



An
Bord
Pleanála

Inspector's Report ABP 307297-20

Development	Demolition of existing two-storey building and replacement with a five storey Aparthotel development.
Location	1 Northumberland Avenue, (with frontage of Lee's Lane), Dún Laoghaire, Co. Dublin.
Planning Authority	Dún Laoghaire-Rathdown Co. Council
Planning Authority Reg. Ref.	D20A/0085
Applicant	Cumberland Developments Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Cumberland Developments Ltd.
Observers	(1) Paula & Ed Leahy (2) Dr. Eoghan Daniel Sharkey & Helen Sharkey (3) Eddie Confrey (4) Sinead Gorby

Date of Site Inspection

24th of August 2020

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is located at the corner of Northumberland Avenue and Lee's Lane in Dun Laoghaire, Co. Dublin. It lies 39m to the south of the Main Street of the town, George's Street Lower. There is a mix of retail, commercial and residential uses in the surrounding area. These include a Dunnes Stores retail unit located on the opposite side of Northumberland Avenue and with street frontage onto George's Street. This building is partly three/two storey. There are a number of retail units to the north of the site including a jeweller's, florist and café.
- 1.2. Dungar Avenue is situated to the east of the appeal site. This is a small cul-de-sac comprising of red-brick two-storey semi-detached houses.
- 1.3. The site has a stated area of 0.048 hectares. There is a two-storey former retail building on site. The building previously accommodated Dunnes Stores foodhall. The building on site adjoins a terrace of 7 no. three-storey dwellings to the south along Northumberland Avenue. The Methodist Church Dún Laoghaire and church hall lies to the south of the terrace.
- 1.4. The northern boundary of the site addresses Lee's Lane. Lee's Lane has a width of circa 5m and this provides a narrow pedestrian/one way vehicular access. It extends for 64m linking Northumberland Avenue and Mulgrave Street. The north-western site boundary adjoins the rear gardens of two residential properties no. 65 and no. 66 Mulgrave Street.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of existing two storey building and replacement with a five storey Aparthotel Development.
- 2.2. The development will consist of the demolition of an existing two storey building (Approx.480 sqm GFA) and replacement with a five storey aparthotel development of Approx. 1,931 sqm (GFA) consisting of 45 suites and ancillary amenities. Ground floor level includes; reception, bike store and lobby area, cafe (Approx.124 sqm) and covered external seating area, 2 no. WCs, kitchen (Approx.48 sqm), refuse area (Approx.9 sqm), substation (Approx.14 sqm), switchroom (Approx.10 sqm) and hotel plant room (Approx.57 sqm). 13 no. suites at first, second and third floor levels

comprising of 10 no. studios, 1 no. accessible studio, 1 no. one bed suite and 1 no. two bed suite at each floor level. The fourth floor level will consist of 6 no. suites including 2 no. studios, 3no. one bed and 1 no. two bed suites, a swimming pool (Approx. 30 sqm), lounge and cafe/bar area (Approx. 65 sqm) and plant rooms (Approx. 28 sqm). Primary entrances to the aparthotel and cafe are proposed off Northumberland Avenue with ancillary side entrance to refuse and service areas off Lee's Lane. The development will include a sedum roof (Approx. 280 sqm) at roof level consisting of attenuation measures and connections to existing services and all associated site development works. The development will also include proposed public realm upgrades to Northumberland Avenue and Lee's Lane including improvements to the public pavement.

- 2.3. Revised design proposals have been submitted with the appeal. These provide for a reduction in the height of the building to the rear with the setting back of the second, third and fourth floor levels. The revised design reduces the number of proposed suites from 45 to 34.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons;

1. The proposal, by reason of its scale, height and massing fails to provide an appropriate transition in scale within the rear portion of the site to the adjoining established residences to the south and north-west. The proposed development is considered to be contrary to Section 8.3.2 (Transitional Zonal Areas) of the County Development Plan, 2016-2022 and in its current form will severely compromise the residential amenity of the surrounding properties by reason of overshadowing and by being visually overbearing. The proposed development would be seriously injurious to residential and visual amenities and would therefore, be contrary to the proper planning and sustainable development of the area.
2. The bulk and mass of the proposed development is not deemed suitable at this location and fails to respond to its receiving environment. The proposed

development is considered to be visually incongruous with the built form and character of the surrounding area, particularly when viewed from Mulgrave Street to the west of the subject site. The proposed development would be seriously injurious to residential and visual amenities and would therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planning Authority concluded that the principle of the proposed development would be acceptable and in accordance with the 'MTC' zoning objective. The site context and transitional location of the site was noted by the Planning Authority. The Planning Authority considered that an architectural response which has due regard to the setting and established residences adjoining the site was required. They concluded that the proposed development by reason of its scale and massing fails to have regard to have regard to its surrounding site context and does not provide an appropriate transition in scale to the adjoining residences and will unreasonably compromise their residential amenity. It was also concluded that the bulk and mass of the proposed development is not suitable and fails to respond to the receiving environment and is considered to be visually incongruous with the built form and character of the area.

3.2.2. Other Technical Reports

3.2.3. Drainage Planning – Further information requested.

3.2.4. Transportation Planning – Further information requested.

3.2.5. Public Lighting – No objections

3.2.6. E.H.O – No objections

3.3. Prescribed Bodies

3.3.1. Irish Water – No objection

3.4. Third Party Observations

- 3.4.1. The Planning Authority received 11 no. submissions/observations in relation to the application. The issues raised are similar to those set out in the observations to the appeal.

4.0 Planning History

None

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan 2016-2022

- 5.1.1. "The site is objective zoned MTC: To protect, provide for and/or improve major town centre facilities."
- 5.1.2. Chapter 8 refers to Principles of Development
- 5.1.3. Section 8.1.1.1 – Policy UD1: Urban Design Principles
- 5.1.4. Section 8.2.4.5 – Car Parking Standards
- 5.1.5. Section 8.2.4.7 – Cycle Parking
- 5.1.6. Section 8.3.2 – Transitional Zonal Areas
- 5.1.7. Appendix 12 – Dún Laoghaire Urban Framework Plan

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura 2000 sites are;
- South Dublin Bay and River Tolka Estuary SPA is circa 982m to the north-west of the site.
 - South Dublin Bay SAC is 1.3km to the north-west of the site.
 - Dalkey Island SPA is 3km to the east of the site.
 - Rockabill to Dalkey Island SAC is 3km to the east of the site.

5.3. EIA Screening

- 5.3.1. 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.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted by Brook McClure Planning and Development Consultants on behalf of the applicant Cumberland Developments Ltd. The main issues raised are as follows;

- A revised design option has been provided with the appeal to address the reasons for refusal issued by the Planning Authority. The revised proposal maintains the use as originally proposed. The design provides for a reduction in the height of the building to the rear. It is submitted that this addresses the concerns of the Planning Authority in relation to residential amenity impacts.
- As indicated on the revised south elevation and north elevation a stepping down of the building at the rear is proposed. This provides a significant setback at second, third and fourth floor levels which will integrate the building more effectively into the surrounding built context.
- The appeal includes a Sunlight and Shadow analysis, Landscape and Visual Impact Assessment, a revised photomontages and a Transportation Planning response from NRB Consulting Engineers.
- The revised design provides a setback of 2.8m between the second floor level and the northwest boundary with properties at Mulgrave Street. The setback will allow the provision of a planted garden terrace for residents. The planting will further mitigate the visual impact of the proposed aparthotel and prevent overlooking. The revised third floor design provides a further setback from properties to the north and west. The pool which was originally proposed at

fourth floor level is relocated to the third floor terrace and it would be screened by planting to the north west.

- It is submitted that the reasons for refusal are unwarranted and that it could have been dealt with through a request for further information. It is submitted that the proposed development satisfies all requirements to protect existing and future levels of residential amenity.
- It is highlighted that the proposal provides the last opportunity of their client to balance all matters of concern whilst delivering on a scheme that is commercially viable at the site.
- In relation to refusal reason no. 1 the Planning Authority had concerns in relation to inappropriate height, scale and massing in providing a transition in scale to the adjoining established residences to the south and north-west. The Planning Authority also considered that the proposed development would impact on adjoining amenities as a result of overshadowing and visually overbearing and that it would be contrary to Section 8.3.2 of the Development Plan in relation to transitional zones.
- Regarding the issue of scale, height and massing the first party notes the comments in the report of the Planning Officer in relation to the proposed development that the proposed height of 5 storeys is appropriate and can be accommodated to the front of the site at this location on Northumberland Avenue. Therefore, the primary issue regarding the proposed height, scale and massing relates to the rear of the building.
- The five storey building as originally proposed was considered by the Planning Authority to have a visual impact on the rear amenity space of properties to the south along Northumberland Avenue this is notwithstanding a 1.9m setback. The reduction in the scale of the building to the rear of the site addresses the third party and the Planning Authority's concerns.
- The choice of materials to the southern and north western elevations was raised as an issue in the report of the Planning Officer. A variety of materials and elevation treatments are now proposed on the north western and southern elevations which include smooth aggregate, rough aggregate, sand

blasted glass panels, green/living walls and a Sedum roof at upper levels. It is submitted that these treatments provide variety and a break down in massing.

- Regarding overshadowing the Planning Authority had concerns that direct overlooking would occur to properties to the south from suites that face onto the light court. The Planning Authority had concerns that the 5 storey boundary wall would impact to the properties no. 65 and no. 66 Mulgrave Street and that the proposed development would result in significant overshadowing of no. 65 and no. 66 Mulgrave Street.
- It is submitted that the proposed reconfigured scheme includes the removal of suites that face south towards rear private amenity spaces. The internal stairwell is proposed to the southern side of the building, no fenestration is proposed on the south facing elevation. This removes the possibility of overlooking of the rear private amenity space of properties along Northumberland Avenue.
- The revised design incorporating setback and screening including the second floor setback 3m from the boundary and the third and fourth floors setback 9.3m. Each setback level is screened with planting and sand blasted glass panels to enhance the elevation treatment. It is submitted that the softer material treatment at this façade and the setting back of upper floor levels on the boundary will reduce perceptions of overbearing from properties to the east and north east. Accordingly, the first party submits that the issue of overbearing is addressed with the revised proposals. The visual impact is addressed in the revised visual graphics from Digital Dimensions. In relation to overshadowing it is submitted that the provisions of the Sunlight and Shadow analysis by BDP Architects demonstrate that no undue impact occurs as a result of the revised proposal.
- In relation to refusal reason no. 2 it refers to the proposed development being considered visually incongruous with the built form and character of the surrounding area particularly when viewed from Mulgrave Street. The revised scheme significantly reduces the bulk and mass of the building. It is submitted that the proposal when viewed from Mulgrave Street shows a much reduced

built form which is set back at upper levels from the boundary with properties to the north west.

- It is submitted that the reduced bulk of the proposal at second, third and fourth floor responds to concerns in relation to residential and visual amenities and is an appropriate development proposal for the town centre infill site.
- The revised scheme appropriately responds to the reasons for refusal while maintaining an efficient development proposal that is commercially viable.
- The appeal addresses a number of matters which were raised in the report of the Planning Officer.
- The Transportation Department report noted that the existing loading bay at Lee's Lane should be retained with collection to take place directly from an internal refuse storage area. In response the first party state that the existing loading bay can be maintained within the scheme. A small refuse vehicle will be required to allow use of Lee's Lane. Any deliveries or pick ups that require the time restricted loading bays at Northumberland Avenue will be coordinated.
- In relation to cycle parking the Transportation Department stated that 8 no. long stay cycle parking spaces are considered acceptable, however that insufficiently visitor parking was provided. The reduction in the number of suites from 45 to 34 results in sufficient cycle parking being provided in the revised scheme. 4 no. bicycle stands are proposed within the building and an additional 4 no. bicycle stands are proposed to the front of the Aparthotel.
- Compliance with a construction management plan and associated traffic management plan was required by the Planning Authority. A preliminary CMP with Traffic Management Plan was submitted with the application. The applicant is amenable to the attachment of a condition requiring the submission of a construction management plan prior to commencement of development.
- The Drainage Planning Department required revised calculations for the attenuation storage volumes on site, details of the green roof to comply with the requirements of Appendix 16: Green Roof Guidance documents and to

provide confirmation that all utilities vertical and horizontal separation distances can be provided. Coyle Civil and Structural Engineers have provided a detailed response to these matters. The calculations for attenuation do not allow for any reduced run off rates. Therefore, the attenuation storage volume has been increased to discount the green roof storage.

- The proposed foul and storm drainage for the scheme has been relocated away from Lee's Lane because the Drainage Planning Department highlighted that it is congested with services.
- The structural design of the building and its proximity to the foundation of the existing dwelling was reviewed as part of the revised design. It is proposed to use non intrusive auger pile system to foundations in close proximity to existing foundations.
- In relation to the issue of extraction and ventilation BDP Architects confirmed that there will be minimal impacts from extraction vents from the proposal due to the low volume of food and beverage provision expected from the premises
- In conclusion the first party requests that the Board overturns the decision of the Planning Authority and grant permission as proposed at the application stage. However, should the Board be minded to grant permission for an amended scheme to address the Planning Authority's reasons for refusal the first party request that the Board grant permission for the development as revised in the proposal submitted with the appeal.

6.2. Planning Authority Response

- The Board is referred to the previous Planner's report.
- It is considered that the grounds of appeal do not raise any new matters which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3. Observations

Observations to the appeal have been submitted from the following (1) Paula & Ed Leahy (2) Dr. Eoghan Daniel Sharkey & Helen Sharkey (3) Eddie Confrey (4) Sinead Gorby. The issues raised are as follows;

- There are two major hotels in Dun Laoghaire in the same district and the subject site, therefore it is submitted that the proposed scheme is not required.
- The proposal would represent overdevelopment of the site.
- Notwithstanding the revised proposals it is considered the proposed development would cause overshadowing of neighbouring residential property.
- The proposal would negatively impact upon the amenities of neighbouring residential properties in terms of noise generation of potential antisocial behaviour.
- In relation to the revised proposals it is submitted that the stepping back of level 3 and 4 of the building would not satisfactorily address the visual impact when viewed from Mulgrave Street and Northumberland Avenue.
- The revised proposal does not address the observers concerns in respect of the mass and scale of the development.
- It is stated that the location of the Church bell tower on Northumberland Avenue does not provide a precedence for a tall building on the road.
- The developers have not met with the local community to discuss the proposed development and address their concerns.
- The proposal would generate car parking demand in the area.
- The site would be more suitable for small scale residential development or a mix of residential and commercial.
- The proposed building would appear visually incongruous in the streetscape. The proposed bulk and scale of the building is considered excessive in the context of existing development on Northumberland Avenue.

- Notwithstanding the stepping of the levels 3 & 4 of the proposed building it would present as a 5 storey block. The stepping of the building is only evident from the northern and southern aspects.
- The proposed development would have an overbearing impact and the excessive height of the building would cause overlooking and overshadowing of neighbouring residential properties.
- Concern is expressed in relation to potential noise which would be generated from the proposed swimming pool area.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. The issue of appropriate assessment screening also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development/policy
- Impact on the Residential and Visual Amenity
- Traffic and parking
- Appropriate Assessment

7.1. Principle of Development/policy

7.1.1. The appeal site is zoned MTC where it is the objective 'to protect, provide for or improve major town centre facilities' under the Dún Laoghaire-Rathdown County Development Plan 2016-2022.

7.1.2. The site is also located within the area of the Dún Laoghaire Urban Framework Plan (set out in Appendix 12 of the current County Plan). The plan supports commercial activities within the town centre and promotes an increased residential population. It is stated "underpinning any new development/redevelopment in Dun Laoghaire should be an objective of increasing the residential population of the Town." It is also an objective to "protect, preserve and enhance the unique historic character, ambiance and identity of the adjoining residential streets and communities". Section

3 of the Framework Plan refers to creating vitality. The proposed redevelopment of the site is in accordance with the provisions of the Dún Laoghaire Urban Framework Plan in respect of supporting commercial activities and creating vitality.

- 7.1.3. In relation to building heights the Plan notes that the building heights within the area are typically two-three storeys, with some recent developments of four-five storeys extending to a maximum of seven storeys on some prominent sites. It is highlighted that only the spires of St. Michael's and Mariners' Church (the Maritime Museum), the tower of the County Hall and the 'prow' of the new dlr Lexlcon rise above the overall urban skyline. It is an objective of the Plan to ensure that the hierarchical relationship between established landmark buildings and new infill development be preserved and maintained. In relation to the design of new development the Plan advises that it should strive to be contextual, seek to re-establish streetscapes, be appropriately scaled and be rich in materials and details consistent with the existing typology of the Town Centre. In relation to the proposed five storey height of the building it would be in accordance with existing heights of more modern development within Dun Laoghaire town centre and also would not exceed the height of the established landmark buildings. I note that the Planning Authority in their assessment of the proposal did not have an objective in principle to the proposed height.
- 7.1.4. Regarding the principle of the use of the proposed building as an aparthotel I note that the Dún Laoghaire-Rathdown Co. Development Plan 2016-2022 does not refer specifically to an aparthotel use. An aparthotel is effectively the same as hotel use. It is based on self-service (self-catering), short-term accommodation units sharing a reception area and managed in the same manner as a hotel, within a fully serviced building. Under the MTC zoning objective residential and hotel/motel uses are permitted in principle. Accordingly, I have no objection to the principle of the proposed use as an aparthotel at this location.

7.2. Impact on the residential and visual amenity

- 7.2.1. The Planning Authority refused permission for two reasons. The first reason referred to the scale, height and massing of the building and stated that the development did not provide an appropriate transition within the rear area of the site to neighbouring residential properties to the south and north-west. The reason for refusal also stated

that the development would negatively impact upon the residential amenity of surrounding property by reason of overshadowing and overbearing.

- 7.2.2. The second refusal reason referred to the bulk and mass of the proposed development and stated that the development was considered to be visually incongruous with the built form and character of the surrounding area in particularly when viewed from Mulgrave Street to the west.
- 7.2.3. In response to the two refusal reasons the applicant proposes a revised design to address the concerns of the Planning Authority. The revised proposal provides a reduction in the height of the building to the rear. The first party submit that this addresses the concerns of the Planning Authority in relation to residential amenity impacts.
- 7.2.4. The scheme as originally proposed with the application provides a five storey building which addresses Northumberland Avenue. It is highlighted in the appeal that report of the Planning Officer stated that they considered that the proposed five storey height of the building can be accommodated to the front of the site onto Northumberland Avenue. The Assessment of the Visual Impact on the Built Environment prepared by ARC refers to the Congregational Church and its associated spire which previously were located on the site. The assessment includes a photograph of Northumberland Avenue including the appeal site which is dated circa 1900. The Congregational Church and its spire are visible in the photograph on the site to the east of the terrace of properties. It is set out in the assessment that the capacity of the site to absorb the impacts of buildings higher than its immediate adjoining neighbours is considerable given the scale and density of development within the town centre of Dun Laoghaire.
- 7.2.5. In terms of the current context, while the height of the surrounding buildings are predominantly two-storey and two-storey over basement, having regard to the proximity of the site to the centre of the town and location of other buildings with heights of three-storeys and above on George's Street to the east I would consider that the site can accommodate the proposed five storey building. Furthermore, I note that the level of Northumberland Avenue rises to the south and the subject site is towards the lower end of the street. The photomontage proposed view no. 8 which is taken from Northumberland Avenue to the south of the site illustrates that the

proposed building height would be below the parapet level of Dun Laoghaire Shopping Centre when viewed from that vantage point. Accordingly, the location of existing higher building in the vicinity will serve to integrate the proposed five storey building into the streetscape. Having reviewed the submitted photomontages I am satisfied that the proposed building would be acceptable in terms of impact on the character and visual amenity of the streetscape.

- 7.2.6. The matter of site being located in a transitional zonal area was of concern to the Planning Authority. They considered that the proposed development did not satisfactorily respond to the characteristics of the site and the surrounding area and that it would therefore be contrary to Section 8.3.2 of the Development Plan which refers to Transitional Zonal Areas.
- 7.2.7. I would share the concerns of the Planning Authority in respect of the five storey height of the building and how it relates to the surrounding development to the rear of the site and in particular the existing residential properties. Therefore, having reviewed the plans in respect of the scheme as proposed with the application, I would concur with the Planning Authority that the proposal which would comprise a five storey building within the entirety of the footprint of the site, would be excessive in terms of the scale, height and massing of the building. Accordingly, I will examine the revised proposals as submitted by the applicant with the appeal.
- 7.2.8. The proposed revised design involves the setting back of the second, third and fourth floors to the rear of the building. The revised proposal also provides a change in the roof design with a pitched section of roof proposed to the rear of the building. As indicated on drawing no: (20)AE002 the Proposed North Elevation the second floor would be setback 3m from the rear site boundary, the third floor would be setback a minimum of 6.2m from the rear site boundary with the eastern side of the building setback 12m from the site boundary. The revised plans proposed the swimming pool to the third floor moved from the originally proposed fourth floor location. The revised design would result in the fourth floor being set back a minimum of 6.2m from the rear site boundary with the eastern side of the building setback 12m from the site boundary. The fourth floor level would also be inset 2m back from the southern boundary for approximately 9m.

- 7.2.9. It is submitted in the appeal that the proposed revised design with the setting back of the upper floors from the rear boundary resulting in the stepping down of the building would reduce the bulk and scale of the building and allow it to be more effectively integrated into the surrounding built context. It is also set out in the appeal that the proposed planting to the second and third floors will mitigate the visual impact of the proposed building and prevent overlooking.
- 7.2.10. The second reason for refusal issued by the Planning Authority raised concern in relation to the visual impact of the proposed building particularly when viewed from Mulgrave Street to the north-west. The photomontage proposed view no. 10 which is taken from Mulgrave Street to the south-west of the site illustrates that the proposed revised design of the building involving the reduction in its height to the rear will result in the building not being unduly visible in the streetscape from this vantage point.
- 7.2.11. According, I consider that the proposed the proposed stepping down of the building height at the rear serves to satisfactorily reduce the massing of the proposal. The report of the Planning Officer raised concern in relation to the choice of materials to the southern and north western elevations. The applicant has addressed this matter. They propose a variety of materials to the elevations and also variety in the design. The proposed elevation treatment includes smooth aggregate, rough aggregate, sand blasted glass panels, green/living walls and a Sedum roof at upper levels. I consider that this provides a reasonable variety to the elevational treatment which also serves to reduce the mass of the building.
- 7.2.12. Regarding the matter of impacts to neighbouring residential property, the Planning Authority had concern regarding the residences to the south and north-west of the site in terms of potential overshadowing and overbearing. The report of the Planning Officer refers to concerns in relation to overshadowing of no. 65 and no. 66 Mulgrave Street. The appeal includes a Sunlight and Shadow analysis prepared by BDP. Shadow diagrams have been provided for the Spring equinox March 21st and indicate shadowing from the existing building on site, the originally proposed building and the revised design proposed with the appeal. The shadow diagrams indicate that the proposed revised building design would reduce new shadowing of the neighbouring dwellings to the north-west no. 65 and no. 66 Mulgrave Street in morning from 9am to 12pm when compared with the shadowing which would occur

from the originally proposed scheme. The revised proposal would result in some new additional shadowing of buildings along Lee's Lane to the east in the afternoon, however I note that these are not residential properties. Accordingly, the proposed development including the revised proposal submitted to the Board would result in some limited new shadowing of private amenity space and properties to the north however the shadowing would not occur in the afternoon and evenings and given the town centre location of the property some limited additional shadowing is considered acceptable. Therefore, given that the additional shadowing would be very limited, I am satisfied that the proposed development would not unduly impact upon the amenities of neighbouring property in terms of overshadowing.

7.2.13. In relation to the matter of overlooking, I note that the Planning Authority had concerns regarding the potential for direct overlooking from the south facing suites. In response to this it is highlighted in the appeal that the revised scheme includes the removal of suites that face south towards the rear private amenity spaces of properties along Northumberland Avenue. A light court is proposed which extends for circa 7.45m along the southern boundary. As indicated on the revised plans submitted with the appeal, suites to the southern side of the building to the centre and rear of the building from first floor to fourth floor are served by internal windows which address the light court. Therefore, there is no fenestration proposed on the south facing elevation. Accordingly, I am satisfied that this addresses the matter of potential overlooking of the rear private amenity space of properties along Northumberland Avenue.

7.2.14. Regarding the issue of overbearing it is submitted in the appeal that the revised design of the building which includes the setting back of the upper floors and proposed planting will reduce perceptions of overbearing from properties to the east and north east. The second floor of the building would be setback 3m from the rear site boundary with the third and fourth floors setback between 6m and 12m. It is set out in the appeal that the revised elevational treatment to the western rear elevation which includes tiered setback of each level of the building with sand blasted glass panels and screen planting would provide a softer material treatment of the façade. I note that there is a separation distance of 8m between the rear of the closest dwelling to the north-west no. 66 Mulgrave Street. The proposed stepping back of the upper floor level provides a further degree of separation between these buildings.

Having regard to the revised elevation treatment to the proposed western rear elevation and the stepping back of the building from the rear boundary, I consider these design proposals satisfactorily mitigate overbearing impacts.

7.2.15. In relation to the neighbouring property to the south of the appeal site, I note that revised proposal for the southern elevation also include sand blasted glass panels and screen planting at third and first floors. This elevational treatment similar to the western elevation will provide a softer façade appearance. The stepping of the building height will also reduce the overall bulk of the building when viewed from properties to the south on Northumberland Avenue.

7.2.16. A number of observations to the appeal raised the issue of noise generated in relation to the usage of the proposed swimming pool and terrace. The proposed terrace and pool are located on the third floor of the building. As detailed in the appeal statement the southern edge of the pool and terrace will only be accessible for staff access for pool plant maintenance. The pool is setback circa 1m from the rear, western side of the building and 4m from the site boundary. This area is proposed to be planted. Therefore, the design and layout of the terrace with its setback and screened from the western and southern site boundaries will ensure that its usage would not unduly impact the neighbouring residential properties.

7.2.17. Having reviewed the revised proposals for the scheme submitted with the appeal, relative to the existing surrounding properties, I consider having regard to the proposed siting of the building, relative separation distances to the existing property and the design that the proposed scheme as revised would not result in any undue overlooking, overbearing or overshadowing of neighbouring residential properties.

7.3. Traffic and parking

7.3.1. A number of the observations to the appeal raised the matters of traffic and parking. A Traffic/Transport Assessment and Preliminary Travel Plan prepared by NRB Consulting Engineers was submitted with the application. The assessment set out that the site is located in a highly accessible location in relation to the public transport including DART, mainline train services and public and private bus routes. The proximity of taxi ranks and Go cars to the site was also noted. The assessment concluded that the existing road network and public realm can satisfactorily

accommodate the worst case vehicular traffic, servicing and pedestrian traffic which the proposed development would generate. The submitted Travel Plan sets out initiatives to encourage sustainable travel and it is proposed to appoint a Travel Plan Coordinator for the development upon occupation of the building.

- 7.3.2. The proposal is situated in a town centre location and the scheme does not include any car parking. Table 8.2.4 of the Development Plan sets out Car Parking Standards for Non Residential Use. As per this table Hotel use in areas where there is public transport corridors is one space per two bedrooms. Accordingly, the subject aparthotel with 45 no. suites would generate the requirement for 24 no. car parking spaces. The revised proposal for 34 no. suites would require 17 no. car parking spaces.
- 7.3.3. The Transportation Planning Department of the Council in their assessment of the proposal noted that the car parking standards in the Development Plan refer to the maximum allowable rate of car parking and it does not refer to minimum requirements. The Transportation Planning Department considered having regard to the location of the site within Dun Laoghaire town centre and the proximity to both the Dart and numerous bus routes that it would be acceptable that the scheme did not provide on-site car parking. I would concur with this assessment. I note that there is on-street pay car parking spaces available along the extent of Northumberland Avenue and on surrounding roads.
- 7.3.4. The development provides 8 no. long stay (staff) cycle parking spaces and 4 no. short stay (visitor) cycle parking spaces. The Transportation Planning Department were satisfied with the provision of long stay cycle parking however they considered that there was a shortfall of 50% of visitor cycle parking provision. The appeal refers to the matter of cycle parking provision and states that if permission were granted for the revised scheme comprising a reduction number of suites from 45 to 34 that sufficient cycle parking would be proposed. 4 no. bicycle stands are proposed within the building and an additional 4 no. bicycle stands are proposed to the front of the Aparthotel. Accordingly, the proposed bicycle parking would be adequate to serve the development should the proposed aparthotel be reduced to 34 no. suites.
- 7.3.5. The report of the Transportation Planning Department refers to the existing loading bay located on Lee's Lane and notes that part of it is located within the site. They

state that the other existing loading bay on Northumberland Avenue only operates up to 12pm. In relation to the servicing of the development the Transportation Planning Department have concerns in respect of refuse collection. They consider refuse should be collected from Lee's Lane in order that the flow of traffic is not impeded on Northumberland Avenue. In response to this the first party stated in the appeal that the existing loading bay can be maintained within the scheme. They note that the use of a small refuse vehicle will be required to provide access to Lee's Lane. In relation to deliveries or pick-ups which require the use of the time restricted loading bays at Northumberland Avenue the first party state that they will be coordinated in order to prevent any congestion. I note the location of the loading bay is directly across the road from the site and it extends for circa 17m. I consider this is adequate to service the proposed development.

7.3.6. Accordingly, having regard to the above assessment, I am satisfied that the development will not result in undue adverse roads or transportation impacts such as would warrant a refusal of permission.

7.4. **Appropriate Assessment**

Stage 1 Screening

7.4.1. 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 site South Dublin Bay and River Tolka Estuary SPA (004024) is located 982m to the north-west of the development site. South Dublin Bay SAC (000210) is located 1.3km to the north-west of the development site. The European site Rockabill to Dalkey Island SAC (003000) is located 3km to the east of the development site and Dalkey Island SPA (004172) is located 3km to the east of the development site.

7.4.2. The qualifying interests/special conservation interests of the designated sites, are summarised as follows:

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

Rockabill to Dalkey Island SAC	Dalkey Island SPA
Reefs [1170]	Roseate Tern (<i>Sterna dougallii</i>) [A192]
Harbour porpoise (<i>Phocoena phocoena</i>) [1351]	Common Tern (<i>Sterna hirundo</i>) [A193]
	Arctic Tern (<i>Sterna paradisaea</i>) [A194]

7.4.5. 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.

- 7.4.6. The Conservation Objectives for Rockabill to Dalkey Island SAC (003000) is to maintain the favourable conservation condition of Reefs in the SAC, which is defined by a list of attributes and targets and to maintain the favourable conservation condition of Harbour porpoise in the SAC, which is defined by the a list of attributes and targets. The Conservation Objective for Dalkey Island SPA (004172) is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
- 7.4.7. The subject site is a brownfield site, it is proposed to demolish the existing building on site. The proposed attenuation measures would reduce variations in the runoff from the site. There is no potential, therefore, for the proposed development to alter the volume or characteristics of the flows into or from the surface water sewerage system that could conceivably have a significant effect on any Natura 2000 site. The foul effluent from the proposed development would drain to the wastewater treatment system for Dublin. The scale of the proposed development relative to the rest of the area served by that system means that the impact on the flows from that system would be negligible and would not have the potential to have any significant effect on any Natura 2000 site.
- 7.4.8. There is no identified “source-pathway” to connect the appeal site with South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, Rockabill to Dalkey Island SAC and Dalkey Island SPA or any other European Designated Site.

AA Screening Conclusion

- 7.4.9. 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), European Site No. (004024), European Site No. (003000) and European Site No. (004172) 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.

8.0 Recommendation

- 8.1. I recommend that permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, to the nature and scale of the proposed development, and to the MTC zoning objective and the provisions of the Dún Laoghaire Urban Framework Plan, it is considered that, subject to compliance with the following conditions, the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of 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, as amended by the further plans and particulars received by An Bord Pleanála on the 5th day of June, 2020, 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed use of the development is as an aparthotel only. Aparthotel units shall not be used for the purposes of providing student accommodation. Planning permission will be required for the change of use from commercial short-term accommodation to residential.

Reason: In the interest of orderly development.

3. 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.

Reason: In the interest of public health.

4. 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.

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

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

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the

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

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

8. A plan containing details for the management of waste (and, in particular, recyclable materials) 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: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

9.

- (a) The cycle parking provided shall be fully accessible and easy to use. Cycle parking to development plan standards shall be provided at the development, the facilities shall be conveniently located, secure, easy to use, and adequately lit. Prior to commencement of development, revised plans showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority.
- (b) A project traffic management plan for all stages of construction traffic shall be agreed in writing with the planning authority before demolition and excavation commences. The plan shall detail access arrangements for labour, plant and materials and shall indicate the locations of plant and machine compounds.
- (c) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
- (d) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In order to ensure a satisfactory standard of development and in the interests of traffic safety and sustainable transportation.

10. 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

9th of October 2020