffic and access arrangements, drainage and flooding, waste arrangements and appropriate assessment are all acceptable to the planning authority.
- The submitted was accompanied by a letter from the NTA stating that the drawings submitted "demonstrate to our satisfaction that the proposed

development would not comprise the delivery of the Blackrock Core Bus Corridor project” . .

## 6.2. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal

## 6.3. Observations

3 no. observations have been received.

1. *Richard McDonald, 236 Merrion Road, Ballsbridge. Also, on behalf of Owen Doyle, Merrion Road Residents and Environmental Association and Mary Austin.*

The principal comments can be summarised as follows:

- The development will totally dominate and overwhelm the streetscape and effectively would be ruinous to the amenity of homes in its immediate vicinity.
- It would damage the architectural heritage of the area.
- The development does not reflect a “landmark building”
- The appeal submission does not address the reasons for refusal.

2. *Mary Austin, 18 Estate Avenue, Merrion Road, Merrion, Dublin 4.* The principal comments can be summarised as follows:

- The appeal submission does not address the reasons for refusal.
- The development does not reflect a “landmark building” but rather overdevelopment. The design dominates and overwhelms the streetscape.

3. *Eamon O'Flynn , 179 Merrion Road, Dublin 4 and David Burlington, 181 Merrion Road, Dublin 4.* The principal comments can be summarised as follows:

- The scale of the development is monolithic and will result in a loss of light / overshadowing and seriously impact on the level of privacy enjoyed by the adjacent cottages.
- The structure is squeezed into a small and irregular shaped site and the pocket park and “mini front garden” to the front is a derisory and insignificant attempt and incorporating a resemble level of open space.
- The develop will have a negative impact on setting of the protected structures and potentially on their structural stability during construction works.
- Access and egress are unsafe with visibility southwards restricted.

- The precedents referred to in the appeal submission are set in different contexts.

## 7.0 Assessment

7.1.1. The applicant has submitted revised drawings to the Board for consideration. The revisions can be summarised as follows:

- A reduction in the number of car parking spaces from 29 to 26. This will reduce the size of the hammer head and pull the car parking area behind the line of the apartment block and will provide improved amenity space for the future residents. The reduced car parking will be compensated by the introduction of GoCar or equivalent parking spaces.
- Revised external finishes proposed to include the use of a mix of coloured render and brick.
- Alteration of some east and west facing balcony designs to include view-limiting/diverting measures by means of opaque glass screens at a height of 1.8m.

The following assessment has regard to the revised drawings submitted.

7.1.2. I consider the substantive issues arising from the grounds of appeal relate to the following:

- Principle of Development
- Design, plot ratio, height and impact on visual amenity and architectural heritage
- Residential Amenity
- Appropriate Assessment.

## 7.2. Principle of Development

7.2.1. The proposal provides for the demolition of the existing commercial building and two semi-detached houses and the construction of a six-storey contemporary style apartment complex comprising 42 apartments. The provision of residential development on lands zoned Z1 in the Dublin City Development Plan 2016-2022 which seeks “To protect, provide and improve residential amenities” would be consistent with

the policies of the Planning Authority as set out in Section 14.1 *Zoning Principles* of the Development Plan which seek to encourage the development of underutilised and brownfield sites adjacent and close to public transport nodes.

- 7.2.2. It is considered that the proposed development in terms of floor areas would be acceptable and in accordance with Development Plan standards and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, March 2018. The Planning Authority have raised no issues in this regard.
- 7.2.3. I note the reduced number of 26 car parking (down from 29 as originally proposed) to be provided on the site. The Development Plan establishes that car parking provision maybe reduced or eliminated in areas that are well served by public transport. The proposal is well served by public transport with high capacity, frequent services available in the immediate vicinity including Dublin Bus services no. 4, 7 and 7A. The site is also located approximately 800m (average 10-minute walk) from the Sydney Parade DART Station. There is no issue with car parking provision on the site. Motorcycle and Cycle parking has also been proposed on site.
- 7.2.4. I consider that the principle of the proposed development, including the demolition of the existing buildings on the site, which are not of architectural merit, acceptable within this zoning category, subject to the detailed considerations below.

### 7.3. **Design, Height and impact on Visual Amenity and Architectural Heritage**

- 7.3.1. The Planning Authority's decision to refuse permission refers to the height, bulk, scale, mass, and depth of the development which would be monolithic and would visually dominate and harm the streetscape and the setting of the adjacent protected structures to the east. The proposed development would represent poor design and would be an incongruous insertion into the streetscape and would seriously injure residential amenities. The conservation officer's report indicates that the proposed architectural articulation and design and impact on architectural heritage is unacceptable. I note a Conservation report on the impact of the development on the adjoining protected structures did not accompany the planning application.
- 7.3.2. The site is 0.28ha in area with a plot ratio of 1.4:1, site coverage of 26%, and a density of 150 units per hectare. Whilst, I note higher densities are encouraged in accordance with national policy but this has to be balanced with the quality of the apartments and the impact the development may have on the receiving environment.



- 7.3.3. The **architectural design** resolution by reason of the bulk, scale and massing of the proposal, in particular when viewed from Merrion Road, would be excessive and would have a long, uninterrupted bulk extending the entire depth of the site. In addition, the ground floor façade is bland and uninteresting and fails to adequately address Merrion Road. The building does not form part of the streetscape but rather a standalone block embedded between a terrace of three single-storey protected structures and two two-storey dwellings with no regard to the site context. Whilst, I note “Elm Court” apartment block at four storeys is located to the west of the site, this is recessed significantly behind the building line and fronted by the two two-storey dwellings adjoining the site, and therefore not a prominent feature in the streetscape.
- 7.3.4. In terms of **height**, Policy SPPR 4 of the *Urban Development and Building Heights Guidelines for Planning Authorities*” seeks that as a minimum, the densities for such edge of city locations as set out in “*Sustainable Residential Development in Urban Areas (2007)*” be achieved and that a greater mix of building heights and typologies be secured in planning for the future development of suburban locations. A qualitative assessment is also required under Section 3.2 of the height guidelines to ensure that the highest standards of urban design, architectural quality and place making outcomes are also achieved. In particular, the guidelines seek that a proposed development should satisfy criteria at the scale of the relevant city, district/neighbourhood/street and site/building. The specific nature and qualitative elements of the proposal need to be considered in terms of the assessment of the appropriateness of the development as proposed relative to its context. In assessing the wider considerations, it is appropriate to rely on the qualitative factors defining built form including height, design, open amenity space provision, and standards of public realm.
- 7.3.5. It is acknowledged that prevailing building heights in the immediate area are generally single storey, single storey over basement and two storey residential dwellings with the four storey “Elm Park” apartment block located to the north of the site. In a wider context, I note residential and mixed-uses schemes ranging from five storeys to eight storeys. However, I also note that these sites occupy prominent corner sites with better capacity to accommodate increased building height. Notwithstanding same, I consider the site has the capacity for increased building height subject to appropriate design.

- 7.3.6. The building is recessed behind the protected structures and sited ca. 2.5m from the protected structures. In the context of the single storey nature of the protected structures, the proposed tiered approach to the height does not soften or reduce the visual impact. In my opinion the proposed building at 18.950m would be significantly taller than the immediately adjoining development and would represent a disjointed pattern of development along Merrion Road when viewed in the wider context. Paragraph 16.7.2 of the Development Plan references low rise areas such as the appeal site where there is a pre-existing height, and this provides that a building of the same number of storeys may be permitted '...subject to assessment against the standards set out elsewhere in the plan (emphasis added) and the submission of an urban design statement'. The applicant argues that the Urban Development and Building Heights Guidelines for Planning Authorities (2018) encourages increased building heights and whilst I agree in principle, Section 3.2 of the Guidelines sets out that increased building height in architecturally sensitive areas should successfully integrate into/ enhance the character and public realm of the area, having regard to its cultural context.
- 7.3.7. Section 11.1.5.3 of the Development Plan sets out those developments that have an adverse impact on the **setting of a protected structure** will be refused planning permission. The planning authority assert that the proposal would have significant detrimental impacts on the setting of the adjacent protected structures by reason of overbearing impacts, visual dominance and visual incongruity. The varied building heights, modulation and articulation of the proposed development to try and break up the massing of the building is unsuccessful and compounded by a building depth of ca. 55m
- 7.3.8. In terms of protecting the character of the protected structures, the palette of materials and typical details for façades and other surfaces should generally reinforce the area's character and where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged. I do not consider the design has sufficient regard to the impact on the character and setting of the protected structures. The height, scale and mass would have an overbearing impact and would be detrimental to the character and setting of the protected structures and the general character of the area.

7.3.9. Based on the above considerations, I consider the proposed development, by virtue of its height, bulk, scale, mass, and depth, would be monolithic and would visually dominate and harm the streetscape and the setting of the adjacent protected structures to the east. The proposed development would represent poor design and would be an incongruous insertion into the streetscape. The development should be refused for this reason.

#### 7.4. Residential Amenity

7.4.1. The planning authority assert that the proposed development has failed to establish a satisfactory standard of amenity for the future occupants of the proposed ground floor units and would seriously injure the amenities of property in the vicinity by reason of overlooking.

7.4.2. In relation to loss of **daylight and sunlight/overshadowing**, the BRE Guidelines (Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, 2011) note that bathrooms and circulation areas need not be analysed when considering impacts of development on adjoining buildings, and consideration of impacts is limited to rooms where daylight is required, including living rooms, kitchens and bedrooms. I note the shadow study submitted establishes limited impact on immediate neighbours to the east, west and south of the development from overshadowing by virtue of the sites aspect. Overshadowing to the north is limited to the winter months, in the evening time, when the sun is particularly low and not considered to be detrimental to the development. I would agree.

7.4.3. In relation **open space provision**, the planning authority sets out the public open space is limited in the general area and the closest resource is Sandymount promenade. The proposed 'pocket park' at the front of the site is of limited size and incorporates a defensible landscaping strip and therefore not useable public open space. The applicant is proposing approximately 280sq.m of communal open space at first floor level with a southern and western orientation. Other communal areas are located around the perimeter of the site at ground floor level. The quantum of communal open space complies with the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities". Details of the design of the communal open space are provided and include seating area, play areas and hard and soft landscaping.

- 7.4.4. The planning authority considers the undercroft parking area and the provision of communal open space on a podium at first floor level result in a poor level of amenity on the site. The proposed ground floor units abutting the vehicular access and carparking would have a poor level of amenity from windows and private open spaces. The overall level of amenity in the ground floor Apartment no.1, for example, would be exceptionally poor and its private open space would be directly overlooked. In addition, the occupants of Apartment no.'s 5 and 6 would have to walk through the undercroft car park to access their apartments. I agree and consider the undercroft car parking and overhead podium open space and upper level apartments measuring 29m long by 24m wide respectively, create a ground floor tunnel effect overshadowing much of the ground floor apartments. The extensive nature of this design feature does not reflect quality design and layout and the resultant impact on residential amenity is wholly unacceptable.
- 7.4.5. The potential for negative impact on established amenity is assessed particularly with regard to impact of **overshadowing, overlooking and overbearing** of the adjacent properties. The proposed development is an infill site with immediately adjoining residential development the north and east, Caritas Convalescent Centre to the west and St. Mary's Nursing Centre to the south.
- 7.4.6. The 'Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities' and its accompanying 'Urban Design Manual' does not set rigid minimum separation distances but does require that habitable rooms and private amenity space should not be directly excessively overlooked by neighbouring residents. The applicants in their revised submission to the Board have submitted an **overlooking** study, whereby, it is proposed to control overlooking through the use of opaque glass screens and the insertion of screening panels to divert the occupiers view away from the adjoining rear gardens.
- 7.4.7. Such measures, in my opinion negatively impact on the quality of private open space afforded to the future occupants of these apartments and reduces access to daylight and sunlight and would be contrary to policy objective QH18 of the Development Plan which promotes the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development. In addition, the Quality Housing for

Sustainable Communities Guidelines (2007) set out factors that need to be considered in the layout of apartments schemes, including:

- maximum opportunity for dual aspect and cross ventilation for habitable rooms;
- an adequate amount of public open space and useable private space; and
- acceptable views from habitable rooms and apartments while maintaining a satisfactory degree of privacy.

7.4.8. The layout of the development does not reflect a quality living environment and residential amenity has been compromised in order to increase overall density. In conclusion, the proposed development would fail to establish a satisfactory standard of amenity for future occupants of the proposed development. The proposed development would contravene the Z1 zoning objective for this site 'To protect, provide and improve residential amenities' and is therefore considered contrary to the proper planning and sustainable development of the area.

## 7.5. Other Matters

- 7.5.1. A site-specific **Flood Risk Assessment** was carried out. The report concludes that the site is not at risk of coastal, fluvial or Pluvial flooding. The report sets out that the site falls within flood zone C and the flood risk to the proposed development site is low. The Engineering Department – Drainage Division of Dublin City Council raised no objection to the development subject to appropriate conditions.
- 7.5.2. The applicant has submitted a **Traffic Impact Assessment** and a **Mobility Management Plan** prepared by Punch Consulting Engineers which concludes that there is adequate capacity in the adjoining road network to accommodate the development. The Council's Transportation Planning Division has reviewed the proposal and raised no objection to the traffic generation or proposed access arrangements from Merrion Road. Concerns were raised regarding the quantum of car parking and the "Blackrock Core Bus Corridor project".
- 7.5.3. The subject site fronts Merrion Road which is a road earmarked in the Transport strategy for the Greater Dublin Area 2016-2035 as part of the route of the proposed East Coast Cycle Trail and the Blackrock Core Bus Corridor. Both schemes would likely require the acquisition of part of the site which fronts onto Merrion Road for road

widening purposes. The NTA website advises that the Blackrock Core Bus Corridor public consultation will occur in Phase 3 which was scheduled to end in April 2019. In this regard, I note the appeal submission was accompanied by a letter from the NTA stating that the drawings submitted “demonstrate to our satisfaction that the proposed development would not comprise the delivery of the Blackrock Core Bus Corridor project”. The NTA website does not advise on any further updates relating to the project.

7.5.4. The applicant is proposing to remove a Category B, London Plane, street tree located in the footpath in front of the site, in order to achieve adequate sightlines at the vehicular entrance/exit. The applicant has submitted an Arboriculture Impact Assessment prepared by Tree Management Services. The tree is considered to be of moderate quality with an estimated remaining life expectancy of at least 20 years. The Council’s Parks and Landscape Division has strongly opposed the removal of the street tree as it is considered to be an important individual mature tree at this location and is part of a significant avenue of trees along Merrion Road. Section 3.3.3 of the Dublin City Tree Strategy 2016-2022 advises that vehicular entrances should be located to avoid conflicts with street trees in the first instance. The removal of the tree has not been justified in the context of the health of the tree, the contribution to the streetscape or the provision of an alternative access location and in the absence of design proposals relating to the “Blackrock Core Bus Corridor project”.

7.5.5. The applicant has submitted an **Outline Operational Waste Management plan** prepared by Punch Consulting Engineers. A central bin store is proposed to be located in the north western corner of the site next to the proposed vehicular entrance. The bin area would be located within a building such that odours and adverse amenity impacts on the adjacent dwelling to the west would be mitigated. This is acceptable.

## 7.6. **Appropriate Assessment**

7.6.1. The site is not located within or directly adjacent to any Natura 2000 sites. South Dublin Bay SAC (site code 00210) is located 100m east of the site and South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 116m east of the site.

7.6.2. Having regard to the nature and scale of the proposed development, impact pathways would be restricted to noise. There is no hydrological pathway.

7.6.3. **Conservation Objectives:** to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC and SPA has been selected.

<b>European Site</b>	<b>Site Code</b>	<b>Relevant QI's and CI's</b>	<b>Distance</b>
South Dublin Bay SAC	00210	<p>The site is an intertidal site with extensive areas of sand and mudflats. The sediments are predominantly sands but grade to sandy muds near the shore at Merrion Gates. The main channel which drains the area is Cockle Lake.</p> <p>Priority habits include:</p> <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide</li> <li>• Annual vegetation of drift lines</li> <li>• Salicornia and other annuals colonising mud and sand</li> <li>• Embryonic shifting dunes</li> </ul>	100m east of the subject site.
South Dublin Bay and River Tola SPA	004024	<p>The South Dublin Bay and River Tolka Estuary SPA comprises a substantial part of Dublin Bay. It includes the intertidal area between the River Liffey and Dun Laoghaire, and the estuary of the River Tolka to the north of the River Liffey, as well as Booterstown Marsh. A portion of the shallow marine waters of the bay is also included.</p> <p>Priority habits include:</p>	116m east of the subject site.

		<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>), Oystercatcher (<i>Haematopus ostralegus</i>), Ringed Plover (<i>Charadrius hiaticula</i>), Grey Plover (<i>Pluvialis squatarola</i>), Knot (<i>Calidris canutus</i>), Sanderling (<i>Calidris alba</i>), Dunlin (<i>Calidris alpina</i>), Bar-tailed Godwit (<i>Limosa lapponica</i>), Redshank (<i>Tringa totanus</i>), Black-headed Gull (<i>Chroicocephalus ridibundus</i>), Roseate Tern (<i>Sterna dougallii</i>), Common Tern (<i>Sterna hirundo</i>), Arctic Tern (<i>Sterna paradisaea</i>), Wetland and Waterbirds</p>	
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7.9.3. I am satisfied that South Dublin SAC can be screened out of any further assessment due to the absence of relevant qualifying interests in the vicinity of the works and the absence of an aquatic connection between the European site and the proposed development.

7.9.4. In relation to the South Dublin Bay and River Tolka Estuary SPA (site code 004024), the potential indirect effects relate to:

- Disturbance from noise and light pollution and emissions during the construction phase.

7.9.5. The development is for an apartment block and given the nature of the works within the applicants existing site and outside the Natura 2000 sites, it is not expected that any habitat fragmentation would take place. The already established pattern of urban development in this location would mean that any limited periods of disturbance caused by the works would not add to any disturbance or displacement effects that would result in lessening of species density.

7.9.6. I consider it is reasonable to conclude, on the basis of the information on the file, which I consider 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, the South Dublin Bay SAC (site code 00210) and South Dublin Bay and River Tolka Estuary SPA or any other site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 8.0 Recommendation

I recommend that planning permission for the proposed development should be refused for the reason and considerations, as set out below.

## 9.0 Reasons and Considerations

1. The proposed development, by reason of its excessive height relative to surrounding buildings, its bulk, scale, mass, and depth, would be monolithic and would visually dominate and harm the streetscape and the setting of the adjacent protected structures to the east. The proposed development would represent a visually discordant feature that would be detrimental to the architectural character of this area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its design and layout and qualitative provision of private open space would fail to establish a satisfactory standard of amenity for future occupants of the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area would conflict with the provisions of the Development Plan and the Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

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Irené McCormack  
Planning Inspector

2<sup>nd</sup> July 2019