



An
Bord
Pleanála

Inspector's Report ABP 304913-19.

Development	Demolish existing dwelling and outbuildings and construct apartment block containing 33 no. apartments with balconies.
Location	Renesca, Cross Avenue, Blackrock, Co. Dublin.
Planning Authority	Dún Laoghaire-Rathdown Co. Council.
Planning Authority Reg. Ref.	D19A/0292
Applicant	Renesca Holdings DAC Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant	Renesca Holdings DAC Ltd.
Observers	(1) Jeffrey Dell (2) John & Ciara McCarrick (3) Brian & Marie Hampson

- (4) Lorraine Carew
- (5) Turlough Mullen
- (6) James Sheehan
- (7) Richard Tobin
- (8) John & Ciara O'Leary
- (9) Breda Keenan
- (10) Fiona Keenan
- (11) Breda Hourihane
- (12) Tony & Joy Hurst
- (13) Elizabeth Fitzsimons
- (14) Christina Feeley
- (15) Kathryn Feeley
- (16) Daniel P.W. Tierney
- (17) Mary Binchy
- (18) Michael Coyle

Date of Site Inspection

16/10/19

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is located at Renesca, Cross Avenue, Blackrock in south County Dublin. This is a mature residential area comprising a mix of large detached dwellings on large sites. There are a number of Protected Structures located on Cross Avenue.
- 1.2. The subject site has a stated site area of 0.3235 hectares contains a large two-and-a-half storey over basement dwelling. The basement accommodates a swimming pool. There is a recessed gated entrance to the north-eastern corner of the site which provides access off Cross Avenue. The dwelling is set back circa 12m from the roadside boundary. The property is served by a relatively sizeable mature landscaped garden which includes an artificial pond to the west of the dwelling.
- 1.3. The site is bounded by the lands of Chesterfield House to the south. The southern boundary site is formed by a low wooden fence. The original drawing room of Chesterfield House is designated as a Protected Structure. The western boundary of the site adjoins the roadway which serves Chesterfield House.
- 1.4. The eastern boundary adjoins 'Derravaragh' a large detached two-storey dwelling. The boundary is formed by a wall with mature tree planting and shrubs.

2.0 Proposed Development

- 2.1. Permission is sought for the following;
 - Demolition of the existing dwelling and ancillary outbuildings (1,048sq m) and entrance pillars
 - Construction of an apartment block providing 33 no. apartments with associated balconies, comprising 9 no. 1-bed units, 19 no. 2-bed units and 5 no. 3-bed units. The development will be part 3-storey, part 4-storey and part 5-storey over basement.

- Widening and setback of the entrance from to the south-west of the site;
- Basement level accommodating 37 no. car parking spaces, bicycle parking, storage lockers, refuse stores and plant rooms.
- Vehicular and pedestrian access at Cross Avenue, landscaping, boundary treatments and all associated site works and services.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason;

1. The proposal by reason of its scale, height, form, massing and architectural expression is not considered to accord with Section 8.2.3.4(vii) of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 in relation to infill development and in its current form fails to respect and compliment the established character of the area. In addition, the proposal, by reason of its scale, height, massing and insufficient southern boundary setback, does not provide an appropriate transition in height to properties within the vicinity and will severely compromise and be seriously injurious to the residential amenity of these properties by reasons of overlooking, overshadowing and being overbearing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- It was concluded that having regard to the characteristic of the site and its location in close proximity to good quality public transport infrastructure the Planning Authority acknowledges that subject to an appropriate architectural

response there is the potential to accommodate a higher density development at this location whilst respecting the sylvan character of the site and the surrounds. It was concluded that the scale, height and form fails to respect and compliment the established neighbourhood character and would severely compromise the residential amenity of properties within the vicinity by reason of overlooking, overshadowing and visual overbearing. Permission was refused on that basis.

3.2.2. Other Technical Reports

Transportation Planning – Further information requested in relation to the proposed basement car parking, vehicular movements to space no. 9 and proposed details of access arrangements for refuse collection vehicles.

Surface Water Drainage – The proposal to connect to the combined sewer in Cross Avenue in principle is not acceptable to the Planning Authority. The applicant should investigate the possibility of linking to the surface water sewer in Mount Merrion Avenue. The allowable surface water discharge from the whole site is 2 litres per second per hectare. The proposed blue roof area must be a minimum of 60% of the total roof area. The applicant has calculated a Qbar value that is not excess of the allowable discharge limit and that no attenuation tank or flow limitation devise would be necessary. Having addressed the matters raised by the Drainage Planning Section the applicant shall reconsider the need for the necessary attenuation means and the need to use the flow limiting devise.

Waste Section – the applicant needs to address environmental management construction plan and operational waste management plan.

Parks and Landscape Services – Further information required, a revised landscape masterplan and elaboration of play strategy. Submit revised plans indicating existing grounds levels arising from construction and landscape works. In all cases of retained trees proposed shall not be located within the RPA's of retained trees.

Housing Department – No objection subject to condition

3.3. Prescribed Bodies

Irish Water – Response submitted to the Board dated 26/9/19: Irish Water confirms that the applicant has engaged with us in regard to a pre-connection enquiry. In the case of wastewater connections the confirmation of feasibility did not confirm that a gravity connection is achievable. Therefore, a suitably sized pumping station may be required to be installed on site. The development has to incorporate sustainable drainage systems/attenuation in the management of stormwater and to reduce surface water inflow into the combined sewer. Full details have to be agreed with Dún Laoghaire Rathdown Drainage Division.

Department of Culture, Heritage and the Gaeltacht Development Applications Unit – Report dated 19th of June: A condition in relation to archaeological monitoring is recommended.

Department of Culture, Heritage and the Gaeltacht Development Applications Unit – Report dated 18th of June: The applicant should be requested to submit as further information a bat survey of the site.

3.4. Third Party Observations

- 3.4.1. The Planning Authority received 43 no. submissions/observations in relation to the application. The main issues raised are similar to those set out in the observations on the first party appeal.

4.0 Planning History

PA Reg. Ref. D08A/0245 & PL06D.211878 – Permission was granted for two-storey over basement house with garage, swimming pool and boundary walls, within curtilage of protected structure at Chesterfield, Cross Avenue, Blackrock, Co. Dublin.

ABP 302921-18 – Application under S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016, for the demolition of the non-original fabric of Chesterfield House (a protected structure) and derelict sheds. Construction of 214 apartments and 7 no. houses, residents amenity facility and all associated works.

Permission was granted. Following a judicial review of the decision, the High Court quashed a Bord Pleanála decision to grant planning permission.

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.1.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".
- 5.1.3. National Planning Objective 13 also provides that "In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected".

5.2. Section 28 Ministerial Guidelines

The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- 'Urban Development and Building Heights' Guidelines for Planning Authorities
- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')

- ‘Design Manual for Urban Roads and Streets’ (DMURS)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’

5.3. **Dún Laoghaire Rathdown County Development Plan, 2016-2022:**

- 5.3.1. Land Use Zoning: The proposed development site is located in an area zoned as ‘A’ with the stated land use zoning objective ‘To protect and-or improve residential amenity’.
- 5.3.2. Chapter 8 – Principle of Development
- 5.3.3. Section 8.2.3 – refers to Residential Development

5.4. **Environmental Impact Assessment (EIA)**

- 5.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.5. **Natural Heritage Designations**

- 5.5.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:
- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 635m north of the site.
 - The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 664m north of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was lodged by Simon Clear & Associates on behalf of the applicant Renesca Holdings DAC Ltd. The issues raised concern the following;

- In relation to building height, it was considered by the Council that the proposed development should be subject to 'downward modifiers' as provided for in the Development Plan and not upward modifiers that would warrant additional height at the site of the proposed development as the proposed development would not contribute to the promotion of higher densities in the area.
- Specific Planning Policy Requirement (SPPR) 1 of the Building Height Guidelines is noted, - Government policy to support increased building height and density in locations with good public transport accessibility, where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the NPF, RSES and shall not provide for blanket numerical limitations on building heights.
- Section 3 of the Building Height Guidelines indicates that it is government policy that building heights must be generally increased in appropriate urban locations. There is a presumption in favour of buildings of increased height in town/city cores and in other urban locations with good public transport accessibility.
- A bat survey was recommended by the Heritage Officer. In response to this the first party state that 'Renesca' was designed with a mansard roof providing living accommodation in the roof and that there is no attic space as found in the traditional pitched roof. It is a relatively new house and cannot and does not accommodate bat Roots.

- The tree network in the area may represent a commuting corridor for bats. It is noted that there are no proposals for removal of the most significant trees on site. Therefore, it is submitted that it would be acceptable that a bat survey be prepared in the context of a condition attached to a grant of planning permission requiring the developer to consult with National Parks and Wildlife Service in relation to tree inspection prior to removal and giving effect to mitigation measures recommended to comply with the Habitats Directive.
- The reasons given for refusal all relate to visual and amenity issues and that permission has not been refused for any technical reasons.
- The proposed development is consistent with the Core Strategy for the County by consolidating development in a built-up area well served by existing physical and social infrastructure and public transport.
- Having regard to the residential zoning of the site the existing substantial three-storey property on the site and the accessibility to public transport it is submitted that the principle of higher density development is acceptable on the site.
- In relation to the matter of visual perspective, the report of the Planning Officer suggests that the visual impact photomontages do not appear to accurately reflect the true visual impact of the proposal. It is submitted that the photomontages were properly prepared and accurately represent the proposed structure in its setting.
- The report of the Planning Officer refers to the sylvan character of Cross Avenue. The first party submit that the sylvan character conceals very substantial buildings that align the road and that the building cannot be readily seen from the public realm due to the existence of mature trees along its length.
- The existing mature trees to the front curtilage of the site and along the length of Cross Avenue including in private gardens will serve to integrate the proposed development into its surroundings.

- It is submitted that the proposed building is of high quality design, particularly the materials and colour pallet of the external finish. It is stated that the proposed apartment building will not be visible from either end of Cross Avenue due to the sylvan nature of the avenue. On approach from the west there will be a partial view of the building from the Chesterfield entrance. On approach from the east it is noted that Derravaragh is sited ahead of the proposed building line.
- The first party consider that the introduction of a well designed modern attractive building into the sylvan street will diversify the building stock in the area.
- It is proposed to retain and protect many existing trees around the site boundary and also provide a significant quantum of new trees circa 24 no.
- The proposed development does not breach the front building line established by Derravaragh. The proposed rear building line is located 15m from the rear property boundary compared to 7m which is the setback from the existing dwelling on the site.
- In relation to the height and scale of the proposed the development it is noted that the buildings on the opposite side of Cross Avenue are massive in scale and that they are hidden behind walls and trees.
- Regarding the relationship to Derravaragh the issue made refers to the proposed building being located behind the building line of Derravaragh in terms of overshadowing, overlooking and overbearing. It is submitted that there are trees within Renesca being retained and also there are more trees in Derravaragh which limit and shadow their private amenity space which due to their presence means any issues of overshadowing, overlooking and overbearing do not practically occur.
- A study in relation to Derravaragh was prepared by Horan Rainsford Architects it is submitted that the study indicates that there is no impact in relation to overshadowing, overlooking and overbearing implications from the development in relation to Derravaragh.

- In relation to the issue of overlooking side screens are proposed to the south facing balconies despite the fact that there is no practical potential for viewing into the rear amenity space of Derravaragh.
- In relation to the future development of the adjoining lands at Chesterfield the applicant consulted with the developer proposing a residential scheme at Chesterfield. The house types proposed to the lands immediately to the south are courtyard dwellings with no first-floor windows in the rear elevation.
- The proposed apartment building would be located between 14.2m and 16.1m from the property boundary at lower levels and this separation distance increases to 15.25m at the upper levels.
- The proposed balconies are integrated within the building and not external except for the upper level. It is noted that there is a level difference between the two sites. Renesca is a half floor level below Chesterfield. A boundary wall is proposed between the two sites.
- Regarding building height the Planning Authority assessment concluded that the Building Heights Strategy (BHS) contained in Appendix no. 9 of the Development Plan provides a well considered framework to guide and manage development. The first party submit that the advice in the Building Heights Strategy is not consistent with the later Government guidance that four-storey development should be the default scale in suburban areas generally.
- The Planning Officer considered that the proposed development did not qualify for an 'upward modifier' due to the distance from the Dart which is in excess of 500m. The Ministerial Guidelines, Design Standards for New Apartments, (2018) indicate that a distance of 1km from high quality public transport is a fundamental justifier for increased density and height.
- It is submitted that the proposal complies with the requirements of SPPR3 at all levels. It is located in a metropolitan area served by public transport, close to Blackrock town centre and a range of schools and public parks.

- The first party consider that the height conclusion contained in the Planning Officer's report fails to accord with national policy on building height.
- In relation to the design of the underground car park an auto-track analysis was submitted to indicate usage of car parking space no. 9.
- Regarding waste collection, details for vehicle manoeuvres for refuse collection on site are not required because waste truck access into the site is not envisaged. Waste bins will be brought to the verge for the early morning collection.
- In relation the servicing of the site, the effluent discharges proposed from the development are minimal and it was on that basis that the re-use of the existing site connection into the combined sewer on Cross Avenue. In order to comply with the requirements from the Drainage Planning section of the Council in respect of Chesterfield development a dead-leg connection will be provided for future connection into any upgraded separate surface water sewer in Cross Avenue.

6.2. Planning Authority Response

- In the report dated 13th of June 2019 – Drainage Planning submitted a further information in relation to the application. The Planning Authority refused permission without seeking the further information requested. Therefore, the issues raised in the further information request were not addressed. The Planning Authority in the its decision to refuse permission did not cite the drainage issues or refer to the outstanding drainage issues by way of commentary.
- Points (a) and (b) of the Drainage Planning report dated 13th of June 2019 are responded to the Simon Clear & Associates appeal document and in the report from Benchmark Property. Point no. 2 of the Benchmark Property appeal submission refers to a confirmation letter received from Irish Water dated 18th of January 2019. Drainage Planning has not located this letter of confirmation. Drainage Planning accepts that the applicant's Irish Water pre-

connection enquiry form dated 19th December 2018 does not specifically reference the proposal to connect surface water discharge to the combined system but without sight of an Irish Water confirmation letter dated 19th December 2018 closure cannot be assumed.

- The remaining points (c) to (h) of the Drainage Planning report have not been addressed in the appeal submission. Should the Board consider a grant of permission the following conditions are proposed to address the issues raised in the Drainage Planning report of 13th of June 2019:
- Prior to the commencement of development the applicant shall submit to the Planning Authority for its written agreement confirmation from Irish Water that proposal to discharge surface water to the Irish Water combined sewer is acceptable to Irish Water or otherwise make provision for a separate surface water connection to the surface water sewer on Mount Merrion Avenue.
- Prior to the commencement of development the applicant shall submit to the Planning Authority for its written agreement a revised surface water drainage proposal based on maximum outflow rates, soil and SAAR values, no allowance for Long Term Storage and with a possible subsequent increased in attenuation storage provision, all of which are to be agreed with the Planning Authority.
- Prior to the commencement of development, the applicant shall submit to the Planning Authority for its written agreement details of maintenance access to the blue roofs and should not that in the absence of a stairwell type access to the roof, provision should be made for alternative maintenance and access arrangements such as external mobile access that will be centrally managed.

6.3. Observations

The Board has received 18 no. observations to the first party appeal from the following; (1) Jeffrey Dell (2) John & Ciara McCarrick (3) Brian & Marie Hampson (4) Lorraine Carew (5) Turlough Mullen (6) James Sheehan (7) Richard Tobin (8) John & Ciara O'Leary (9) Breda Keenan (10) Fiona Keenan (11) Breda Hourihane (12)

Tony & Joy Hurst (13) Elizabeth Fitzsimons (14) Christina Feeley (15) Kathryn Feeley (16) Daniel P.W. Tierney (17) Mary Binchy and (18) Michael Coyle. The main issues raised concern the following;

- The proposal would represent over development of the site in terms the height and width of the proposed apartment building.
- The proposed density would be equivalent to 102 units per hectare. This would be out of character with the surrounding area.
- The proposed development would be out of character with the surrounding development along Cross Avenue which includes Protected Structures.
- The height, scale and insufficient boundary setback of the proposed development would seriously injure the visual and residential amenities of existing surrounding properties by reason of overshadowing, overbearing and overlooking.
- The existing road network is not capable of accommodating the additional traffic which would be generated. The proposed scheme would generate additional on-street carparking which would cause congestion.
- The existing public transport serving the area is already operating at full capacity. Further residential development would increase pressure on the services.
- The proposal fails to accord with the national and local policy in relation to building height. It is submitted that the site does not meet the criteria to be deemed a suitable location for increased height.
- The proposal would be contrary to the zoning objective of the site which is to protect and or improve residential amenity.
- The proposed development could potentially impact the flora and fauna in the area. The site and plots in the vicinity are home to four species of bat which are protected by the EU Habitats Directive (92/43/EEC).
- The proposed development would result in the loss of trees.

- The proposed development would give rise to a loss of residential amenity of surrounding properties. It is considered inconsistent with the zoning objective.
- The proposed apartment building would be situated close to the boundary with the property to the east 'Derravaragh' circa 3.887m and 7.301m from the dwelling.
- The proposed car parking provision does not comply with Table 8.2.3 of the Dún Laoghaire Rathdown County Development Plan, 2016-2022. 37 no. car parking spaces are proposed and there is a shortfall of 10 no. spaces.
- It was found in the Traffic Impact Assessment that there would be 2 no. arrivals and 5 no. departures in the AM peak and 5 no. arrivals and 2 no. departures in the PM peak. This is considered unacceptable having regard to the existing traffic volumes on Cross Avenue. There are 4 no. schools located on Cross Avenue which also contribute to the existing traffic congestion experience.
- It is submitted that the Traffic Impact Assessment did not appropriately consider the cumulative impact of the proposed development and the proposed development of the adjoining Chesterfield site.
- Concern is raised in relation to construction works, specifically the proposed underground car park and the requirement to carry out excavation works which could potentially cause subsidence to the neighbouring property 'Derravaragh'.
- The appellant considers that the visual impact of the proposed development will be reduced by the existing trees along Cross Avenue and also on the site. A number of trees will be removed and deciduous trees will only provide effective cover during the summer. It is submitted that existing trees are ineffective barriers against visual impact.
- Regarding the relationship between the site and 'Derravaragh', the first party submitted that the existing trees will prevent undue overlooking, overshadowing and overbearing it is considered that the trees are an

inappropriate measure for visual protection. The proposal would result in the removal of 5 no. trees along the boundary with 'Derravaragh'.

- The submitted shadow analysis with the appeal was conducted for March only this is considered insufficient and does not accurately analyse the effects of overshadowing on 'Derravaragh'.
- The proposed development provides a poor quality of open space for future residents.
- The proposal would set a precedent for other similar development in the area.

6.4. Further Responses

A further submission was received from Simon Clear & Associates on behalf of the applicant. The issues raised concern the following;

- They wish to clarify that a pre-connection enquiry was made to Irish Water on 19th of December 2018. Following their enquiry a confirmation of feasibility letter was provided by Irish Water, letter dated 18th of January 2019. This letter may have been omitted from the submitted application documents and this has caused some confusion.
- They wish to apologise for any confusion.
- In the response from the Planning Authority to the appeal they indicated that points (c) to (h) of the Drainage Planning report had not been addressed. A response to each point has been provided.
- In relation to point (c) the Q bar estimated in the calculations submitted with the application was based on a site area of 0.323 hectares (total site area) and calculated 2.01l/s which is the figure used to estimate the allowable surface water discharge.
- The impermeable area was calculated as 0.164 hectares which equated to 881m² of roof and penthouse terrace along with 381m² for the ground floor podium and sundry areas of 372m².

- Site investigations carried out confirmed the poor infiltration characteristics of the soil, which is soil Type 4. It was assumed that 50% of the permeable area contributed to the impermeable area for calculation purposes.
- Regarding point (d) and the long-term storage of surface water within a blue roof, under criterion 1 of GDSDS March 2005 which refers to River Ware Quality Protection in order to prevent high levels of pollutants to waters storage and or treatment or long-term storage is required to cater for a minimum of the first 5mm of rainfall on site.
- Dún Laoghaire-Rathdown Co. Council requires 60% of new roof areas to be green roof. In the case of the subject site 100% of the new roof is utilised as a “Blue Roof” which will satisfy this requirement as well as contribute towards interception/attenuation storage.
- The proposals for Renesca do not require long term storage as interception and attenuation is provided in the Zinc Blue Roof and Ground Floor podium. In relation to point (e) the soil type is confirmed as type 4.
- Regarding point (f) Drawing No: 1004-S04 Rev P “Proposed Site Surface Water Drainage Layout” shows the general surface water layout including the “blue roof” attenuation interception storage podium area.
- Drawing No: 1004-S08-Rev P “Proposed Blue Roof Details” shows the full roof area of the development utilised for both attenuation/interception storage with the drawings.
- In relation to point (g) the whole of the roof and penthouse apartment terrace level 100% are utilized use as a “Blue Roof” for interception and storage.
- Regarding point (h) which refers to the Qbar value, Benchmark Property Consultancy note the attenuation storage requirements and use of flow limiting devices have been provided with the application and clarified in the response.

- It is considered that a standard condition for compliance prior to the commencement of development may be attached to a grant of planning permission.
- It is submitted that the concerns of the Drainage Planning Department of the Council have been fully addressed and it is requested that permission be granted for the development subject to the attachment of appropriate conditions.

7.0 Assessment

I consider that the main planning issues in the assessment of the proposed development can be dealt with under the following headings:

- Principle of the proposed development
- Visual impact, design and layout
- Impact on residential amenity
- Access and traffic
- Services
- Appropriate Assessment
- Other Issues

7.1. Principle of the proposed development

- 7.1.1. The lands in question are zoned 'Objective A' – to protect and/or improve residential amenity. The proposal is to demolish a dwelling and construct 33 no. apartments in a five-storey building. The existing dwelling subject of this application was built circa 2009. While, it is a substantially large dwelling and has been finished to a high standard and specification, I would consider that the proposal to demolish the property and develop 33 no. residential units represents an appropriate efficient use of zoned and serviced lands in accordance with the overarching provisions of the National Planning Framework – Project Ireland 2040. Accordingly, I consider in principle that demolition of the dwelling would be acceptable in this case. The site

has an area of 0.3235 hectares the proposed density would be equivalent to 102 units per hectare.

- 7.1.2. The observations raise concerns about the scale, density and overall height of the proposed development, that it would be out character with the existing area. I note that the more prevalent character in the area in proximity of the site is large two and three-storey detached properties. Furthermore, I note the recent planning decision of the Board in respect of ABP 302921-18 where permission was granted for the construction of 214 no. apartments and 7 no. houses. The density of that development was equivalent to 70 units per hectare. Following a judicial review of the decision, the High Court quashed the Board decision to grant planning permission. The High Court decision was not based on the planning merits on the proposed development but rather on procedural issues with respect to access to documentation. Accordingly, the Board has determined that the development a higher density including the provision of apartments is acceptable in principle on the adjoining site.
- 7.1.3. Section 2.4 of the Sustainable Urban Housing Design Standards for New Apartments defines central and / or accessible urban locations as sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. 10 minute peak hour frequency) urban bus services.
- 7.1.4. The appeal site is located approximately 900m from the Stillorgan Road QBC, 900m from the Rock Road QBC, 500m from the bus stops on Mount Merrion Avenue and circa 1 km from Booterstown Dart Station. Section 8.2.3.2 of the Development Plan recommends the provision of densities at higher than 50 dwellings per hectare at locations readily accessible to public transport corridors – QBCs, Luas, DART. Accordingly, I would consider that the site is an appropriate location to develop at the proposed density of 102 units per hectare subject to all other relevant planning considerations being satisfactorily addressed.

7.1.5. Regarding the matters of building height and adherence to existing pattern of residential development in the area as raised in the observations, Ministerial policy as set out in 'Urban Development and Building Heights' Guidelines for Planning Authorities advises that the constant expansion of low-density suburban development around our cities and towns cannot continue. Section 3.4 of the Guidelines refers to Building height in suburban/edge locations (City and Town) and it advises that for newer housing developments outside city and town centres and inner suburbs, i.e. the suburban edges of towns and cities, should now include town-houses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). The Guidelines advise that such developments also address the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends, while at the same time providing for the larger 3, 4 or more bedroom homes across a variety of building typology and tenure options, enabling households to meet changing accommodation requirements over longer periods of time without necessitating relocation. Accordingly, having regard to the provisions of the Ministerial Guidelines in relation to Building Heights, I would accept that the principle of an apartment building of five storeys can be considered subject to all other relevant planning considerations being satisfactorily addressed.

7.2. **Visual impact, design and layout**

7.2.1. The existing dwelling which is two-and-a-half storey over basement has a ridge height of 9.7m. The proposed apartment building has a height of 16.8m. The design provides for the penthouse fifth floor to be setback from the front building line by 5.5m. The proposed design includes the height of the building being stepped down from five storeys at the centre of the site to four and three storeys at the perimeter. The first party in their appeal submit that the front curtilage of the site contains existing mature trees and also along the length of Cross Avenue there are mature trees within the grass verges on both sides of the road. Furthermore, they note that the private gardens of surrounding properties also feature mature planting. Therefore, the first party submit that the proposed apartment building would be satisfactorily screened and integrated into the existing streetscape. I note advice in Section 3.6 of the 'Urban Development and Building Heights' Guidelines which

states that 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets. Cross Avenue is a circa 20m wide treelined avenue with a road width of approximately 7.5m and as such I would consider it is an appropriate location to site the proposed apartment building.

- 7.2.2. The Planning Authority had concerns in respect of the photomontages submitted with the application that they accurately reflect the true visual impact of the proposal. In response to the matter the first party have stated that the photomontages were properly prepared and accurately represent the proposed structure in its setting. Having reviewed the photomontages and inspected the site, I would consider that they satisfactorily represent the proposed structure in its setting.
- 7.2.3. As indicated on the submitted photomontages the proposed apartment building will be screened from close range views by the surrounding mature trees. On approach from the west there will be a partial view of the building from the Chesterfield entrance.
- 7.2.4. It is set out in the first party appeal that the proposed building is of high quality of the design particularly the materials and colour pallet of the external finish and that it is a well designed attractive modern building.
- 7.2.5. In relation to the proposed design of the apartment building, it is contemporary it includes a flat roof and inset balconies to the front elevation. The building has a maximum frontage length of 58m at ground, first and second floor levels. The fourth floor is inset 6m at the eastern side of the building with the fifth floor inset a further 4m. The fifth floor is also inset 12m on the western side of the building with the fourth floor inset 3.5m. The proposed stepping down of the building height at the eastern and western side serves to reduce the massing of the proposal. I consider that there is reasonable variety to the elevational treatment of the front of the building with a mix of high quality finishes including light grey/beige brick, zinc cladding, aluclad windows and doors and solid aluminium opening section to match window frames. Overall in terms of the visual impact of the proposed scheme on the surrounding

area I consider that the development has been designed well to integrate with the surrounding development.

Relationship with Chesterfield House Protected Structure

- 7.2.6. Chesterfield House Protected Structure is situated circa 47m to the south of the appeal site boundary. It is the 'Original Drawing Room' within Chesterfield House which is designated as a protected structure. Chesterfield House was reconstructed in the 1970's around the original drawing room which was constructed in the early 19th century. Presently the property is vacant. The residential development scheme which was proposed under ABP 302921-18 comprised 214 no. apartments within 7 no. apartment blocks to west of the Chesterfield House with 7 no. two-storey houses to the north of Chesterfield House. While, the decision of the Board to grant permission was quashed by the High Court in July 2019 it is likely that a subsequent similar application will be made to the Board at a later date.
- 7.2.7. The proposed layout indicates that apartment building would be set back 63m from Chesterfield House. The existing dwelling Renesca is setback 62m from Chesterfield House. Existing mature planting surrounds Chesterfield House and screens it from the Renesca site. The layout of the scheme proposed under ABP 302921-18 included the siting of the 7 no. two-storey dwellings in the area to the north of Chesterfield House and adjoining the site boundary of Renesca. Having regard to the siting and context of Chesterfield House relative to the northern boundary of that site and the relatively limited area available it is likely that any future application for residential development on the Chesterfield site would propose a similar design and scale of housing at that location as was proposed under ABP 302921-18. As indicated on the site section A-A Drawing No: 419-PL-02-02 the proposed apartment building would be sited a suitable distance from Chesterfield House and also it would not unduly impact upon the development potential of area to the north of Chesterfield House.
- 7.2.8. Accordingly, I consider that this proposed layout will ensure the character and setting of the Protected Structure is satisfactorily maintained.

- 7.2.9. Having reviewed the site layout plans and floor plans, I am satisfied that the areas of the balconies and terraces have been provided in accordance with the required standards set out in Appendix 1 of the Apartment Guidelines.
- 7.2.10. Regarding communal open space provision, as set out in Appendix 1 of the Apartment Guidelines the minimum required area for public communal amenity space is 5sq m per one bedroom unit and 6-7sq m per two bedroom unit and 9sq m per three bedroom unit. A total of 9 No. 1 bedroom units, 19 No. 2 bedroom units and 9 no. three bedroom units are proposed. Therefore, the minimum required communal open space area would be 223sq m. The communal open space area which provides a play area for children is located to the rear of the apartment building and is therefore well overlooked. As indicated on Drawing No: 0102 play sculptures, stepping stones and balancing logs are proposed within the communal play area. In total the proposed communal open space area on site measures 400sq m, this therefore exceeds the 223sq m as required under the 2018 Apartment Guidelines. Accordingly, I consider that the communal open space proposals are acceptable.

7.3. Impact upon residential amenity

- 7.3.1. The observations raise concern regarding overshadowing and overlooking of adjoining properties and the dwelling 'Derravaragh'. In relation to the matter of overshadowing, a shadow study was prepared by Horan Rainsford Architects with the application. The shadowing diagrams have been provided in respect of the Spring Equinox, 21st of March.
- 7.3.2. On the Spring Equinox, 21st of March, I note that there would be some marginal additional overshadowing of the front garden of 'Derravaragh' and also the western side of the dwelling at 5pm however, I note that the rear elevation of the dwelling would not receive additional shadowing. Accordingly, given that the additional shadowing would be very limited, I am satisfied that the proposed development would not unduly impact the amenities of neighbouring property in terms of overshadowing.
- 7.3.3. In relation to the issue of overlooking, the closest property is 'Derravaragh' a large two-storey detached dwelling located to the east of the site. The separation

distance between the eastern side of the proposed apartment building and the side of 'Derravaragh' is circa 8m at the closest point. I note that the height of the building has been stepped down at the southern boundary with 'Derravaragh'. Therefore, the closest section of the side of the building to the side of 'Derravaragh' is three-storey. A separation distance of 16.4m is provided between the four-storey section of the proposed building and the side. The increased separation distance provided with the stepping down and tapering of the building at the eastern side provides an acceptable separation distance between the closest point of the four-storey section and adjacent dwelling. I consider that this address concerns relating to overbearing impact.

7.3.4. In relation to the matter of overlooking of the property 'Derravaragh', I note that the front building line of 'Derravaragh' is forward of the proposed apartment building by circa 5m. The first party submitted a number of drawings with their appeal to address the issue of potential overlooking. Drawing No: 419-AP-04-01 illustrates the elevation facing 'Derravaragh'. As indicated on the drawing obscure glazing is proposed to a window on the second floor with screening also provided by hit and miss brick work with windows set behind this design feature on the first and second floors. I note that there are no side windows at fourth and fifth storey and that full height obscure glazing is proposed to the balconies. Furthermore, I note that it is proposed to retain the existing planting along the eastern boundary. Accordingly, I am satisfied that these proposed design measures would protect against any undue overlooking of the adjoining property 'Derravaragh'.

7.3.5. Drawing No: 419-PL-05-01 submitted with the appeal illustrates 'Southern Boundary Study'. The contiguous section C-C indicates the separation distance between the rear of the proposed apartment building and the southern boundary with the houses which were previously proposed under the Chesterfield development scheme. The drawing indicates that a separation distance of 14.2m would be provided between the closest section of the rear of the apartment building the balconies and the southern site boundary. Therefore, subject to a separation distance of 11m being provided between any future housing on the neighbouring site to the south and the

site boundary a separation distance in excess of 22m between opposing upper floor windows would be provided.

- 7.3.6. Having reviewed the proposed layout of the scheme relative to the existing surrounding properties, I consider having regard to the proposed siting of the apartment building and relative separation distances to the existing property that the proposed scheme would not result in any undue overlooking, overbearing or overshadowing of neighbouring residential properties.

7.4. Access and traffic

- 7.4.1. The proposal entails the provision of a total of 33 no. dwelling units. It is proposed to use the existing vehicular entrance at Cross Avenue. The observers have raised concern regarding the additional vehicular traffic the scheme would generate and lack of car parking within the development.
- 7.4.2. Regarding the matter of traffic generation, in terms of overall scale and intensity of the proposed development it is relatively modest in scale. The nature of the traffic associated is residential which is not out of character with the existing type of traffic that frequents the road network in the vicinity of the site. Having inspected the site and road network in the vicinity I would consider that such is of sufficient capacity to deal with level of traffic likely to be generated by the proposed development. Furthermore, I note the findings in the Traffic Impact Assessment prepared by TPS Ltd, they concluded that as a result of the proposed development there would be an additional 26 outbound and 5 inbound trips during the AM peak hour traffic movements on Cross Avenue. The additional traffic movements generated by the proposal during the PM peak would be 6 outbound trips and 23 inbound trips. The observations on the first party appeal have referred to the requirement to consider the cumulative impact of the proposed development and the proposed development of the adjoining Chesterfield site. The Traffic Impact Assessment submitted with the Chesterfield site application (ABP 302921-18) concluded the proposed residential development containing 221 units would generate 10 inbound and 51 outbound trips during the AM peak hour. During the PM peak the additional traffic movements generated by that proposed scheme would be 46 inbound and 11 outbound trips.

- 7.4.3. In relation to the potential impacts on the surrounding road network and specifically the capacity off Cross Avenue it was concluded in the TIA that the proposed site access at its junction with Cross Avenue can accommodate the projected traffic growth in 2035 and the projected traffic levels associated with the potential future development of 221 residential units at the adjoining Chesterfield site.
- 7.4.4. The proposed layout provides for the vehicular access to be access off Cross Avenue to the proposed basement carparking area. The proposed entrance is located onto a straight section of roadway where the road width is circa 7.5m. Cross Avenue has a speed limit of 50km/h. As per Table 4.2 of 'Design Manual for Urban Roads and Streets' (DMURS) (2013) 45m of forward visibility is required at junction. Having inspected the site and having regard to the details set out above I am satisfied that the required sightline distance is available along Cross Avenue and that the access arrangements are in accordance with DMURS.
- 7.4.5. Car parking standards are set out under Table 8.2.3 of the Dún Laoghaire Rathdown Development Plan 2016 – 2022 sets out the car parking standards for residential schemes. Generally, 1 no. car parking space is required for all one bed units, 1.5 spaces per two bed unit. The proposed scheme comprises a total of no. 33 apartments with 9 no. one bed units, 19 no. two bed units and 5 no. three bed units. Therefore, based on the development plan standards 9 no. spaces would be required for the one bed units and 28.5 no. spaces would be required for the two bedroom units and 10 for the three bedroom units. Accordingly, a total of 47.5 car parking spaces would be required in accordance with Table 8.2.3 of the Development Plan. A total of 37 no. basement car parking spaces are proposed. There would be a shortfall of 10.5 no. spaces.
- 7.4.6. As detailed in the report of the Planning Officer it was concluded that having regard to the proximity of the site to Blackrock and Booterstown Dart stations that a reduction of 10 no. car parking spaces to serve the scheme would be acceptable in principle.
- 7.4.7. 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' advise for accessible urban locations where apartments are

proposed and that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. Suitable locations for such a reduction in car parking include locations which are within 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.

- 7.4.8. Regarding public transport provision in the area, I note that the site is located 850m from the N11 QBC served by the no.'s 7b, 7d, 46a, 46e, 47, 116, 118, 145 and 155 routes. Mount Merrion Avenue 490m to the south-east is served by the no. 17, no. 17c bus routes. Rock Road circa 800m to the north is served by no. 4, 7, 7a, 7d and 84a bus routes and Booterstown Dart Station lies approximately 1km from the site and Blackrock Dart Station is circa 1.4km away.
- 7.4.9. Therefore, I consider that the location of the site within 7-10 minutes walking distance of the N11 QBC and Booterstown Dart Station means that it is an appropriate location for a reduction in car parking standards.
- 7.4.10. A total of 46 no. bicycle parking spaces contained within bicycle stands in the basement are also proposed. A further 8 no. bicycle parking spaces are proposed at ground level. This is in accordance with the requirements set out in the 'Standards for Cycle Parking and associated Cycling Facilities for New Development' which requires one long stay bicycle parking space per dwelling unit and 1 visitor space per 5 units. I also note that the scheme includes facilities for electric car charging with 4 no. charging spaces proposed which is in accordance with Section 8.2.4.12 of the Development Plan. Should the Board decide to grant permission, I would recommend the attachment of a condition specifying that all residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points with a minimum 10% of spaces to be fitted with functional electric vehicle charging points.
- 7.4.11. The proposed scheme is well served by public transport and each dwelling unit has bicycle parking, therefore I consider the shortfall in car parking in terms Development Plan standards would be acceptable.

7.4.12. In relation to the design of the basement car park the Transportation Planning Department had concerns in relation to car parking space no. 9. In response to the matter the first party submitted a Swept Path Assessment of the basement on Drawing 119-A00-SP01 which indicates that usage of car parking space no. 9. I note that the proposed width of the vehicular circulation aisle between the car parking spaces is 8m which will provide for two-way movement of vehicles. The Transportation Planning Department also raised the matter of access for waste collection vehicles. The first party in the appeal confirmed that waste vehicles will not be required to access the site as it is proposed that the waste bins will be brought to the verge for collection.

7.5. **Services**

Foul Drainage

7.5.1. The proposed connection is indicated Drawing No: S03 P – ‘Proposed Site Foul Drainage Layout’. It is proposed to connect to the existing 525mm diameter combined sewer located in Cross Avenue. As detailed in the Engineering Services Report prepared by Benchmark Property, the foul drainage system will be separate from the surface water network. The response to the appeal from Irish Water submitted to the Board on the 26th of July 2019 confirms that the applicant had engaged with them in relation to a pre-connection enquiry. Irish Water considered in regard to wastewater connections that gravity connection may not be achievable and therefore a pumping station may be required to be installed on site. Accordingly, the applicant will be required to engage further with Irish Water to agree appropriate design details for the connection of the development to sewer which will be subject to them entering into a connection agreement with Irish Water. I consider that this matter can be addressed by condition.

Water supply

7.5.2. The proposed connection is indicated Drawing No: S05 P – ‘Proposed Site Watermain Layout’. It is proposed to connect to the existing 100mm diameter located in Cross Avenue. The connection of the development to watermain is subject to the

applicant or developer entering into a connection agreement with Irish Water. This matter can be addressed by condition.

Surface Water Drainage

- 7.5.3. The existing dwelling on site 'Renesca is served by a 150mm diameter connection to the combined sewer on Cross Avenue. Under the proposed development the effluent from the scheme will be discharged to the combined sewer. This would comprise 1.38l/s foul effluent at peak and 2.0l/s surface water which would be attenuated.
- 7.5.4. The proposed surface water drainage layout is indicated on Drawing No: S04 P. As detailed in the Engineering Services Report prepared by Benchmark Property in order to comply with Suds drainage requirements it is proposed to install a Zinco Blue Roof system to provide interception and attenuation storage. Drawing No: S08 P illustrates the 'Proposed Blue roof Details' and includes the flow control detail at roof level.
- 7.5.5. Attenuation flow of 2.0 l/s from the development site to outfall into the combined drainage network is proposed. Irish Water in their response noted that development has to incorporate sustainable drainage systems/attenuation in the management of stormwater and to reduce surface water inflow into the combined sewer. The appeal response from the Planning Authority states points (c) to (h) of the report from Drainage Planning were not addressed in the first party appeal. A further submission from the first party dated the 24th of September 2019 addresses these issues. Point (c) refers to the discharge area being required to be calculated based on the whole site. The first party confirm that the Qbar estimate in the calculations refer to the total site area of 0.323 hectares and that a flow rate of 2.0l/s was the figure used to estimate the allowable surface water discharge. Point (d) refers to issue of long-term storage of surface water. The first party submit that the proposed scheme does not required long-term storage of surface water as interception and attenuation is provided in the proposed Zinco Blue Roof system. Point (e) queried the soil type on site, in response to the matter the first party stated that the site investigations carried out by Ground Investigations Ireland Ltd confirmed that it is soil type 4. Point (f) referred to details in relation to the design of the blue roof. In

response to the matter the first party stated that Drawing No: S08 Rev P illustrates the 'Proposed Blue roof Details' and that it indicates that the full roof area of the development will be utilised for both attenuation/interception storage. In response to point (g) the applicant confirms that the whole roof and penthouse terrace level will be utilized as blue roof. Point (h) refers to the Qbar value and need to recalculate it and the attenuation proposals. The applicant confirms that accurate details and calculations have been provided by Benchmark Property Consultancy in relation to the attenuation storage requirements and use of flow limiting devices.

- 7.5.6. Having regard to the detailed proposals provided I consider that the matter of surface water attenuation has been fully addressed. I note that the Planning Authority requires details in relation to maintenance access to the blue roof. This matter can be addressed by the attachment of a condition.
- 7.5.7. Regarding the connection of the proposed surface water drainage system to the combined sewer on Cross Avenue the Planning Authority requires the applicant submit written agreement confirmation from Irish Water that proposal to discharge surface water to the Irish Water combined sewer is acceptable to Irish Water or otherwise that the applicant make provision for a separate surface water connection to the surface water sewer on Mount Merrion Avenue. I consider this matter can be addressed by the attachment of a condition.
- 7.5.8. Furthermore, regarding the surface water the applicant confirms that they will incorporate a dead-leg connection to facilitate future connection into any upgraded separate surface water sewer in Cross Avenue. This proposal should be provided in order to avail of any future upgrade in the surface water sewer network consequent of the development of the adjoining lands.
- 7.5.9. Accordingly, I am satisfied with the submitted proposal subject to the details set out above being satisfactorily addressed by condition.

7.6. Appropriate Assessment

Stage 1 Screening

- 7.6.1. The appeal site is not in or immediately adjacent to any Natura 2000 site, so the proposed development would not have any direct effect on any Natura 2000 site. The European sites, South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024), are located 635m and 664m respectively to the north of the development site.
- 7.6.2. The qualifying interests/special conservation interests of the designated sites, are summarised as follows:

South Dublin Bay cSAC	South Dublin Bay & River Tolka Est. SPA
<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	<p>Light-bellied Brent Goose [A046]</p> <p>Oystercatcher [A130]</p> <p>Ringed Plover [A137]</p> <p>Grey Plover [A141]</p> <p>Knot [A143]</p> <p>Sanderling [A144]</p> <p>Bar-tailed Godwit [A157]</p> <p>Redshank [A162]</p> <p>Dunlin [A149]</p> <p>Black-headed Gull [A179]</p> <p>Roseate Tern [A192]</p> <p>Common Tern [A193]</p> <p>Arctic Tern [A194]</p> <p>Wetlands & Waterbirds [A999]</p>

- 7.6.3. The Conservation Objectives for South Dublin Bay SAC (000210) are to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in South Dublin Bay SAC. The Conservation Objectives for South Dublin Bay and River Tolka Estuary SPA (004024) are to maintain the favourable conservation condition of each qualifying bird species in the Natura 2000 site.
- 7.6.4. The Priory stream flows approximately 250m to the south-east of the site and is culverted over much of its length. The stream discharges to Dublin Bay at the south-eastern end of Blackrock Park. The appeal site is not connected to any culverts leading to the Priory stream or to any other streams off site and therefore there is no direct pathway from the site via surface water flows to Dublin Bay. Accordingly, I do not consider there is any potential “source-pathway” to connect the appeal site with South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA or any other European Designated Site.
- 7.6.5. It is reasonable to conclude that 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 No. (000210) and European Site No. (004024), or any other European site, in view of the site’s Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.7. Other Issues

Bats

- 7.7.1. The submission of a bat survey was recommended by the Department of Culture, Heritage and the Gaeltacht Development Applications Unit. In response to this the first party state that ‘Renesca’ was designed with a mansard roof providing living accommodation in the roof and that there is no attic space as found in the traditional pitched roof. They submit therefore that the house cannot and does not accommodate bat Roosts.

- 7.7.2. They acknowledge that the tree network in the area may represent a commuting corridor for bats and that there's no proposals for removal of the most significant trees on site. The first party confirm that they are amenable to the attachment of a condition in respect of the protection of bats. Accordingly, should the Board decide to grant permission for the proposed development I would recommend the attachment of a condition which ensure the protection of bats.

Construction Phase Impacts

- 7.7.3. The observers raise objections that the development will result in adverse construction stage impacts. The applicant has submitted an outline construction management plan which details that site access will only be from Cross Avenue and that it will be strictly controlled during the demolition and construction phase. I am satisfied that the construction phase impacts will be short term and temporary in nature and that adverse impacts can be minimised through submission of a detailed construction management plan and control on the hours of activity. This can be addressed by way of condition.

8.0 Recommendation

- 8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the zoning objective for the site as set out in the Dún Laoghaire Rathdown County Council, 2016 – 2022, the National Planning Framework, 2018 – 2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), Urban Development and Building Heights, Guidelines for Planning Authorities, (2018), and the overall scale, design and height of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. 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 and by the further plans and particulars received by An Bord Pleanála on the 15th day of July, 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The development shall incorporate a dead-leg connection to facilitate future connection into any upgraded separate surface water sewer in Cross Avenue.

Reason: In the interest of public health.

3. Prior to the commencement of development the applicant shall submit to the Planning Authority for its written agreement confirmation from Irish Water that proposal to discharge surface water to the Irish Water combined sewer is acceptable to Irish Water or otherwise make provision for a separate surface water connection to the surface water sewer on Mount Merrion Avenue.

Reason: In the interest of public health.

4. Prior to the commencement of development the applicant shall submit to the Planning Authority for its written agreement details of maintenance access to the blue roofs and should note that in the absence of a stairwell type access to the roof, provision should be made for alternative maintenance and access arrangements such as external mobile access that will be centrally managed.

Reason: In the interest of public health.

5. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

6. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the basement car park, shall be in accordance with the detailed requirements of the planning authority for such works. All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points with a minimum 10% of spaces to be fitted with functional electric vehicle charging points.

Reason: In the interests of amenity and of pedestrian and traffic safety.

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

Reason: In the interest of visual amenity.

8. Details of all boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development on the site.

Reason: In the interests of visual and residential amenity.

9. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

10. Prior to commencement of development, the developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to

the satisfaction of the planning authority and in accordance with the permitted landscape proposals.

Reason: To ensure full and verifiable implementation of the approved landscape design.

11. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the Arboricultural Method Statement and Tree Protection Plan in the submitted tree report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables crossing or bounding the site shall be relocated underground as part of the site development works, at the developer's expense.

Reason: In the interests of visual and residential amenity.

14. Proposals for an estate/development name and apartment numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, all estate and street signs and numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.

15. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

16. 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, noise management measures and off-site disposal of construction/demolition waste.

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

17. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery (which shall not be within the areas designated for tree protection) and for storage of deliveries to the site.

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

18. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interests of residential amenity and proper waste management.

19. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

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

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

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

21. 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 96(4) and 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 97(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 for the area.

22. 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.

23. 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Siobhan Carroll
Planning Inspector

15th of November 2019