



An  
Bord  
Pleanála

# S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

## Inspector's Report ABP-308046-20

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### Strategic Housing Development

Alterations to Phase 1 permission for 45 no. apartments from second to forth floor permitted under Reg.Ref: D17A/0950 and ABP-300745-18 to include the provision of 57 no. additional apartments as an extension to Phase 1, the subject application relates to a total of 102 no. apartments.

### Location

Frascati Centre, Frascati Road,  
Blackrock, Co. Dublin.  
([www.frascaticentreshd.ie](http://www.frascaticentreshd.ie))

### Planning Authority

Dun Laoghaire Rathdown County  
Council

**Applicant** IMRF II Frascati Limited Partnership  
acting through its general partner  
Davy IMRF II Group.

**Prescribed Bodies**

1. Irish Water.
2. Transport Infrastructure Ireland.

**Observer(s)**

1. Anart Restaurants Ltd.
2. Catherine Sampson.
3. Frascati Park Residents.
4. Gareth Allen.
5. Glover's Catering Ltd.
6. Lisalea Owners Management  
Company Limited.
7. Martin Farrelly.
8. Michelle Emerson.
9. William Kileen.
10. Willy Clingan and Brigid Sheehy.

**Date of Site Inspection** 14<sup>th</sup> November 2020.

**Inspector** Karen Kenny

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## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The site relates to the Frascati Centre, Frascati Road, Blackrock, County Dublin. The retail centre on the site dates from the 1980's and is undergoing redevelopment. The original shopping centre is located centrally within the site and was surrounded by surface car parking. A recent two storey over lower ground level retail extension to the north east of the shopping centre provides direct frontage onto Frascati Road (PA Ref. D14A/0134 as amended). In 2019, An Bord Pleanála granted permission for 3 no. residential levels over the retail extension and works had commenced on this development at time of site inspection (ABP-300745-18). In addition, there is a recently constructed multi-level car park to the north west of the original centre that is largely completed. The permitted residential development included an additional level above this car park. Outside of the existing and permitted developments the site is given over to surface car parking and circulation. There are grass verges with tree planting along the perimeter of the car parking and circulation areas. The parent permission for the alteration and extension of the shopping centre included public realm work along the N31 Frascati Road which are largely completed.
- 2.2. The site has direct frontage onto Frascati Road and is surrounded on all other sides by relatively low-rise residential development. It is bound by the N31 Frascati Road to the north-east; the rear of two storey residential properties on George's Avenue to the south-east; the rear of two storey residential properties on Frascati Park to the west and south-west and by a bungalow; the 4-storey Lisalea Apartments to the north and an adjacent terrace of 2.5 storey houses on Mount Merrion Avenue to the north-west. On the opposite side of the Frascati Road the Blackrock Shopping Centre is undergoing redevelopment and there are a number of contemporary office blocks of up to 5 storeys along the Frascati Road frontage. The historic village of Blackrock is beyond this. The site exhibits a higher ground level than adjacent areas to the north, and there are level changes across the site.

### 3.0 Proposed Strategic Housing Development

3.1. The proposed development relates to a total of 102 no. apartment units as follows:

- Permission is sought to alter a previously approved residential development comprising 45 no. apartments (PA Ref. D17A/0950 / ABP-300745-18) located at 2<sup>nd</sup> to 4<sup>th</sup> floor levels over the shopping centre extension to the north east of the centre (Blocks A, B and C).
- The proposed alterations include internal changes, including changes in overall unit size and internal layouts and external alterations including the provision of winter gardens.
- Permission is sought for 57 no. new apartments located over 3 to 5 levels above the permitted car park in the north west section of the site (Blocks D, E and F).
- The main entrance to the Phase 1 residential scheme from Frascati Road will serve both the permitted and proposed units. It is proposed to provide an external walkway between Phase 1 (Blocks A, B and C) and Phase 2 (Blocks D, E and F).
- Refuse, car and cycle parking facilities are to be altered to cater for the additional residential units, including the introduction of a barrier control system in the lower ground level car park.
- The number of car parking spaces reserved for the residential units would increase from 51 no. spaces at lower ground level to 57 no. spaces. A further 57 no. spaces would be omitted across the site to accommodate the proposed development (e.g. new stairs and lift cores, bin stores, landscaping, cycle parking). The proposed development would reduce total car parking provision within the site from 604 no. spaces to 547 no. spaces.
- A concierge facility room is proposed in the Phase 1 near the main core of Phase 1.
- The communal open space for Phase 1 and Phase 2 will be accessible to all residents.

### 3.2. Key Details:

No. Apartments	102 no. units in total (45 no. amended and 57 no. new)
Height	2-5 storeys over part 2 and part 3 storey car park.
Density	123.4 units per ha (net site area of 0.82 ha)
Plot Ratio / Site Coverage	1.3 / 53%
Internal Amenity	Concierge Room
External Amenity	1,522.69 sq.m (Phase 1: landscape podium of 545.16 sq.m and roof terrace 99.8 sq.m; Phase 2: landscape podium 646.93 sq.m and roof terrace 230 sq.m).
Dual Aspect	100%
Car Parking	57 no. spaces
Cycle Parking	214 no. spaces.
GFA	9,223.1 sq.m GFA Residential (inc. apartments, designated car park areas, stair / lift cores, bin stores, circulation cores and plant areas).

### 3.3. Unit Types:

Unit Type	Phase 1	Phase 2	Total
studio	0	20	20 (19%)
1-bed	3	22	25 (25%)
2-bed	36	15	51 (50%)
3-bed	6	0	6 (6%)
Total	45	57	102

The proposal includes alterations to the location of 30 no. permitted cycle parking spaces associated with the rejuvenation of the Frascati Centre (PA Ref. D14A/0134).

An EIAR has been submitted with the application.

## 4.0 Planning History

### **PA Ref. D14A/0134:**

Permission granted for part demolition, extension and alteration to the existing shopping centre to the north-east and north-west of the existing building. The approved development provided for the expansion of retail, retail services, restaurant/café and ancillary floor space at lower ground, ground, first and second floor levels and the provision of car parking at lower ground and podium levels in the north-east and north-west parts of the site. The extension structure is a part two/part three storey building over existing lower ground (basement) level. The development included a new landscaped open space area to the north-east of the rejuvenated shopping centre adjacent to Frascati Road. The proposal also involved the realignment of the existing Priory Stream culvert which passes under the north-west car park, diversion of watermains, roof mounted screened plant area and 2 no. loading bays. The proposal provides for road improvement works to Frascati Road. These included the reconfiguration of the existing site access from Frascati Road (N31) adjacent to George's Avenue, including the closure of the existing site exit at this location. The reconfiguration of the existing site access at the traffic light intersection on Frascati Road opposite Rock Hill and adjacent Rock Road/Mount Merrion Avenue, including a new right turn into the site for southbound traffic on Frascati Road, a new straight movement exit to Rock Hill and a new right turning exit for southbound traffic exiting the site, including modifications to traffic islands to facilitate the revised arrangements. The development includes associated revisions to traffic circulation within the application site including the provision of ticket machines and barriers to facilitate pay on foot parking facilities.

This permission was amended by subsequent permissions under Reg. Ref. D15A/0751, D16A/0065, D16A/0235 and ABP Ref. PL06D.246810, Reg. Ref. D16A/0798, Reg. Ref. D16A/0843, Reg. Ref. D17A/0599, D17A/0950 and ABP Ref.

ABP-300745-18, D18A/0130 and D18A/0605. Other minor permissions have been granted for alterations to units within the existing shopping and for signage. The EIAR Appendix 2.1 details relevant planning and key floorspace figures.

**D17A/0950 and ABP Ref. ABP-300745-18:**

Permission granted by Dun Laoghaire-Rathdown and subsequently by the Board on Appeal, for 45 no. apartment units, over three storeys, from second to fourth floor level and over the permitted ground and first floor retail / restaurant floorspace and lower ground floor car park to the north east of the original centre, as approved under PA Reg. Ref. D14A/0134. The access to the permitted residential units is via a stair and lift core from lower ground and ground floor level. A total of 51 number car parking spaces within the lower ground floor car park and 54 no. bicycle spaces located at lower ground floor level and first floor podium were allocated to the residential units. The permitted development included a bin store and plant area at lower ground level, two communal terraces at second floor level and roof level and plant enclosures at roof level. The scheme included a reduction in the permitted footprint of the lower ground floor level and omission of a second floor level restaurant unit and storage floorspace permitted under the parent permission. The development included a first floor level podium car park, over permitted car park, located at the north-west of the site, providing 81 no. car parking spaces. Total car parking provision for the scheme amended to 604 spaces, comprising 51 spaces for the residential units and 553 spaces for the retail and restaurant floorspace.

## 5.0 Section 5 Pre Application Consultation

5.1. A Section 5 pre-application consultation took place at the office of An Bord Pleanála on 5<sup>th</sup> June 2020. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting. The main topics raised for discussion at the tripartite meeting were as follows:

- Height and Design.
- Impact upon existing residential amenity.
- Landscaping.

- Residential amenity within the proposed development.
- Car parking.
- Cycle parking.
- Creche demand and supply.
- Any other matters.

A copy of the Inspector's report and Opinion is on the file for reference by the Board. A copy of the record of the meeting Ref. ABP-306989-20 is also available on the file.

## 5.2. Notification of Opinion

The An Bord Pleanála opinion stated that it is of the opinion that the documents submitted constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála. The applicant was advised to submit specific information with any application for permission, summarised as follows:

- Rationale for Building Height.
- Drawings / plans - that illustrate buildings without landscaping or planting elements and separate drawings showing proposed green walls; elevation drawings that include dimensions (inc. maximum heights, additional height); a plan showing key distances to boundaries, buildings and windows; a plan showing public, semi-private and private open spaces and a schedule of spaces.
- Housing quality assessment.
- Details of materials and finishes.
- Life cycle report.
- Additional landscaping details – to include planting depths, irrigation method and maintenance regime for podium areas.
- Topographical survey of the site and cross sections to indicate ground levels, proposed FFL's, road levels, open space levels, drainage infrastructure, landscaping, etc. relative to each other and relative to adjacent lands and structures including public roads. Cross sections to the rear gardens of properties in Frascati Park should also be included.
- Rationale for private amenity spaces to studio apartments.
- Details of the green wall systems.

- Daylight/sunlight/overshadowing analysis.
- Landscape and visual impact assessment (inc. photomontages).
- Rationale for proposed parking provision; Traffic and Transport Analysis; and Road Safety Audit and Quality Audit.
- Childcare assessment.
- AA Screening Report.
- Proposals to meet the requirements outlined in the submission on file of Irish Water dated 8<sup>th</sup> May 2020.

### 5.3. Applicants Response

- Proposed building heights addressed in Architectural Response and Material Contravention Statement. No alterations to height or overall massing of Phase 1. Phase 2 proposal ranges in height from 5 to 7 storeys (over ground). Maximum height c. 25 metres. Alterations / omissions made in response to pre-application consultation. Site considered suitable for increased height and proposal considered to accord with national policy.
- Details of proposed green walls are provided.
- Drawings show dimensions as requested and differentiate changes.
- Housing Quality Assessment submitted.
- Materials & Finishes Report and Lifecycle Report submitted.
- Open Space Drawing shows delineation of open space and breakdown of open spaces.
- Landscape Architecture Statement of Response and SDLA Drawing 19-524-PD-01 / 02 sets out landscaping proposal.
- Private open space for studio units addressed in the Architectural Statement of Response.
- Green wall system addressed in Landscape Architectural Statement of Response and SDLA drawings, Landscape Masterplan, Planting Schedule and construction sections.
- Daylight and Sunlight Analysis submitted with the application.
- Chapter 6 of the EIAR includes a Landscape and Visual Impact Assessment.

- Traffic and Transport Analysis, Road Safety Audit and Quality Audit submitted with the application.
- Childcare Demand Audit submitted with the application.
- AA Screening Report submitted with the application.
- Irish Water confirmation of feasibility submitted.
- The proposed scheme seeks to address issues raised by the PA at pre-application stage.

## 6.0 Applicant's Statement

6.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of Section 28 guidelines, the County Development Plan and regional and national planning policies. The following points are noted:

- Proposal informed by National and Local Planning Policy.
- Blackrock LAP supports a mix of uses on the Frascati Shopping Centre site including residential. Proposal has regard to key objectives of the LAP, including Section 3.4.2 (Map 12) Building Height and Section 7.7.2 Blackrock and Frascati Shopping Centres Development Guidance. The proposed development will contribute to a diverse mix of uses and form part of the rejuvenated shopping centre. The LAP seeks high quality residential development, a community / exhibition room and creche / child-minding facility as part of any redevelopment. Childcare Demand Audit supports absence of childcare provision.
- Proposal to provide residential over retail is consistent with previous permissions on the site, and the provisions of the Retail Planning Guidelines.
- In relation to the Sustainable Urban Housing Design Standards for New Apartment Guidelines, the site can be categorised as a highly accessible urban site; reduced car parking provided for; SPPR's and quantitative standards are met.

- Considered that the loss of c. 63 no. retail car parking spaces to facilitate the proposed SHD proposal is not a material issue and that there is sufficient capacity to cater for the retail parking demands of the site. Transportation Assessment Report and MMP provide further rationale for quantum of car parking proposed.
- The cycle parking provision exceeds CDP requirement and complies with standards in the Sustainable Urban Housing Design Standards for New Apartment Guidelines, 2018. Some alterations to cycle parking to address issues raised in the Safety Audit. 3 no. motorcycle spaces are provided in the lower ground floor car park which is in line with the Development Plan requirement for 4% of the number of car parking spaces.
- Consistent with Sustainable Residential Development in Urban Areas Guidelines, 2009 provisions in relation to density in areas well served by public transport.
- Material Contravention Statement submitted to address restriction on building height in Blackrock LAP (LAP Map 12 refers). Transition in height is supported by the NPF, the Building Height Guidelines and the Apartment Guidelines.
- Proposed development meets the Development Management criteria in Chapter 8 of the DLR Development Plan. In response to Section 8.3.2 Transitional Zonal Areas submitted documents (including the architectural drawings, design statement, sunlight and daylight analysis) address relationship with existing development and includes an assessment of potential impacts.
- The Engineering Services Statement and drawings provide an outline of water and drainage provisions.

## 7.0 Relevant Planning Policy

### 7.1. Section 28 Ministerial Guidelines

The National Planning Framework is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note:

- Objective 3a: To deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- Objective 3b: To deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- Objective 4: To ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- Objective 27: To ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- Objective 33: To prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- Objective 35: To increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## 7.2. Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submission from the Planning Authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual').
- Design Manual for Urban Roads and Streets.
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018).
- Urban Development and Building Heights – Guidelines for Planning Authorities, (2018).
- Childcare Facilities – Guidelines for Planning Authorities.
- Architectural Heritage Protection Guidelines for Planning Authorities.

- The Planning System and Flood Risk Management Guidelines, 2009.

### 7.3. Dun Laoghaire Rathdown County Development Plan 2016-2022

The Dun Laoghaire Rathdown Development Plan 2016 – 2022 is the operative development plan. Blackrock is a Secondary Centre in the county settlement hierarchy.

- The site is zoned ‘DC’ District Centre for the most part, with an objective ‘To protect, provide for and/or improve mixed-use district centre facilities.’ A portion of the site in the north east corner is zoned ‘A’, with an objective ‘To protect and / or improve residential amenity. There is also an objective “to protect and preserve trees and woodlands” pertaining to the site.
- Chapter 2 Sustainable Communities Strategy. Relevant policies include RES3 promoting higher residential densities in line with national policy whilst ensuring a balance between density and the reasonable protection of residential amenities and established character. RES7 encourages the provision of a wide variety of housing and apartment types and RES8 seeks to provision of social housing. ST2 and ST11 relate to the integration of land use and transportation, ST19/20 relate to travel demand management and travel plans and ST27 relates to traffic and transport assessment and road safety audits.
- Chapter 3 Enterprise and Employment. Blackrock is identified as a Level 3 Retail Centre / District Centre. Policy RET5 District Centres is to maintain District Centres (including Blackrock). The Development Plan states that District Centres should progressively develop as mixed-use urban centres to include a residential and commercial office component where appropriate. Specific Policy Objective 3.2.6 (ii) Blackrock District Centre includes the following provisions:
  - To promote the future redevelopment of Blackrock as a sustainable mixed-use District Centre having regard to the broad objectives of the proposed Blackrock Local Area Plan.

- To ensure that the potential redevelopment of the Frascati and Blackrock Shopping Centres shall provide for improved linkages and pedestrian/cycle permeability across the Frascati Road and into the surrounding areas.
  - To examine improved car parking facilities (multistorey and/or underground) at Frascati Shopping Centre.
  - To actively promote good quality residential development into a broader mix of uses. Any residential proposal, whether stand alone or in a mixed use scheme, shall include a mix of unit types.
  - To upgrade the public realm along Main Street and Rock Hill to provide a more attractive environment for retailing.
  - Net retail sales area in Blackrock District Centre zoned lands to be capped at 25,000 sq.m.
- Chapter 6 relates to heritage and includes policies relating to Protected Structures.
  - Chapter 7 ‘Community Strategy’ sets out policy for the delivery of community facilities, including Policy SIC11 relating to the provision of Childcare Facilities.
  - Chapter 8 ‘Principles of Development’ contains the urban design policies and principles for development including Development Management Standards. Policy UD2 requires Design Statements for all medium to large developments, and PolicyUD6 is to implement the Building Height Strategy (Appendix 9).

#### 7.4. Blackrock Local Area Plan 2015 – 2021

Chapter 2 Heritage and Conservation: Objective PS1: The PA will seek to safeguard the character and setting of a Protected Structure through appropriate control of the design of new development in the vicinity.

Chapter 3 Urban Structure and Character sets out urban design principles for the area. Policy BK03 seeks to ensure that Blackrock develops a coherent urban form focused on a high quality building environment of distinct character and function. Objective DN1 seeks to promote an efficient use of land that strengthens the existing

urban structure of Blackrock and compliments the character of the area. Policy BK05 seeks to ensure that building height within future developments make a positive contribution to the built form of the area and do not adversely impact on local amenity. Map 12 illustrates a maximum height of 5 storeys within the SHD site with height graduation to 2 storeys at the south eastern, south western and western edges of the site. Objective UDS1 is to strengthen the urban structure of Blackrock by ensuring that any new development incorporates a coherent, legible and permeable urban form that protects and compliments the character of the street or area in which it is set – in terms of proportion, enclosure, building line, design and by the marrying of new modern architecture with historic structures.

Chapter 4 movement includes objective relating to the upgrade of the road network in the area. Maps 13A and 13B - 'Transport Network Strategy' includes map based objectives.

Chapter 7 Retail.

- The site is within the core retail area shown on Map 15. Policy BK21 seeks to concentrate retail within the retail core area; Policy BK22 and Objective VV1 seeks to support / encourage a broad mix of uses within the district centre; Objective VV2 seeks to control non-retail uses at ground floor level on key retail streets and in the Blackrock and Frascati centres; Objective VV3 seeks to facilitate day and evening activity.
- Section 7.7.1 Redevelopment of Blackrock & Frascati Shopping Centres includes objectives relating to the redevelopment of the retail centres.
- Section 7.7.2 Blackrock & Frascati Shopping Centres sets out provisions for height, mix of uses, retail uses, architectural quality, public realm, signage and movement.

## 8.0 Third Party Submissions

8.1. A total of 10 no. third party submissions have been received from residents, resident groups and a management company and from local businesses. The main points made in submissions can be summarised as follows:

- Overdevelopment and excessive density.

- Visual Impact - excessive scale, height and massing.
- Material contravention of development plan policy in relation to building height, transitional zones, urban design and unit mix.
- Material contravention statement relies on criteria for higher buildings in Urban Development and Building Height Guidelines. Statement fails to recognise the importance of protecting the special cultural character and integrity of Blackrock Village.
- Contravention of Blackrock Local Area Plan in respect of building height, efficient use of land and criteria for redevelopment of the Frascati Shopping Centre. Local Area Plan envisages tallest sections along Frascati Road.
- Piecemeal redevelopment of the site. Density could have been achieved at lower building heights if alternative strategy used.
- Development plan policy for higher densities requires a balance between reasonable protection of existing residential amenities and the established character of the areas. Impact on existing properties at Lisalea, Frascati Park and Mount Merrion Avenue due to overlooking, overshadowing and loss of daylight.
- Daylight assessment highlights direct impacts to properties at Lisalea and Frascati Park due to loss of light. Impacts exceed BRE Guidance standards. Shadow analysis highlights significant overshadowing of the southern and eastern elevations of residential units at Mount Merrion Avenue and Frascati Park during summer months.
- Consideration should be given to further reductions in height in order to mitigate impact on existing properties – reference to reduced height, omission of units, omission / redesign of windows and balconies, use of opaque screening and use of explicit conditions relating to planting / screening.
- Lack of useable open space for proposed units and quality of open space.
- Location of bin stores unsuitable due to proximity to existing properties. Object to bin collection before 8am and residents accessing bins after 10 pm.
- Need to adequately maintain landscaping features.

- Potential noise impacts on proposed residential units due to proximity to the Frascati Centre. No noise impact assessment.
- Question methodology and assumptions used in the Traffic Assessment Report. Understatement of impact. Traffic congestion and traffic conflicts arising from the proposed development. Inadequate car parking.
- Water pressure in the area.
- Duration of construction impact longer due to redevelopment of the site in multiple parts. Concern in relation to location of Site Compound 3 close to existing residential properties. CMP calls for liaison officer to engage with shopping centre management and tenants. Similar arrangement should be put in place for neighbouring residential units. Previous non-compliance with construction hours. Need for additional pest control measures. Non-compliance with conditions of permission ABP-300745-18. Works had commenced prior to agreement of Construction Management Plan and Construction and Demolition Waste Management Plan.
- Impact of ongoing construction works on businesses in the centre. Interference with the common parts of the commercial centre to which tenants have rights under lease. Tenants have not given consent to the application. Request that ABP refuse permission for Phase 2 development pending the outcome of court proceedings between tenant and site owner.
- Number of units and extent of commercial floorspace / commercial car parking does not meet the requirements Section 3(a) of the 2016 Act relating to SHD. The Board has no jurisdiction to deal with the application.
- Inconsistencies in relation to the stated height in the application and that described in the Material Contravention Report with reference to 7 and 8 storeys.
- Absence of third party consultation in SHD in tripartite process.
- Phase 1 works have commenced. Permitted subject to EIA. The applicant is required to complete this development in accordance with the plans and particulars lodged with the application.
- EIA project splitting.

- EIAR does not consider impact on commercial tenants of the centre.

## 9.0 Planning Authority Submission

9.1. Dun Laoghaire Rathdown County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016 on 22<sup>nd</sup> October 2020. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members of the Area Committee, as expressed at a meeting dated 7<sup>th</sup> October 2020. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows.

### PA Comment on Principle of Development

- Use permitted in principle.

### PA Comment on Childcare

- Question conclusions of Childcare Demand Audit. The PA does not accept the justification put forward by the applicant for omission of childcare.

### PA Comment on Density

- CDP Policy RES4 and Section 8.2.3.2 (ii) set out policy on residential density. Suitable location for higher density. Concerns regarding impacts on the residential amenity of properties in the vicinity.

### PA Comment on Building Height, Scale and Urban Form

- PA has significant concerns with the scale and height of the proposed development, particularly where it is located proximate to established residences. Substantial breach of recommended building heights in the LAP and fails to have regard to the transitional nature of the site.
- In its current form detrimental to the residential amenity of residences in the vicinity. Does not meet criteria for higher building in Section 3.2 of the Urban Development and Building Height Guidelines, 2018. Noted that scheme does not respond to the transitional nature of the site; will have a negative impact on the amenity of properties in the vicinity; not satisfied that the proposal can successfully integrate into / enhance / respond to the character of the area; visually dominant when viewed from the south west, west and north of the

site, along Frascati Park, Mount Merrion Avenue and Rock Road. Concluded that a reduced and more graduated building height is required.

- North eastern elevation is considered commercial in character and lacks the quality of design achieved in Phase 1 along Frascati Road; reliance on green wall planting along the south western ends of Block D and F to soften views - considered that proposed landscaping fails to mitigate visual impact of the proposal and that a significant redesign is required; generally satisfied with proposed materials and finishes - some concerns with treatment of north east façade of Block E; and generally satisfied with modifications to Phase 1 scheme.

#### PA Comment on Residential Amenity

- Concerns regarding the impact of the proposal on the residential amenity of the Lisalea Development.
- Considered that the proposal will be visually overbearing when viewed from properties in the vicinity and contrary to transitional zoning provisions in Section 8.3.2 of the CDP.
- Standards in Apartments Guidelines generally met. Question open space provision / calculation for units in Block F, amenity of open spaces for apartments no. 2001 and 2201 in Block E and impact of alterations on private amenity space to apartments no. 304 and 204.

#### PA Comment on Landscaping and Communal Open Space

- Communal open space considered acceptable. Concerns in relation to proposed boundary treatment and screen planting. Planters not sufficient to support tree planting and will have limited success. Detail in relation to paved terraces at roof level and in relation to the management and maintenance plan of podium gardens is inadequate.

#### PA Comment on Drainage

- Discrepancies between engineering drawings, landscape drawings and architectural drawings in relation to green roof provision.

#### PA Comment on Transportation

- Car parking below CDP standards. The level of retail parking could be reassessed in order to increase the level of provision for residential car parking.
- Quantum of cycle parking in accordance with required standards. Concerns in relation to the design and location of cycle parking.

#### PA Comment on Other Matters

- Recommend condition requiring updated 'Construction Management Plan' and Operational Waste Management Plan to be submitted to the PA for agreement.
- Recommend condition requiring a detailed lighting design and report for all communal areas to be submitted to the PA for agreement.

#### PA Recommendation

- Recommendation that permission be refused. Recommended reason for refusal as follows:

*“The proposed development, by reason of the scale, height and massing of Phase 2, particularly the south-western elevations of Blocks D and F, fails to have regard to its surrounding context and will have a detrimental impact on the residential amenity of properties within the vicinity. The proposal will seriously injure the residential amenities of properties located within its immediate vicinity by reason of overshadowing, overlooking and by being visually overbearing and is therefore considered to be contrary to the Section 8.3.2 (Transitional Zonal Areas) of the DLRCDP, 2016-2022. The proposed development materially contravenes the maximum height limits prescribed in Map 12 of the Blackrock LAP 2015-2021 and is contrary to the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) given the failure to provide an appropriate graduation in height to the site’s more sensitive interfaces. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.*

Comments of the Area Committee – summarised.

- Concerns expressed in relation to unit mix, winter gardens, height and scale of the proposed development, landscaping, traffic congestion and the impact on existing residential properties.
- Breach of LAP.
- Uncoordinated and piecemeal re development of the site.
- Concerns regarding treatment of heritage on site.
- Concerns regarding the SHD process and whether proposal falls within provision of SHD.

## 10.0 Prescribed Bodies

### 10.1. Irish Water

Confirmation of feasibility has been issued to the applicant for connections to the Irish Water networks. Request that the Board attach a standard IW condition.

### 10.2. Transport Infrastructure Ireland

No observation.

## 11.0 Assessment

### 11.1. Introduction

11.1.1. Having considered all of the documentation on file, the PA's Chief Executive Report (CE Report), the submissions from prescribed bodies and elected representatives and third-party submissions, I consider that the planning issues arising from the proposed development can be addressed under the following headings:

- Principle and Quantum of Development
- Visual Impact
- Architectural Heritage Impact
- Impact on Residential Amenity
- Quality of Residential Accommodation
- Transportation

- Water Services and Flood Risk
- Other Matters
- Material Contravention – Building Height
- Planning Authorities Reason for Refusal

These matters are considered under separate headings below. Furthermore, Environmental Impact Assessment and Appropriate Assessment are addressed in Sections 12.0 and 13.0 below.

## 11.2. Principle and Quantum of Development

### Zoning and Mix of Uses

- 11.2.1. The Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Blackrock Local Area Plan 2015-2020 are the relevant statutory plans for the area. The zoning objectives for the area are set out in the County Development Plan. The site is zoned 'DC' District Centre for the most part with an objective 'to protect, provide for and/or improve mixed-use district centre facilities.' A portion of the site in the north west corner is zoned 'A' with an objective 'to protect and / or improve residential amenity'. There is an objective in the Development Plan "to protect and preserve trees and woodlands" pertaining to the site.
- 11.2.2. The residential units are contained, for the most part, on lands zoned 'DC'. Block F extends into the 'A' zoned lands and the cycle parking along the western boundary is also within the 'A' zoning. Residential development is permitted in principle under both land use zoning objectives (Tables 8.3.2 and 8.3.7 of the CDP refer). There is policy support in the Dun Laoghaire Rathdown County Development Plan for the creation of mixed use district centres that include residential floorspace (Section 3.2.2.5 refers). Furthermore, specific objectives for Blackrock District Centre seek to actively promote the provision of good quality residential development in the broader mix of uses within the district centre (Section 3.2.6 (ii) refers). It is a requirement of the Blackrock Local Area Plan 2015 that any comprehensive redevelopment of the Blackrock and Frascati shopping centres would include an element of high quality residential development, a community / exhibition room and a crèche / childminding facility" (Section 7.7.2 refers).

- 11.2.3. I am satisfied that residential use is acceptable in principle under the zoning objectives that pertain to the site and that there is strong policy support for residential use within the Frascati Centre site. In relation to the reference to a community / exhibition room and a creche / childminding facility, I would note that there is no reference to either use under the extensive planning history that pertains to the redevelopment of the site. However, I would suggest that the ‘comprehensive’ redevelopment of this site has been facilitated to a larger degree through the earlier permissions. I would also consider the word ‘comprehensive’ in the LAP objective to be somewhat ambiguous. On this basis, I consider that the subject application could not be considered to materially contravene this provision of the Local Area Plan. The issue of compliance with the Childcare Facilities Guidelines (2001) and Apartments Guidelines (2018), in so far as they relate to childcare, is discussed separately in Section 11.9 below.
- 11.2.4. In relation to the objective “to protect and preserve trees and woodlands” within the site I would note that the proposed development would not impact existing tree planting.

#### Quantum of Development

- 11.2.5. The quantum of development is considered in terms of density, plot ratio and site coverage. The net density of the overall Phase 1 and Phase 2 developments is 123.4 units per hectare based on the extent of the Phase 1 and Phase 2 development area (0.82 ha). The proposed development forms part of a wider mixed-use development and as such, the unit per hectare calculation does not reflect the overall scale of development proposed within the site. I consider that plot ratio is a more suitable measure of scale in a mixed use scheme of this nature. In this instance the stated plot ratio is 1.3. The proposed development would not alter the site coverage (53%). I would note that the Development Plan and Local Area Plan do not specify plot ratio or site coverage standards. Submissions received from third parties and the comments of the elected members express concern in relation to the quantum of development proposed. However, the site is located in Blackrock a designated ‘secondary centre’ in the county’s settlement hierarchy and a Level 3 Retail Centre. The site is also served by high frequency urban public transport services (QBC Bus services and DART). The proposal for a high density mixed use development at this location is in accordance with numerous national planning

policies that support increased density at accessible urban locations. This includes National Policy Objective's 33 and 35 of the National Planning Framework, SPPR 1 of the Urban Development and Building Height Guidelines, 2018 and Section 2.4 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2018. I consider the quantum of development to be acceptable in principle at this location. Policy RES3 of the DLR Development Plan also promotes higher densities but subject to a reasonable balance in terms of the protection of existing residential amenities and established character. These issues are considered below in Section 11.3 Visual Impact and Section 11.4 Impact on Residential Amenity.

### 11.3. Visual Impact

- 11.3.1. The following section considers the height, scale and mass of the development and the resulting visual impact. The proposal is considered in the context of building height policy in Section 11.10 below.
- 11.3.2. The permitted and proposed residential units are contained in six blocks above the extended Frascati Centre. The 45 no. permitted apartments are located to the north east of the original shopping centre and extend from 2<sup>nd</sup> to 4<sup>th</sup> floor over a retail extension that is largely completed (PA Ref. D14A/0134 as amended). The retail extension and Phase 1 apartments will provide direct 5 storey frontage to Frascati Road. The proposed alterations to the permitted Phase 1 residential development would not alter the height, scale, or massing of the permitted residential development. The proposed alterations relate to internal alterations to unit size and layout and external alterations including the provision of winter gardens. The level of visual change arising from the alterations is negligible. I do not, therefore, intend to revisit the issue of visual impact in respect of the Phase 1 development, save for the issue of cumulative visual impacts.
- 11.3.3. The proposed Phase 2 development is located to the north west of the original shopping centre over three levels of existing and permitted car parking. The Phase 2 development forms a u-shaped courtyard at podium level. Block D is 4 to 5 storeys over podium level giving an equivalent height of 7.5 storeys (approx.) on the western end and a parapet height of 40.95 m OD (max); Block E on the eastern side is 2 to 4 storeys over podium level with an equivalent height of 7 storeys and a parapet height of 37.65 m OD (max); and Block F along the northern end is 2 to 3

storeys over podium level with an equivalent height of 5-6 storeys (approx.) on the western end and a parapet height of 34.35 m OD (max). The parapet height of the permitted 3-storey over podium Phase 1 development is c. 37.845 m OD with plant over. One third party submission refer to inconsistencies in relation to the stated height in the application documents. There may be some variation in the descriptions used in the various documents. However, I am satisfied that the submitted plans and particulars, including section drawings, accurately detail the proposed heights and that the documents are not misleading with regard to building height.

- 11.3.4. A number of the third party submissions raise concerns in relation to the height, scale and mass of the proposed development. The CE's Report acknowledges that the site is suitable for increased height and density, but states that the scheme in its current form does not respond to the transitional nature of the site and that it is visually dominant when viewed from the south west, west and north of the site along Frascati Park, Mount Merrion Avenue and Rock Road. Refusal is recommended based on the scale, height and massing of the Phase 2 development. The recommended reason states that the proposed development materially contravenes the maximum height limits prescribed in the Blackrock LAP and that it is contrary to the Urban Development and Building Heights Guidelines (criteria for increased building height) due to the failure to provide an appropriate graduation in height to the site's more sensitive interfaces.

#### Visual Impact Assessment

- 11.3.5. The submitted documents include a Landscape and Visual Impact Assessment (EIAR Ch 6) and photomontages that address open views from the surrounding area. A total of 11 no. viewpoints have been considered. I have reviewed the LVIA and the photomontage images submitted with the application. I have also inspected the site and viewed the site from a variety of locations in the surrounding area. I am satisfied that the selected viewpoints are a representative sample of open views within the area. I set out the following assessment of each viewpoint.

No.	Location	Description of change.
1, 2, 3	Frascati Road / Georges Avenue to south east. Medium range views on eastern approach into Blackrock.	Upper levels of Block D are visible on the skyline beside the Phase 1 blocks and above the ridge lines on Georges Avenue. The development will be viewed alongside the Phase 1 development and appears broadly similar in terms of its height and scale.
5	Rock Road to the north. Medium range view on northern approach into Blackrock.	The upper levels of Blocks D, E and F are visible to the rear of the Lisalea Apartments and houses on Mount Merrion Avenue on approach from the north. The development will be viewed alongside the Phase 1 development.
4	Junction of Frascati Road / Rock Hill Road immediately north.	Block E is visible behind Lisalea Apartments and obscures views of the other blocks. On this view the development is seen as part of a wider urban context along Frascati Road that includes 5 storey retail and office developments.
6	Short-range view from Mount Merrion Avenue adjacent to St. Andrews Church.	Building formation visible from Mount Merrion Avenue between developments and planting. The increase in scale relative to 2-2.5 storey houses on Mount Merrion Avenue and Frascati Park is evident.
8, 9	Short range views from Frascati Park – from north west at entrance to Lisalea Apartments and from south west on Frascati Park to front of no. 32.	Building formation visible between buildings at entrance to Lisalea Apartments. Upper levels visible over ridgeline of dwellings along Frascati Park. On these views the development is viewed from a lower density residential area. Increase and contrast in scale is evident relative to adjacent 2 to 2.5 storey housing on Mount Merrion Avenue and Frascati Park.
7, 10, 11	Mount Merrion Avenue, Frascati Park, Georges Avenue.	The development is not visible on medium range views from the north west and south west.

- 11.3.6. The site is at a transitional location between Blackrock District Centre and lower density residential areas that extend from the centre. The development is generally in keeping with the scale and height of commercial developments along Frascati Road and exceeds the prevailing 2-4 storey building height of the contiguous residential properties to the north, west and south. There is a visual change to the skyline in views from Frascati Road / Rock Road (Views 1, 2, 3 & 5). The greatest transition in scale arises on more localised views from Mount Merrion Avenue / Frascati Park (View 8 & 9).
- 11.3.7. The proposed development will be visible from local vantage points and will result in a level of visual change. I am of the view that the development would not be prominent, to the extent that it would impact unduly on the general character of the area. I consider the transition in scale to be acceptable in visual terms having regard to the sites location within a district centre, having regard to national guidance that promotes increased building heights and density within urban areas and given the mixed and evolving character of the area due to the redevelopment of the Frascati Centre, Blackrock Shopping Centre and Enterprise House to the east of the site. I note the concerns raised in the PA's CE Report and in third party submission in relation to the impact of the scale, height and massing on the immediately adjacent houses. The impact on the amenity of these properties is considered separately in Section 11.5 below.
- 11.3.8. I consider the architectural detailing of the proposed Phase 2 development to be generally acceptable. I would suggest that greater detailing could be provided to the upper levels of Block D given its prominence within the area. I am satisfied that these are detailed design matter that can be satisfactorily addressed by condition in the event that the Board is minded to grant permission for the Phase 2 development.

#### Visual Impact Conclusion

- 11.3.9. In conclusion, the SHD site is a highly accessible urban site within an established urban area. National and local planning policy promotes increased height and density at such locations. I am satisfied that this has been achieved under the subject scheme. I am also satisfied that the height, scale and massing is acceptable in landscape and visual terms and that the proposed development would not impact unduly on the character of the area.

## 11.4. Architectural Heritage

11.4.1. Architectural Heritage is addressed in Chapter 4 of the EIAR (Archaeology and Cultural Heritage Assessment). The closest structures to the 'Phase 2' development are located on Mount Merrion Avenue. No's 8-16 Mount Merrion Avenue are listed on the Record of Protected Structures (RPS No.'s 131, 137, 141, 145 and 147). These properties are immediately north west of the SHD site and close to the proposed 'Phase 2' development. The Protected Structures on Mount Merrion Avenue comprise a terrace of early nineteenth century dwellings. St. Andrew's Presbyterian Church at the junction of Mount Merrion Avenue and Frascati Park is also listed on the Record of Protected Structures (RPS no. 165). The visual change to the setting of these structures is illustrated in photomontage images no. 6, 7, 8. The proposed development is set back from the terrace on Mount Merrion Avenue by a minimum of 36 metres and is separated from the curtilage of these dwellings by a roadway and circulation / parking areas within the Frascati site. St. Andrew's Church is at a further remove. The proposed development, while visible within the wider context of these structure, is in the background of the views and I consider that it would not dominate or compete with views of the terrace or the church to a undue degree. I consider the level of visual interaction between the proposed development and the Protected Structures to be reasonable within an urban context and I am satisfied that the proposed development would not have a significant adverse impact on the character or setting of these structures. The Phase 1 development is close to Protected Structures no. 66, 68 and 73 on Georges Avenue to the south. The impact on these structures is considered to be neutral given the minor nature of the proposed alterations to the exterior of the approved Phase 1 development. The proposed development is at a distance from other Protected Structures in the area and I am satisfied that no impacts would arise given the level of visual separation.

### Architectural Heritage Conclusion

11.4.2. I am satisfied that the proposed development will not impact unduly on the character or setting of historic structures in Blackrock.

## 11.5. Impact on Residential Amenity

### Phase 1

- 11.5.1. There is no significant change to the overall scale and mass of the Phase 1 development or to the positioning of openings. I am, therefore, satisfied that the proposed amendments would not give rise to any impacts on the amenities of residential properties in the vicinity.

### Phase 2

- 11.5.2. A key consideration in relation to the proposed Phase 2 development is whether it would impact on the amenities of residential properties in the vicinity to an undue degree. The proposed Phase 2 development is proximate to residential properties to the north and west. The Lisalea apartment block (4-storey) to the north of the site is positioned close to the shared boundary with the Frascati Centre and has a ground level that is 2.8 m (approx.) below that of the SHD site. Windows, terraces and balconies on the south west elevation of the apartment block face into the SHD site. Windows on the south east elevation of the Lisalea block that interfaces with the site are largely screened by mature planting. Block's E and F would run along the shared boundary with the Lisalea development and maintain a setback of 18.6 to 29.8 metres (approx.) from windows in the apartment block. The development is 36 metres (approx.) from properties on Mount Merrion Avenue (Protected Structures) to the north west at the closest point and is separated from the private rear gardens of these properties by a laneway and circulation and parking areas within the Frascati site. Properties to the west fronting onto Frascati Park back onto the site. These properties have private gardens that abut the boundary with the SHD site. Block F is 12.5 metres (approx.) from Stella Marris a bungalow to the west. Block D is 30.7 metres (approx.) from no. 37 Frascati Park, a two storey dwelling and 9 metres (approx.) from the garden wall. I refer the Board to the site layout plan and the submitted section drawings which illustrate the interface with adjacent properties. I also refer the Board to the BPG3 Assessment of Daylight Levels Figures 1 - 4 detailing the windows in neighbouring properties.
- 11.5.3. The third party submissions refer to the scale of development proposed in close proximity to existing residential properties and express concern in relation to the impact of the proposed development on adjacent properties due to overlooking,

overbearing and overshadowing impacts and impacts on sunlight and daylight. The PA's CE Report recommends refusal for a single reason. The reason states (inter alia) that the proposed development fails to have regard to its surrounding context and will have a detrimental impact on the residential amenity of properties within the vicinity. These issues are considered below under the headings of overlooking, daylight and sunlight and overbearance. In considering impacts I have had regard to the district centre zoning objective that pertains to the SHD site, for the most part, and the residential zoning objective that pertains to the neighbouring properties. I would note that guidance in Section 8.3.2 of the Development Plan seeks to protect the amenities of the more sensitive zoning.

### Overlooking

11.5.4. The principle windows in Blocks D and F face north west and south east. A 'saw-tooth' design is used on these elevations to reduce the potential for direct overlooking of opposing properties. The north west elevation of Block F is 36 metres and over from properties to the north west on Mount Merrion Avenue. I am satisfied that an adequate level of separation is provided, and that undue overlooking would not arise. There is no fenestration in the elevations facing west towards Frascati Park, save for windows in the stair and lift cores along this edge. I am satisfied that adequate screening can be provided and that undue overlooking of the properties to the west can be avoided. The eastern elevation of Block E is close to terraces, balconies and windows in the Lisalea apartments. A separation of c. 18-21 metres is generally provided between windows. While there may be some interface between the units, I consider that the level of separation is adequate, and that direct overlooking would not arise. I would note that Section 8.2.3.3 of the Development Plan recommends a separation of 22 metres and over between opposing windows, but also provides for reduced separations depending on orientation and location in built up areas.

### Daylight and Sunlight

11.5.5. In considering daylight and sunlight impacts, the Apartment Guidelines (2018) state that PA's should have regard to quantitative performance approaches outlined in guides like the BRE guide '*Site Layout Planning for Daylight and Sunlight*' (2nd edition) or BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for*

*Daylighting*' (Section 6.6 refers). I refer the Board to the 'Assessment of Daylight Levels' prepared by BPG3. Impacts on existing properties are addressed in Studies A, B and C.

11.5.6. The impact on daylight is measured in terms of Vertical Sky Component and Average Daylight Factor. The greatest impacts arise in respect of the Lisalea apartment development to the north of the proposed development. A total of 43 no. windows in the south west elevation of the Lisalea apartment block are assessed using Vertical Sky Component (VSC). The VSC to 25 no. windows would fall below 27% and be less than 0.8 times the former value with the proposed development in place. This exceeds the BRE threshold for a materially noticeable change in daylight. The level of reduction in some cases is 0.7 to 0.6 times the former value and the VSC in some cases drops by 12%, 13%, 15% and 17% which is substantially below 27% needed to achieve a good level of natural daylight. Average Daylight Factor (ADF) is used to assess whether the impacted windows retain the potential to achieve acceptable levels of internal skylight. The assessment shows that the minimum ADF standard is not met in the case of 6 no. rooms. I would caution an overreliance on this calculation as it is more typically used for new build units and requires information in relation to the reflectivity of surfaces in a room, depth and layout of the room and glazing in the windows. It is not clear how the assumptions were made in this instance. The assessments show that the proposed development would have a materially noticeable impact on daylight levels received by existing apartments in the Lisalea development and that the level of impact in the case of a number of windows would be significant. Having regard to the number of windows impacted and the extent of reduction detailed in the submitted assessment, I consider the level of impact to be significant. The impact on other residential properties to the north west and west is generally negligible.

11.5.7. The impact on sunlight is measured in terms of annual probable sunlight hours to south facing living room windows (35 no. windows). The assessment includes calculations for the entire year and separate calculations for winter months only. This is a reasonable approach. Under BRE guidance, existing dwellings may be adversely affected if the window in question receives less than 25% annual probable sunlight hours, including less than 5% of annual probable sunlight hours in the winter months; receives less than 0.8 times its former sunlight hours during either period;

and has a reduction in annual probable sunlight hours over the whole year of more than 4%. The annualised results show a reduction of greater than 4% in the case of 26 no. windows and a reduction of greater than 20% in the case of 11 no. windows in the Lisalea apartments. The extent of reduction is as high as 40%. With the exception of one window the annual probable sunlight hours would remain above 25%. In the winter period the results show a reduction of greater than 20% in 25 no. windows, including 5 no. windows in the terrace of dwellings fronting Mount Merrion Avenue and the remainder in the Lisalea apartments. In all instances the annual probable sunlight hours would remain above 5%. The applicant argues that the magnitude of departure from BRE guidance is modest as annual probable sunlight hours will not fall below 25% in most instances. I consider that the level of impact on the Lisalea development, when taken in conjunction with the impact to daylight, would have a significant negative impact on the amenity of these properties. The level of impact on dwellings fronting onto Mount Merrion Avenue is not significant in my view as the impacts are largely confined to the winter period.

- 11.5.8. Study C sets out the results of an assessment of the level of sunlight received by adjoining garden areas on 21<sup>st</sup> March. BRE guidelines recommend that for garden or amenity areas to appear adequately sunlight throughout the year, at least half of it should receive two hours of sunlight on March 21<sup>st</sup>. The submitted details show that the garden areas would receive over 2 hours of sunshine and that there would be no substantial overshadowing.

#### Overbearance

- 11.5.9. The proposed development will be visible from the private areas of apartments and houses to the immediate north, north west and west of the site and will change the outlook from these properties. A level of visual change is reasonable within an evolving urban area. The key consideration in my view is whether the height, scale and mass of development proposed in proximity to neighbouring properties would be visually overbearing when viewed from the adjacent properties. The CE's Report states that the proposal will unreasonably compromise the residential amenity of properties in its vicinity by being visually overbearing and that the proposal is contrary to the guidance set out in Section 8.3.2 of the CDP relating to transitional zonal areas. I refer the Board to the submitted section drawings which detail the relationship between the proposed development and the existing residential

properties. The sections show that the Phase 2 podium would align to the ridge height of adjacent two storey houses along Frascati Park (FFL 24 m OD). The parapet height of Block D is 16.5 metres (approx.) over the ridge height of the two storey houses, while the parapet height of Block F is 12 metres (approx.) over. In addition, the elevations of Blocks D and F facing west are substantial in terms of scale and mass and give limited relief in terms of architectural detailing or material finish. I consider that the scale, form and mass of Blocks D and F, coupled with their proximity to the existing residential properties to the west would give rise to significant overbearing impacts. On the opposite side, the proposed Blocks E is 4 storeys over podium (7 storey equivalent) and steps down to two storeys at the northern end (5 storey equivalent) where it is closest to the Lisalea apartment development. The two storey section of Block E is 4 metres (approx.) higher than the ridge level of the Lisalea apartments, while the four storey section is 10 metres higher. I consider that the interface with the two storey section of Block E is reasonable in terms of outlook. However, I consider that the scale, form and mass of the four storey section of Block E coupled with its proximity to the eastern end of the Lisalea apartment development would give rise to overbearing impacts when viewed from the adjacent residential properties. The impact to the terrace on Mount Merrion Avenue is less in my view, due to the greater separation and reduced height close to these properties.

### Conclusion

- 11.5.10. I consider that the proposed development would have a significant impact on the amenities of neighbouring residential properties in the Lisalea apartment development to the north by reason of significant daylight and sunlight impacts. Furthermore, I consider that the proposed development would seriously injure the residential amenities of neighbouring residential properties at the eastern end of the Lisalea apartment development to the north and on Frascati Park to the west due to overbearance impacts. I am of the view that greater graduation is needed in the vicinity of these properties in order to mitigate the level of impact on the neighbouring properties.

## 11.6. Quality of Residential Accommodation

11.6.1. The following assessment considers the quality of the proposed residential units to ensure that the scheme as a whole would meet the relevant quantitative and qualitative standards. The assessment has regard to guidance set out in the 'Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities' 2018; the Dun Laoghaire Rathdown County Development Plan 2016-2022; and the Blackrock Local Area Plan 2015-2020.

### 11.6.2. Housing Mix

The proposed development would provide for the following housing mix:

Unit Type	Phase 1	Phase 2	Total
studio	0	20	20 (19%)
1-bed	3	22	25 (25%)
2-bed	36	15	51 (50%)
3-bed	6	0	6 (6%)
Total	45	57	102

Third party observers have raised concerns in relation to the mix of units proposed. The applicant's material contravention statement addresses the issue of unit mix having regard to the standards set out in Section 8.2.3.3 (iii) of the County Development Plan. I would note that Chapter 8 of the Development Plan includes an advisory note that states that the standards in the plan have been superseded by the Apartment Guidelines 2015 (updated by the 2018 guidelines). SPPR1 of the Apartment Guidelines states that apartment developments may include up to 50% one-bedroom or studio type units and that there shall be no minimum requirement for apartments with three or more bedrooms. I am satisfied that the proposed development meets the standards set out in SPPR1 with regard to housing mix.

### 11.6.3. Apartment Design and Layout

The schedule of floor areas set out in the Housing Quality Assessment indicates that all apartment units meet or exceed the minimum floor areas specified in SPPR3 of the apartment guidelines.

Section 3.7 of the guidelines stipulate that no more than 10% of the total number of two bed units in any private residential development may comprise two-bedroom, three person apartments. All of the two-bedroom apartments are designed as four person apartments.

Section 3.8 of the guidelines 'Safeguarding Higher Standards' requires that the majority of all apartments in any scheme (> 10 units) shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bed unit types by a minimum of 10% (any studio apartments must be included in the total but are not calculable as units that exceed the minimum by at least 10%). A total of 82 no. units exceed the minimum floor area standard. The requirement of Section 3.8 is therefore met and exceeded.

SPPR 4 requires a minimum of 33% dual aspect units for developments in more central and accessible urban locations and a minimum of 50% dual aspect units for developments in suburban or intermediate locations. All of the proposed units are dual aspect.

SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. There are no ground level units proposed.

SPPR 6 requires a maximum of 12 apartments per floor per core. The statement of compliance refers to a stair and lift core ratio of 1:5. The numerical requirement is met. The standard of access is discussed in more detail in Section 11.6.6 Circulation below.

Appendix 1 of the guidelines set out minimum storage requirements, minimum aggregate floor areas for living / dining / kitchen rooms, minimum widths for living / dining rooms, minimum bedroom floor areas / widths and minimum aggregate bedroom floor areas. The standards are generally met within the scheme.

#### 11.6.4. Private and Communal Open Space

Appendix 1 of the Apartment Guidelines sets out the following minimum area requirements for private and communal amenity space in new apartment developments:

Unit	No.	Per Unit (sq.m.)	Total Requirement
Studio	20	4 sq.m	80 sq.m

1 bed	25	5 sq.m	125 sq.m
2 bed	51	7 sq.m	357 sq.m
3 bed	6	9 sq.m	54 sq.m
Total	105		616 sq.m.

The scheme provides for private amenity space in the form of balconies and winter gardens. While I note the comments made in the CE's Report in relation to the standard of provision for some units, I am satisfied that the quantitative provisions of the guidelines are met.

The scheme provides for 1,522.69 sq.m of communal amenity space in the form of communal courtyards located centrally within the Phase 1 and Phase 2 blocks and roof level terraces above the blocks. The quantitative requirements of the guidelines are met and substantially exceeded within the scheme.

#### 11.6.5. Public Open Space

The development plan sets out a combined communal and public open space standard (Section 8.2.8.2) of between 15 sq.m and 20 sq.m per person<sup>1</sup> equating to a requirement of between 2,475 sq.m and 3,300sq.m in this instance. An absolute minimum of 10% of the site area is to be provided as open space and a financial contribution can be considered in respect of the remainder. I consider that the level of communal open space provision is adequate to meet the 10% requirement and that a financial contribution in lieu of outstanding open space provision would be acceptable in this instance. Given the flexibility provided for under the development plan I am of the view that the issue of material contravention does not arise.

#### 11.6.6. Access and Circulation

I have reviewed the provision for access and circulation within the development, including the provisions for pedestrians and cyclists at ground level. The entrance to the Phase 1 residential scheme from Frascati Road is identified as the primary

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<sup>1</sup> For calculation purposes open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. A lower quantity of open space (below 20 sq.m per person) will only be considered acceptable in instances where exceptionally high open space is provided on site).

entrance serving the Phase 1 and Phase 2 units (102 no. units in total). In responding to SPPR 6 of the apartment guidelines and the requirement for a maximum of 12 no. units per core per floor, the applicant states that a ratio of 1:5 is achieved. This ratio relies on other stair and / or lift cores extending from ground level to the Phase 2 development. Two cores are accessed from inside the podium car park and two cores are accessed from the surface car park at the north west corner of the site. The latter cores serve proposed residential cycle parking bays and bin stores in this area. The Phase 2 development would bring pedestrians and cyclists into the car parks and circulation areas at ground level in a way that the approved Phase 1 development did not. Save for the main access from Frascati Road the accesses are not clearly legible or accessible and do not have safe and direct pedestrian or cycle connections at ground level. The cores at the western ends of Blocks D and F open directly onto the vehicular exit from the site. Despite the heavily trafficked nature of this route there is no meaningful provision for pedestrians or cyclists in this area (save for a change in surface material). I consider that the layout, as proposed, would create a direct conflict between vehicular, pedestrian and cycle movements within the site and that the arrangements would endanger public safety by reason of traffic hazard. Given the wider commercial uses within the site (existing and permitted) I consider that the issues raised in relation to circulation cannot readily be addressed by way of condition and I recommend that permission is refused on this basis.

Furthermore, I consider that the main access from Frascati Road to the Phase 2 development (inc. level change) is not sufficient to serve as the primary access to the entire development and that the route between this access and the Phase 2 development is unduly circuitous, particularly in the case of upper level units in the Phase 2 development. Having regard to the substantive reasons for refusal in relation to traffic hazard I do not propose to include this as a reason for refusal, however, I consider that the matters set out above would need to be addressed in any revised scheme.

#### 11.6.7. Public Realm

The proposed development is located over the Frascati retail centre which is undergoing redevelopment. The permitted 'Phase 1' and proposed 'Phase 2' residential developments are situated over recent extensions to the centre. The

permitted Phase 1 development is located to the front of the original shopping centre over a recent retail extension. This development provides direct frontage onto Frascati Road, creating a strong urban edge along Frascati Road and improving the interface and linkage with other district centre sites to the east. The proposed Phase 2 development is set back from the public road to the side (north west) of the original shopping centre over a decked car park and will make a more limited contribution in terms of public realm.

Open space is provided in central landscaped courtyards at podium level in the Phase 1 and Phase 2 developments. Roof terraces are also proposed over Block B and Block E. The courtyards are well overlooked, landscaped to a high standard and will provide for a good standard of amenity.

#### 11.6.8. Communal Facilities

The Apartment Guidelines promote the provision of communal rooms for use by residents in apartment schemes, particularly in larger developments. The submitted documents refer to a concierge within the communal open space in the Phase 1 development and it is shown on the layout plan. However, no plans have been included for this facility. Given the site's location within a district centre and close of a range of services and facilities I am satisfied that refusal would not be warranted on the basis of the absence of communal facilities.

#### 11.6.9. Daylight, Sunlight, Microclimate, Overlooking and Noise

The quality of the scheme is considered in the context of daylight and sunlight, microclimate, overlooking and noise. I refer the Board to the Daylight Assessment prepared by BPG3. Daylight and sunlight performance for proposed units is addressed in Study's D, E and F. All units are dual aspect and achieve a high level of compliance with Average Daylight Factor standards detailed in BS 8206 refers (Phase 2 100% and Phase 1 93%). All of the main living areas within the scheme would achieve reasonable levels of sunlight access. The analysis also shows that more than 50% of the amenity areas within the development would receive at least 2 hours of sunlight on the 21<sup>st</sup> March, meeting the BRE Standard.

The issue of Microclimate is addressed in Chapter 11 of the submitted EIAR. It is considered that impacts arising from the proposed development will be imperceptible.

In terms of overlooking I would note that a separation of 22 metres is generally maintained between proposed units.

11.6.10. Waste Management

There are two dedicated bin / waste storage areas, one at lower ground level within the residential car park and one at surface level on the western side of the car park. The CE's Report requests a condition requiring an updated Operational Waste Management Plan to address the operational requirements for the development. I am satisfied that this matter can be satisfactorily addressed by way of condition.

11.6.11. Quality of Residential Development Conclusion

The quality of the residential units and common areas at the upper levels is to a high standard. The proposed development meets and exceeds internal space and communal open space standards, and communal areas are designed to a high standard. Performance standards in terms of daylight and sunlight are also met and significantly exceeded for the proposed units and open spaces. However, the issue of access and circulation has not been resolved to a satisfactory level in my view. I consider that the proposed site layout results in a conflict between vehicular traffic and pedestrians and cyclists at surface level, and I consider that the conflicts would endanger public safety by reason of traffic hazard. On the basis of the foregoing, I recommend that permission is refused. I also consider that there is an over reliance on the main access from Frascati Road and that the connection between this and the Phase 2 development is unduly circuitous. I consider that this issue would need to be addressed in any future scheme.

11.7. **Transportation**

Car Parking

11.7.1. The permitted Phase 1 development has a total of 51 no. carparking spaces. In this instance a total of 57 no. residential car parking spaces are proposed at lower ground level to serve the Phase 1 and Phase 2 residential developments (0.56 no. spaces per unit). The PA express concern in relation to the rate of provision noting that it is below the development plan standard of 134 no. spaces. A third party submission also raises the issue of inadequate car parking. The Apartment Guidelines promote reduced car parking provision at suburban locations that are

served by high capacity public transport or close to town centres or employment. The site is an accessible urban site close to high capacity public transport and to services and employment. I consider that the level of car parking provision is acceptable on this basis. The proposed development will also reduce the number of car parking spaces reserved for the retail uses by 63 no. spaces to 490 no. spaces. The applicant presents a case for the reduced provision based on known occupancy rates within the centre in 2019 (Appendix E). On the basis of the submitted information, I am satisfied that the level of provision is acceptable.

#### Cycle Parking

11.7.2. A total of 214 cycle parking spaces are proposed with 148 no. spaces at basement and a further 66 no. spaces at surface level. The level of provision meets the standards set out in the Apartment Guidelines 2018 and exceeds the Development Plan requirement. The CE's Report expresses concern in relation to the location and design of cycle parking. I would concur that the location of the cycle parking bays along the western side boundary is unsuitable as it has limited passive surveillance or security and no clear connection to the public road. This issue has been discussed in Section 11.6.6 above. I would also question the location of the proposed retail cycle spaces along the southern site boundary which are adjacent to a HGV loading bay.

#### Traffic Assessment

11.7.3. The application is accompanied by a Transportation Assessment. One third party submission expresses concern in relation to traffic impacts from the proposed development and one questions the methodology and assumptions used in the traffic assessment. The assessment is generally in accordance with the recommendations of TII's Traffic Assessment Guidelines 2014 and includes an assessment of impact on local junctions. I am satisfied that the submitted assessment is robust. The proposed development would increase the car parking provision for the residential use by 6 no. spaces, while the overall number of spaces within the development would reduce by 57 no. spaces. The assessment concludes that the impact of the proposed development on local traffic conditions would be negligible. I accept the findings of the assessment.

11.7.4. Traffic and Transportation Impacts Conclusion

Having regard to the above assessment, I am satisfied that adequate provision is made for car parking within the development and that the impact of the proposed development on the traffic network would be negligible.

#### **11.8. Water Supply, Drainage and Flood Risk**

- 11.8.1. The proposed development would connect to the public foul drainage and potable water supply networks. Full details are set out in the engineering drawings and the Civil Engineering Infrastructure Report accompanying the application. Irish Water have no objection to the proposed drainage arrangements.
- 11.8.2. Surface water on site discharges to the Priory stream (culverted) within the northern section of the site. The stream flows east from the site and outfalls to Dublin Bay at Blackrock Beach c. 500 metres downstream of the site. The residential development is above the existing Frascati Centre and will not increase the overall surface area or the volume of stormwater within the site. Runoff from the new development will discharge, via the existing surface water drainage system on site, to the Priory Stream. There are petrol interceptors at each discharge point. The proposed development includes intensive and extensive green roofs that will provide interception storage and attenuation and reduce the net volume of run off from the site. The PA's Drainage Report have no objection in principle to the drainage arrangements, but do highlight discrepancies between Engineering Drawings, Landscape Drawings and Architectural Drawings in relation to Green Roofs. The issues raised relate to detailed design matters that can be satisfactorily addressed by condition.
- 11.8.3. The site is located in Flood Zone C and has a low probability of fluvial or pluvial flooding. The submitted Civil Engineering report notes that there is no risk of overland flows.

#### Water Supply, Drainage and Flood Risk Conclusion:

- 11.8.4. I consider the site can be serviced adequately and that it is at low risk of flooding.

#### **11.9. Other Matters**

##### Childcare

- 11.9.1. The 'Childcare Facilities Guidelines for Planning Authorities' (2001) recommend minimum childcare provision of 20 childcare places per 75 no. dwellings in new

developments. The Apartment Guidelines (2018) provide updated guidance for apartment schemes, stating that the threshold for the provision of childcare facilities should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities in the area and the emerging demographic profile of the area. 1 bed or studio units should generally not be considered when calculating childcare provision and, subject to location, this may also apply in part or whole to units with 2 or more bedrooms. The proposed development does not include any childcare provision. The submitted Childcare Demand Audit argues that when 1 bed units are discounted the 51 no. 2 and 6 no. 3-bed units fall below the threshold for childcare provision. It is also argued that a childcare facility that provides less than 20 no. spaces would not be commercially viable. The audit states that there is significant existing childcare facilities in the area and that it is reasonable to assume that childcare needs could be catered for in the existing facilities. The PA question the basis for this assumption. While I note the issues raised by the PA, given the predominance of studio, 1 and 2 bed units within the proposed development and having regard to the guidance in the Apartment Guidelines, I am satisfied that the omission of childcare provision is acceptable.

#### Part V

- 11.9.2. The applicant has submitted Part V proposals comprising the transfer of 10% of the proposed units to the planning authority. The CE's Report indicates no objection. It is recommended that the standard Part V condition be attached in the event of a grant of permission.

#### Construction Phase Impacts

- 11.9.3. A number of submissions highlight that the duration of construction impact on the site has been longer due to redevelopment of the site in multiple parts. Concerns have also been raised in relation to location of Site Compound 3 close to existing residential properties. It is noted that the CMP calls for liaison officer to engage with shopping centre management and tenants and that a similar arrangement should be put in place for neighbouring residential units. One submission highlights the need for pest control and noise control. The issue of non-compliance with previous conditions and works commencing prior to the agreement of the Construction Management Plan and Construction and Demolition Waste Management Plan is raised. The PA has requested that the applicant be required by condition to submit

an updated Construction Management Plan and Operational Waste Management Plan for agreement prior to the commencement of development. I am satisfied that impacts arising from the construction phase, can be adequately mitigated through use of best practice construction management. I am satisfied that the matters raised in relation to the location of site compounds, use of a liaison officer, pest control and noise control can all be addressed within the Construction Management Plan. Issues in relation to compliance with existing permissions would not form part of the Boards considerations under the subject application and are more appropriately referred to the planning authority.

#### Piecemeal Development

- 11.9.4. One third party submission raises the issue of impacts arising from the piecemeal redevelopment of the site stating that the density of development proposed could have been achieved in an alternative way and without focusing height close to existing properties. While I note the concerns raised, I would note that the Board is required to consider the merits of the scheme as proposed.

#### Landscaping

- 11.9.5. A number of submissions question the maintenance of landscaping features within the site and question the location of bin stores. Another submission objects to bin collections before 8am and residents accessing bins after 10 pm. I am satisfied that details of landscaping and maintenance can be addressed by way of condition. The location of bin stores and refuse collection arrangements can be addressed in an updated operational waste management plan. These matters can be satisfactorily addressed by way of condition.

#### Legal Issues / Tenant Rights and Impacts

- 11.9.6. Submissions from tenants of the Frascati Centre raise concerns in relation to the impact of the proposed development on common areas within the commercial centre that tenants have rights to under lease. It is noted that tenants have not been asked to consent to the works and have not given consent to the making of the application. Another submission refers to the impact of ongoing construction works on the operation of the centre. The applicant is the legal owner of the site and on this basis, I am satisfied that the applicant has sufficient legal interest to make the subject application. The Board has no jurisdiction in relation to tenant rights and / or

accommodations during construction. Issues raised in relation to health and safety and noise and vibration are addressed within the EIA in Section 12.0 below.

### SHD Process

One submission refers to the absence of third party consultation in SHD tripartite process. I would note that the pre-application consultation in respect of the subject application was undertaken in accordance with the provisions of the Planning and Development (Housing and Tenancies) Act 2016 and the Strategic Housing Regulations 2017.

A number of submissions question whether the proposed development falls within the definition set out in Section 3(a) of the 2016 Act relating to SHD due to the number of new units proposed and the extent of non-residential floorspace. The application, as described in the public notices, relates to a total of 102 no. units and associated development and is considered to fall within the definition set out in Section 3(a) of the 2016 Act relating to SHD.

### Procedural Matters

A number of submissions argue that the permitted Phase 1 development should be completed in its entirety and that the scheme cannot deviate from the permission granted in 2019. It is noted that Phase 1 was permitted subject to EIA and requires strict compliance. There is also reference to project splitting. The subject application seeks formal planning consent to amend the previous permission, and the proposed amendments are the subject of EIA.

## **11.10. Material Contravention – Building Height**

- 11.10.1. The Dun Laoghaire Rathdown County Development Plan includes a Building Height Strategy in Appendix 9. Policy UD6 of the Development Plan is to adhere to the recommendations and guidance set out in the Building Height Strategy. The strategy provides height within an LAP area will be governed by the LAP. Objective FR7 and Map 12 of the Blackrock LAP provide for a maximum building height of 5 storeys within the Frascati site with a graduation to 2 storeys at the south eastern, south western and western edges of the site. Section 7.7.2 states that height should graduate to a maximum of two-storeys along mutual boundaries with one and two-

storey residential properties and that the maximum height limits shall only be considered along the frontage with Frascati Road.

11.10.2. There are no changes to the height of the approved Phase 1 development. On this basis no issue of material contravention arises in respect of the Phase 1 development. The Phase 2 development would not extend up to the shared boundary with existing residential properties and on this basis, I am satisfied that the two storey height limit does not apply. However, all of the proposed Phase 2 blocks exceed the five storey height limit prescribed under the LAP (Section 11.3 refers). I will address the exceedances as a material contravention. The material contravention is objected to in many of the third party submissions.

11.10.3. The application includes a Material Contravention Statement in respect of building height, and this is referenced in the public notices. The Board can, therefore, consider invoking Section 37 (2) (b) of the Planning and Development Act in this instance where it is minded to grant permission. The Material Contravention Statement refers to the guidance set out in the Urban Development and Building Height Guidelines noting the overall objective to support increased building height and density in locations with good public transport accessibility. The statement notes that SPPR 3 provides that permission may be granted where the development management criteria in the guidelines are met, even where specific objectives of the relevant development plan or local area plan indicate otherwise. A case is made for extra height based on the sites central and accessible urban location. The applicant also argues that the proposed development will provide for a high quality architectural addition to the Frascati Centre that responds to and respects surrounding development.

11.10.4. The CE's Report argues that the proposal does not meet the criteria set out in Section 3.2 of the Building Height Guidelines for increased building height. It is accepted that the site is a suitable location for increased height and density. However, the report states that the scheme in its current form does not respond to the transitional nature of the site and the fact that the proposal is contrary to the guidance in Section 8.3.2 in relation to transitional zonal areas. The PA include an assessment of the proposal against the criteria set out in Section 3.2 of the Building Height Guidelines. The assessment states that the proposal will have a negative impact on the residential amenity of properties in the vicinity; would detract from the

character of the surrounding area and would be visually dominant when viewed from the south west, west and north of the site along Frascati Park, Mount Merrion Avenue and Rock Road. The report also notes that performance standards relating to sunlight and daylight are not met.

11.10.5. I consider that the SHD site is a suitable location for increased building height, having regard to the provisions of national policy which supports increased density and building height in urban areas. However, I consider that a grant of permission, that may be considered to material contravene the Development Plan and Local Area Plan, is not justified in this instance due to the impact of the scheme, as proposed, on the amenity of neighbouring residential properties. I refer the Board to the assessment of Impact on Residential Amenity in Section 11.5 above.

#### **11.11. Planning Authorities Reason for Refusal**

The PA's CE Report recommends that permission be refused for the following reason:

*“The proposed development, by reason of the scale, height and massing of Phase 2, particularly the south-western elevations of Blocks D and F, fails to have regard to its surrounding context and will have a detrimental impact on the residential amenity of properties within the vicinity. The proposal will seriously injure the residential amenities of properties located within its immediate vicinity by reason of overshadowing, overlooking and by being visually overbearing and is therefore considered to be contrary to the Section 8.3.2 (Transitional Zonal Areas) of the DLRCDP, 2016-2022. The proposed development materially contravenes the maximum height limits prescribed in Map 12 of the Blackrock LAP 2015-2021 and is contrary to the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) given the failure to provide an appropriate graduation in height to the site's more sensitive interfaces. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.*

In relation to concerns raised about the scale, height and massing of the Phase 2 development, I would note that Section 11.3 above considers the height, scale and massing of the proposed development and the resulting landscape and visual impacts. It is concluded that the height, scale and massing is acceptable in landscape and visual terms and that the proposed development would not impact

unduly on the character of the area. Section 11.5 above assesses the impact on residential amenity and concludes that there would be localised but significant impacts on a number of neighbouring properties due to loss of sunlight and daylight and overbearance impacts. It is concluded that impacts arising from overlooking would not be significant. In relation to the issue of material contravention of building height policy I refer to the Board to Section 11.10 of the assessment. The assessment concludes that while the site may be a suitable location for increased building height, a grant of permission that may be considered to material contravene the Development Plan and Local Area Plan provisions in respect of building height, is not justified in this instance due to the impact of the scheme, as proposed on the amenity of neighbouring properties.

#### **11.12. Planning Assessment Conclusion**

I consider the principle of residential development to be acceptable on this site. The site is a zoned and serviced site within a District Centre where a wide range of services and facilities exist. The site is also proximate to high capacity bus and rail services. High quality residential development on this site has the potential to contribute to the range of land uses within the District Centre. Notwithstanding this, I have serious reservations in relation to the proposal before me in terms of: (a) the substandard nature of the access to individual units in the proposed Phase 2 development; (b) the inadequate provision for pedestrian and cycle circulation and access at surface level and the resulting potential for conflicts between vehicular traffic associated with the retail and commercial uses within the site and pedestrian and cycle movements associated with the residential development; and (c) the impact of the proposed development on the residential amenity of neighbouring residential properties to the west and north of the site. Having regard to the nature of the issues outlined I recommend that permission for the Phase 2 development and all associated work be refused. I consider that the proposed alterations to the Phase 1 development relating to internal layout changes and elevation changes are relatively modest in nature and I am satisfied that this aspect of the development can be permitted.

## 12.0 Environmental Impact Assessment

### 12.1. Introduction

12.1.1. The application is accompanied by an Environmental Impact Assessment Report (EIAR). The application falls within the scope of the amending 2014 EIA Directive (Directive 2014/52/EU) on the basis that the application was lodged after the last date for transposition in May 2017. The application also falls within the scope of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, as the application was lodged after these regulations come into effect on 1st September 2018.

12.1.2. The development relates to a total of 102 no. apartment units on a site of 2.67 hectares. Permission is sought to alter a previously approved residential development 'Phase 1' comprising 45 no. apartments (PA Ref. D17A/0950 / ABP-300745-18) and permission is sought for 57 no. new apartments 'Phase 2') over an existing retail centre. The proposed development is part of a wider redevelopment of the site under a number of planning consents (See 4.0 Planning History above). No increase in shopping centre floorspace is proposed. The site is located in an urban area that is a business district.

12.1.3. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 and section 172(1)(a) of the Planning and Development Act 2000 (as amended) provides that an EIA is required for infrastructure projects that involve:

- (i) Construction of more than 500 dwelling units.
- (ii) Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development.
- (iii) Construction of a shopping centre with a gross floor space exceeding 10,000 square metres.
- (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

(In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

Item 13 (a) relates to any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would –

- (i) result in the development being a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and
- (ii) result in an increase in the size greater than 25 percent, or an amount equal to 50 percent of the appropriate threshold, whichever is the greater.

The EIAR refers to the development as a sub-threshold residential development but states that having regard to the Board's Section 132 request to submit an EIAR for the Phase 1 residential development of 45 no. apartments an EIAR has been prepared. The Board previously considered under ABP Ref. 300351-18 that the proposed 45 no. apartments resulted in an increase in size greater than 25% to the development already authorised under Reg. Ref. D14A/0134, which was subject to an EIS (Class 10 (iii) shopping centre expansion greater than 10,000 sq. metres). The applicant considered that given the quantum of residential floorspace proposed (9312 sq.m GFA) that the subject application would come within the scope of Class 13 (a).

I consider that the proposed development is above the threshold for mandatory EIA. The proposed development is located within a business district and the site area exceeds the 2-hectare threshold for mandatory EIA, set out in Class 10 (iv). In addition, the proposed development has a stated GFA of 9,312 sq. metres, including the previously permitted 'Phase 1' residential floorspace. The 2014 permission relating to the redevelopment and extension of the retail centre resulted in a GFA of 25,750 sq.m. This has increased to 28,000 sq.m GFA (approx.) with subsequent permissions. The proposed development is a class listed in Schedule 5 Part 2 and when taken in its entirety the change or extension to development that is already authorised, executed or in the process of being executed exceeds the 25 percent thresholds for mandatory EIA set out in Class 13(a) (ii).

12.1.4. An EIAR has been prepared and submitted with the application. The EIAR has been prepared, having regard to the specific characteristics and features of the site, and the characteristic and quantum of existing and proposed developments. The EIAR is laid out in two documents as follows: Main Statement and Appendices; and Non-

Technical Summary. Chapter 1 is an introduction which sets out the relevant legislation and the format and structure of the EIAR as well as outlining the experts involved in preparing the document. Chapter 2 provides a description of the project, a description of the characteristics of the site and the alternatives considered. Chapter 16 considers interactions and Chapter 17 provides a summary of mitigation measures.

12.1.5. Article 3 (2) of the Directive requires the consideration of the effects deriving from the vulnerability of the project to risks of major accidents and / or disasters that are relevant to the project concerned. I am satisfied that the vulnerability of the project to the risks of major accidents and / or disasters has been adequately addressed within the submitted EIAR under relevant headings and that the vulnerability of the project to major accidents and / or disasters is acceptable.

12.1.6. The likely significant direct and indirect effects on the environment, as set out in Article 3 of the Directive, are considered in Chapters 4-14 under the following headings:

- Population and Human Health
- Archaeology
- Biodiversity
- Landscape & Visual Impact
- Land and Soils
- Water
- Air Quality and Climate
- Noise and Vibration
- Microclimate
- Daylight and Sunlight Assessment
- Material Assets

The content and scope of the EIAR is considered to be acceptable and in compliance with the requirement of Articles 94 (content of EIS) and 111 (adequacy

of EIS content) of the Planning and Development Regulations, 2001 (as amended) and the provisions of the new amending directive.

I am satisfied that public participation requirements, in accordance with the minimum timeframes set out in the EIA Directive, has been provided for through the statutory planning process and that details of the project have been uploaded on the governments EIA portal (Reference 2020143).

I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the submissions made by the planning authority, prescribed bodies and third parties has been set out at Sections 8, 9 & 10 of this report. Issues raised that are relevant to the EIA are addressed below under the relevant headings, as appropriate, and in the reasoned conclusion and recommendation including conditions.

A number of the environmental issues relevant to this EIA have already been addressed in the Planning Assessment at Section 11.0 of this report. This EIA Section of the report should therefore, where appropriate, be read in conjunction with the relevant parts of the Planning Assessment.

## **12.2. Consideration of Alternatives**

The submitted EIAR outlines the alternatives examined at Chapter 2 (pursuant to Article 5(1)(d) of the 2014 EIAR Directive and Annex IV). The main alternatives studied comprise alternative locations, uses and designs and layouts. Given the site's district centre and residential zonings and the fact that the Development Plan and Local Area Plan for the area support and promote the delivery of a mix of uses on the site, including residential, alternative locations were discounted. Environmental issues informed the consideration of alternative designs and layouts. In my opinion reasonable alternatives have been explored and the information contained in the EIAR

with regard to alternatives is comprehensive and is in accordance with the requirements of the 2014 EIA Directive.

## 12.3. Assessment of Effects

### 12.3.1. Population and Human Health

Chapter 3 of the EIAR addresses population and human health. The potential effects are considered in the context of socio-economic activity, land-use and settlement patterns, employment and health and safety. Impacts on population and human health due to interactions with other environmental factors (e.g. water, noise, air quality and climate and landscape and visual) are considered separately under the relevant heading of the EIA.

The site is located within an urban area with retail, commercial and residential land uses in the vicinity. The proposed development is consistent with the pattern of development in the area.

During the construction phase there will be a positive economic impact as a result of employment and economic activity generated by the development. The construction phase may give rise to some short-term risks to health and safety related to construction traffic and migration of contaminants / emissions (e.g. air, water, noise). A third party submission states that the EIAR fails to address potential impacts on commercial tenants. I am satisfied that health and safety impacts arising from construction are not unique or particularly challenging and that the mitigation measures set out in the EIAR are designed to minimise any potential impacts. This will include adherence to Health and Safety Regulations, a Construction Management Plan and Construction and Demolition Waste Management Plan. I am satisfied, subject to the implementation of the mitigation measures, that significant impacts would not arise. During the operational phase there will be positive socio-economic impacts due to the provision of housing, population growth and increased economic activity in the area. The cumulative impact of the proposed development will be a further increase in population and a further increase in the size and scale of the Frascati centre. I would note that there are other developments permitted or under construction in the wider area that would have similar impacts. I am satisfied that the cumulative impacts will be largely positive (increased population and services).

I have considered all of the written submissions made in relation to population and human health. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of population and human health. I am also satisfied that cumulative effects are not likely to arise.

#### 12.3.2. Archaeology and Cultural Heritage

Archaeology and Cultural Heritage is addressed in Chapter 4 of the EIAR. Architectural Heritage impacts are also considered in Section 11.4 of the planning assessment.

The application site is located to the west of the historic core of Blackrock. There are no recorded monuments, protected structures, architectural conservation areas or other cultural heritage designations within the site. The site once housed Frascati House, dating from 1739. This house was removed in 1983. Surviving fragments associated with Frascati House (granite gate piers) are to be reinstated in the new landscaped plaza along Frascati Road representing a positive built heritage impact. The closest recorded monument is located c. 250 m east of the proposed development on Main Street and no artifacts or remains have been recorded in the area. The impact on archaeology is therefore considered to be neutral.

The proposed 'Phase 2' development is close to Protected Structures no.'s 8-16 Mount Merrion Avenue and St. Andrew's Presbyterian Church to the north and north west of the site. The 'Phase 1' development is close to Protected Structures no. 66, 68 and 73 Georges Avenue. The assessment of impact in Section 11.4 above concludes that the level of visual interaction between the proposed development and the structures along Mount Merrion Avenue is reasonable within an urban context and that the proposed development, while visible within the wider context of these structure, would not have a significant adverse impact on the character or setting of these structures. The assessment of impact in respect of structures on Georges Avenue concludes that having regard to the minor nature of the proposed alterations to the approved 'Phase 1' development that impacts would be neutral. There are no other developments

permitted or proposed within the immediate vicinity of the protected structures and I am satisfied that negative cumulative impacts would not arise.

I have considered all of the written submissions made in relation to archaeology and cultural heritage. I am satisfied that no potential impacts arise. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect or cumulative impacts in terms of archaeology and cultural heritage.

### 12.3.3. Biodiversity

Chapter 5 of the EIAR describes potential impacts on Biodiversity. The site is located within an urban area. The main habitat on site is buildings and artificial surfaces. There are grass verges and clusters of trees along the perimeter of the site. The site has limited biodiversity value due to the extent of hardstanding and lack of semi-natural vegetation. No birds or mammals were identified during survey. No non-native invasive species were identified.

The site is not within or adjacent to an area that is designated for nature conservation purposes and no protected species were found during survey. The impact of the proposed development on European sites is addressed in detail in Section 13.0 of this report. Having regard to the nature and scale of the development and the level of separation from European sites, it is concluded that the proposed development is not likely to have significant effects on any European site, whether considered alone or in combination with other projects. During the construction phase there is a risk to surface waters given the presence of the Priory Stream in the site (culverted). The potential for impacts on water during the construction and operational phases is considered separately under the environmental factor water. The potential for construction related biodiversity impacts is considered unlikely given the limited flora and fauna within the site and the absence of substantial site clearance works. I am satisfied that any risks to biodiversity are negligible and that the risks will be adequately addressed by the mitigation measures detailed in the EIAR. In terms of cumulative impacts, given the negligible impact of the proposed development I am satisfied that the issue of cumulative impacts does not arise.

I have considered all of the written submissions made in relation to biodiversity. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures

and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of biodiversity. I am also satisfied that cumulative effects are not likely to arise.

#### 12.3.4. Landscape & Visual Impact

Chapter 6 of the EIAR describes the landscape and visual effects of the proposed development. The likely significant landscape and visual impacts have been described and assessed under the planning assessment in Section 11.3 above and are summarised below.

The site is at a transitional location between Blackrock District Centre and lower density residential areas that extend from the centre. Negative visual effects during the construction phase will be localised and short-term in nature. The greatest potential for impact arises during the operational phase. The landscape and visual change arising from the proposed development is described in Section 11.3 above. In summary, the proposed development would involve a transition in scale relative to low density housing to the north, south and west of the site and will be visible locally and on medium range views within the area. However, the lands are designated, for the most part, for district centre uses and the overall scale and character of the proposed development is in keeping with the evolving character of the wider district centre. I consider that the area can absorb a development of the nature and scale proposed and that the resulting impact on the landscape would be moderate and generally positive. The potential for overbearance impacts on adjacent residential properties to the north and west is identified in Section 11.5 above. However, these impacts are localised in nature and are not considered to be significant in the context of the wider environment. There is potential for cumulative visual and landscape impacts arising from the wider redevelopment of the Frascati site and from the redevelopment of the Blackrock Shopping Centre and Enterprise House to the immediate east. I consider that any potential cumulative impacts are generally positive and in keeping with national and local policy.

I have considered all of the written submissions made in relation to landscape and visual impact and the relevant contents of the file including the EIAR. On the basis of the information provided, I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the

proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise or vibration. I am also satisfied that any potential for cumulative effects would be positive.

#### 12.3.5. Land and Soils

Chapter 7 of the EIAR describes the potential impacts on land and soils.

The site is covered by buildings and hardstanding for the most part. GSI data indicates that the receiving land and soil environment comprises granite bedrock with till soil over. The groundwater aquifer underlying the site is classified as a Poor Aquifer which is generally unproductive except for in local zones. The groundwater vulnerability is classified as moderate and high within the site. Site investigations undertaken in 2015 at the locations of the lower ground level car parks found made ground to a depth of 1.1m to 3.0m with cohesive deposits below to a max depth of 3.0m BGL. No groundwater was encountered.

The proposed works are on top of the existing centre and involve only minor excavations for buried services and foundations. Due to the relatively limited nature of excavations and the presence of existing foundations no effects on land and soil are anticipated during the construction or operational phases and no cumulative impacts are anticipated. I am satisfied, subject to the mitigation and monitoring measures set out in the EIAR, that the proposed development would not have significant impacts on land and soil.

I have considered all of the written submissions made in relation to land and soil and the relevant contents of the file including the EIAR. I am satisfied that impacts identified on land and soil would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of land and soil. I am also satisfied that cumulative effects are not likely to arise.

#### 12.3.6. Water

Chapter 8 of the EIAR deals with hydrology and water services. The submitted details include a Hydrological and Hydrogeological Qualitative Risk Assessment prepared by

AWN which assesses the impact of stormwater runoff and foul effluent from the proposed development. Water supply, drainage and flood risk is assessed in Section 11.8 of the of the planning assessment above.

The site is served by public water and drainage networks. The Priory Stream runs through the northern section of the site and is culverted through the site. Storm water runoff from the site outfalls to the Priory Stream via an existing stormwater network.

During the construction and occupational phases there is potential for impacts on the water environment should contaminants such as sediments or other pollutants entering the surface water system due to leaks or spillages. Construction management measures are proposed in order to the protect the receiving local environment (EIAR and Outline Construction Management Plan refers). During the occupational phase the proposed development will drain to the existing storm water network within the site. There are petrol interceptors in place at the discharge points. Proposed green roofs will reduce the net volume and improve the quality of outflow from the site. This represents a positive impact. Ground water impacts are not envisaged as detailed in the submitted Hydrological and Hydrogeological Risk Assessment. The submission on file from Irish Water indicates that a connection to the water and wastewater networks can be facilitated. The site is within Flood Zone C with a low risk of flooding. I am satisfied that risks outlined above can be avoided, managed and mitigated through the design and construction management practices detailed in the EIAR. There are other developments permitted or under construction within the area that would have similar impacts to those described above. Given the scale of the proposed development and the capacity of the surrounding receiving environment to accommodate urban development, I consider that significant cumulative impacts are not likely.

I have considered all of the written submissions made in relation to water. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of water. I am also satisfied that cumulative effects are not likely to arise.

#### 12.3.7. Air Quality and Climate

Chapter 9 of the EIAR deals with Air Quality and Climate. The existing ambient air quality in the area is typical of an urban city location.

The greatest potential for impact to air during the construction phase of the development is from dust and particulate matter arising from construction works and traffic movements associated with the development. There is no demolition of note proposed, reducing the potential for dust and particulate emissions. The potential impacts can be mitigated to an acceptable level by the construction practices detailed in Chapter 9 of the EIAR. In terms of climate there is potential for greenhouse gas emissions associated with the use of construction vehicles, generators etc. but given the scale of the development it is considered that impacts would be negligible. During the operational phase, the primary source of air and climatic emissions is from traffic related emissions. The proposed development would have a negligible impact on local traffic conditions (Transportation Assessment refers). It is, therefore, considered that climate impacts associated with the proposed development would be imperceptible. Given the nature and scale of the development proposed and the imperceptible nature of impacts arising, I am satisfied that no cumulative impacts would arise in respect of air and climate during construction and operational phases.

I have considered all of the written submissions made in relation to Climate and Air. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate. I am also satisfied that cumulative effects are not likely to arise.

#### 12.3.8. Noise and Vibration

Chapter 10 of the EIAR addresses Noise and Vibration impacts. The EIAR described the receiving ambient noise climate and an assessment of potential noise and vibration impacts associated with the proposed development during construction / and operational phases.

The noise climate at this location is dominated by road traffic noise and other urban noise. Noise surveys were undertaken in October 2013 (prior to the commencement

of redevelopment works) to identify the ambient noise levels. The most significant noise levels were recorded along the southern site boundary with daytime levels of 57 to 58dB  $L_{Aeq}$ ; and night-time noise levels of 45 to 50dB  $L_{Aeq}$ . Levels at two other measurement locations along the western and northern boundaries were similar. During the construction phase there is potential for an increase in noise and vibration emissions associated with construction activities and construction traffic. The EIAR outlines noise control measures proposed to mitigate the impacts. I am satisfied, subject to the implementation of the mitigation measures, that significant noise impacts would not arise. During the operational phase no significant outward noise impacts are envisaged. There is potential for inward noise impacts to proposed units due to noise emissions associated with the wider commercial use of the site (e.g. traffic, deliveries, electrical and mechanical plant). I am satisfied that the potential inward noise impacts can be suitably mitigated through good acoustic design. This can be addressed through condition. No significant vibration impacts are envisaged. No cumulative impacts are anticipated as other works within the site and on adjacent sites are largely completed.

I have considered all of the written submissions made in relation to noise and vibration. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise or vibration. I am also satisfied that cumulative effects are not likely to arise.

#### 12.3.9. Daylight, Sunlight and Microclimate Impacts

Chapter 11 of the EIAR addresses Microclimate Impacts and Chapter 12 addresses Daylight and Sunlight Impacts. The impact on sunlight and daylight conditions to properties in the immediate vicinity are described and assessed under the planning assessment in Section 11.5 of this report.

The greatest potential for impact arising during the operational phase of the development. The planning assessment concludes that the proposed development would have a significant negative impact on adjacent residential properties to the north and west due to a reduction in daylight and sunlight. The impacts detailed in Section

11.5 while significant in the context of individual properties, are localised in nature and are not considered to be significant in the context of the wider environment. Microclimate impacts are likely to be imperceptible. I am satisfied that significant environmental impacts will not arise due to daylight, sunlight and microclimate impacts. It is considered that any cumulative impacts in conjunction with other developments within the District Centre (Frascati Centre, Blackrock Shopping Centre and Enterprise House) would not be significant in nature given the low-medium building heights and the open nature of the lands.

I have considered all of the written submissions made in relation to daylight, sunlight and microclimate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of daylight, sunlight and microclimate. I am also satisfied that cumulative effects are not likely to arise.

#### 12.3.10. Material Assets

##### Material Assets – Urban Settlements and Land

The proposed development will have a positive impact on the existing urban environment by making efficient use of services urban land and providing for a mix of uses at sustainable densities on lands that are designated for district centre uses and higher densities.

##### Material Assets – Transport Infrastructure

Chapter 13 of the EIAR addresses Transport Infrastructure. The Board is referred to Section 11.7 of the planning assessment in respect of traffic and transportation and to the submitted Traffic and Transport Assessment. The assessment concludes that the cumulative impact of the proposed and permitted developments would have a negligible impact on traffic conditions in the area during construction and operational phases. Subject to appropriate mitigation and management no significant construction or operational phase impacts, or cumulative impacts are envisaged.

##### Material Assets – Natural Gas, Electricity, Telecoms, Water Services, Waste

Services and utilities located in the area are underground for the most part. Best practice will be implemented to ensure that the existing services and utilities are protected during the construction phase. No operational phase impacts are anticipated. In terms of waste, site specific waste management plans have been submitted with the application for the operational and construction phases of the development. Subject to appropriate mitigation and management no significant construction or operational phase impacts, or cumulative impacts are not envisaged.

#### Material Assets Conclusion

I have considered all of the written submissions made in relation to material assets. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of material assets. I am also satisfied that cumulative effects are not likely to arise.

#### **12.4. Interactions between Environmental Factors**

Section 15 of the EIAR deals with the interactions between environmental factors.

The primary interactions are summarised in the EIAR as follows:

- Design / Landscape and Visual
- Design / Daylight and Sunlight
- Surface Water / Landscape Design
- Visual Impact / Architectural Heritage
- Noise and Vibration / Population and Human Health
- Air Quality and Climate / Population and Human Health
- Material Assets / Population and Human Health, Water, Noise and Vibration, Air Quality and Climate.

The various interactions have been described in the EIAR and have been considered in the course of this EIA. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. In conclusion, I am generally satisfied that

effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions.

## 12.5. Reasoned Conclusion on the Significant Effects

12.5.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock in the area.
- Visual and landscape effects due to the change in scale close to existing 1-4 storey residential properties. Given the location of the site within the built-up area of Blackrock and on lands zoned District Centre the effects are considered to be generally positive and in line with national and local planning policy. The potential for effects on adjacent residential properties due to overbearance, are localised in nature and are not considered significant in the context of the wider environment.
- Potential effects arising from noise during construction which will be mitigated by appropriate management measures.
- Potential effects arising from daylight and sunlight impacts on neighboring residential properties are localised in nature and are not considered to be significant in the context of the wider environment.
- Potential indirect effects on surface water which will be mitigated during the phase construction by appropriate management measures to control emissions of sediment and pollutants to water and during the occupation phase by surface water management and attenuation and the drainage of foul effluent to the public foul sewerage system.

12.5.2. The EIAR has considered that the main significant direct and indirect effects on the environment that would be likely to arise as a consequence of the proposed development. The effects would be mitigated to an acceptable degree by

environmental management measures detailed in the EIAR, and no residual significant negative impacts would remain. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.

### **13.0 Appropriate Assessment Screening**

13.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

13.2. Compliance with Article 6(3) of the Habitats Directive

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of a European site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

The applicant has submitted a Screening Report for Appropriate Assessment as part of the planning application. The Screening Report has been prepared by Openfield Ecological Services and is supported by a Hydrological & Hydrogeological Qualitative Risk Assessment prepared by AWN Consulting. The Report provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The AA screening report concludes that "the possibility of any significant impacts on any European Sites, whether arising from the project itself or in combination with other plans and projects, can be

excluded beyond a reasonable scientific doubt on the basis of the best scientific knowledge available”.

Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

### 13.3. Need for Stage 1 AA Screening

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

### 13.4. Brief Description of the Development

The applicant provides a description of the project in the Screening Report (pages 5-8). The development is also summarised in Section 3 of this Report. In summary, the development relates to a total of 102 no. apartment units on a site of 2.67 hectares in an urban area of Dublin. Permission is sought to alter a previously approved residential development comprising 45 no. apartments located above a retail extension to the Frascati Centre and for 57 no. new apartments located above an existing and permitted podium car park. The proposed development forms part of a wider redevelopment of the site that is largely completed. The site is serviced by public water and drainage networks. Foul effluent will drain via the public wastewater network to the Ringsend WWTP and will ultimately discharge to Dublin Bay. The site is within the Liffey River and Dublin Bay surface water catchment. The Prior Stream runs through the northern section of the site and is culverted within the site. Surface water from the development will discharge to the Priory Stream via the existing storm water network. There are existing petrol interceptors at each discharge point. The Priory Stream discharges into Dublin Bay at Blackrock Beach, c. 250 m to the north of the site (c. 500 m downstream). The outfall is within the designated area of the South Dublin Bay and River Tolka Estuary SPA and the

South Dublin Bay SAC. The dominant habitat on site is buildings and artificial surfaces. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site and no third schedule<sup>2</sup> non-native invasive plant species were encountered on site.

### 13.5. Submissions and Observations

The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 8, 9 and 10 of this Report. The submissions do not raise any issues in relation to AA.

### 13.6. Zone of Influence

A summary of European Sites that occur within the vicinity of the proposed development is presented in the applicant's AA Screening Report. In terms of the zone of influence, I would note that the site is not within or immediately adjacent to a Natura 2000 site. The nearest European sites are sites in Dublin Bay. South Dublin Bay SAC [Site Code 000210] and South Dublin Bay and River Tolka Estuary SPA [Site Code 004024] are located c. 220m north of the site at the closest point. North Bull Island SAC [Site Code 004006] and North Dublin Bay SAC [Site Code 000206] are located c. 5.6 km north of the site. Also within the Dublin Bay coastal waterbody Rockabill to Dalkey Island SAC [Site Code 003000] is c. 6.8 km east of the proposed development, Dalkey Island SPA [Site Code 004172] is c. 7.2 km south east of the proposed development and Howth Head SAC [Site Code 000202] and Howth Head Coast SPA [Site Code 004113] are c. 9.5 km north east of the proposed development.

Section 3.3 of the applicant's screening report identifies all potential impacts associated with the proposed development taking account of the characteristics of the proposed development in terms of its location and scale of works, examines whether there are any European sites within the zone of influence, and assesses whether there is any risk of a significant effect or effects on any European sites, either alone or in combination with other plans or projects. The issues examined are impacts arising from habitat loss / disturbance, hydrological pathways, dust and noise impacts and abstraction impacts. The possibility of a hydrological pathway

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<sup>2</sup> Third Schedule of the EC (Birds and Natural Habitats) Regulations 2011.

between the proposed development and habitats and species of European sites in Dublin Bay is identified due to surface water and foul water connections. Groundwater pathways can be excluded (refer to AWN Hydrological and Hydrogeological Qualitative Risk Assessment refers). The potential for significant impacts such as displacement or disturbance due to loss or fragmentation of habitats or other disturbance can be excluded due to the lack of suitable habitat for qualifying interests of SPAs and the intervening distances between the site and European sites. Potable water supply to the site is from Stillorgan Reservoir which is supplied from Vartry and Poulaphouca reservoirs. Given the negligible water demand associated with the additional units in the context of the regional water demand and the indirect and distant nature of any potential hydrological pathway I am satisfied that the potential for any impacts on the Poulaphouca Reservoir SPA can be excluded at the preliminary stage.

In applying the 'source-pathway-receptor' model in respect of potential indirect effects, all sites outside of Dublin Bay, are screened out for further assessment at the preliminary stage based on a combination of factors including the intervening minimum distances, the lack of suitable habitat for qualifying interests of SPAs and the lack of hydrological or other connections. In relation to the potential connection to sites in Dublin Bay I am satisfied that the Rockabill to Dalkey Island SAC, Dalkey Island SPA, and Howth Head Coast SPA and Howth SAC are not within the downstream receiving environment of the proposed development given the nature and scale of the proposed development, the insignificant loading in terms of either surface water or wastewater, the intervening distances and the significant marine buffer and dilution factor that exists between the sites. I conclude that it is reasonable to conclude on the basis of the available information that the potential for likely significant effects on these sites can be excluded at the preliminary stage.

The designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are closer to the development site and to the outfall location of the Ringsend WWTP and the Priory Stream and could therefore reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.

I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

### 13.7. Screening Assessment

The Conservation Objectives (CO) and Qualifying Interests of sites in inner Dublin Bay are as follows:

South Dublin Bay SAC (000210) - c. 220 m north of the proposed development.

CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / *Salicornia* and other annuals colonising mud and sand [1310] / Embryonic shifting dunes [2110]

North Dublin Bay SAC (000206) – c. 5.6 km north of the proposed development.

CO - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / *Salicornia* and other annuals colonising mud and sand [1310] / Atlantic salt meadows (*Glauco-Puccinellietalia maritimi*) [1330] / Mediterranean salt meadows (*Juncetalia maritimi*) [1410] / Embryonic shifting dunes [2110] / Shifting dunes along the shoreline with *Ammophila arenaria* [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] / Humid dune slacks [2190] / *Petalophyllum ralfsii* (Petalwort) [1395].

South Dublin Bay and River Tolka Estuary SPA (004024) - c. 220 m east of the site.

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Oystercatcher (*Haematopus ostralegus*) [A130] / Ringed Plover (*Charadrius hiaticula*) [A137] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Redshank (*Tringa totanus*) [A162] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Roseate Tern (*Sterna dougallii*) [A192] / Common Tern (*Sterna hirundo*) [A193] / Arctic Tern (*Sterna paradisaea*) [A194] / Wetland and Waterbirds [A999]

North Bull Island SPA (004006) - c. 5.6 km north of the site.

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Shelduck (*Tadorna tadorna*) [A048] / Teal (*Anas crecca*) [A052] / Pintail (*Anas acuta*) [A054] / Shoveler (*Anas clypeata*) [A056] / Oystercatcher (*Haematopus ostralegus*) [A130] / Golden Plover (*Pluvialis apricaria*) [A140] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Black-tailed Godwit (*Limosa limosa*) [A156] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Curlew (*Numenius arquata*) [A160] / Redshank (*Tringa totanus*) [A162] / Turnstone (*Arenaria interpres*) [A169] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Wetland and Waterbirds [A999]

13.8. Consideration of Impacts on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and Poulaphouca Reservoir SPA:

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.

- There is a potential hydrological connection from the site to European Sites in the inner section of Dublin Bay via surface water. The Priory Stream (culverted) runs west to east within the site. Surface water from the SHD site drains via an on-site storm water network to the Priory Stream, which in turn outfalls to Dublin Bay at Blackrock Beach c. 250m north of the site (500 m downstream). The outfall is in the area of the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. The surface water pathway creates the potential for a direct connection between the site and South Dublin Bay SAC and South Dublin Bay and Tolka Estuary SPA and for an indirect connection to other European sites in the inner section of Dublin Bay. During the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site and entering the water system. The site comprises hard standing that will remain undisturbed and petrol interceptors are already in place at outfall locations. During the operational phase attenuated surface water will discharge to the Prior Stream. The proposed development will not increase the volume of stormwater outfall and the proposed green roofs will result in a net reduction in the outfall volume (See Civil Engineering Infrastructure and Flood Risk Assessment and the Construction Management Plan). The pollution control measures on site and to be undertaken during both the construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay can be excluded given the nature and scale of the development and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor). In this regard I refer the Board to the Hydrological & Hydrogeological Assessment (HHA) prepared by AWN consulting and the overall conclusions contained therein. Given the circumstances of the site and the characteristics of the proposed development described above, it is highly unlikely that contaminated surface water runoff from the construction or occupation of the proposed

development would reach Dublin Bay. If such an unlikely event were to occur, the volume of the runoff means that there is no realistic prospect that it could have a significant effect on the current water regime such that it would hinder the achievement of the conservation objectives of any of the Natura 2000 sites.

- The foul discharge from the proposed development would drain, via the public network, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the site and sites in Dublin Bay due to the wastewater pathway. The foul discharge from the site is negligible in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible. The HHA notes that the WWTP is required to operate under EPA licence and to meet environmental legislative requirements. It does acknowledge that there have been a number of breaches of the EPA licence for the WWTP, due to stormwater overflows, but also notes that recent water quality assessment shows that these overflows have been shown not to have a long term detrimental impact on water body status. The HAA refers to an EPA Report in 2019 on Water Quality in Ireland 2013-2018 which shows that the ecological status of transitional and coastal water bodies during this period for Dublin Bay is classified as 'good'. The WFD risk score for the waterbody is 'not at risk' and the surface water quality data for Dublin Bay for the period 2015-2017 indicates that it is 'unpolluted' (Map 10 of the 2018 EPA Indicators Report refers).
- On the basis of the foregoing, I conclude that the proposed development will not impact the overall water regime (quality and quantity) of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay or Poulaphouca Reservoir. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other

surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would be not be likely to have a significant effect on the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and that Stage II AA is not required.

#### 13.9. AA Screening Conclusion:

It is reasonable to conclude that on the basis of the information on 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 South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

### 14.0 Recommendation

- 14.1.1. Having regard to the above assessment, I recommend a SPLIT DECISION. I recommend that permission be GRANTED for the proposed internal rationalisation of the 45 no. apartments permitted under Reg. Ref. D17A/0950 & ABP Ref. 300745, including changes in overall unit size and internal layouts, and associated external alterations including provision of winter gardens as proposed in accordance with the submitted plans and particulars and subject to the conditions set out below, for the reasons and considerations marked (1) below; and I recommend that permission be REFUSED for the remainder of the development based on the reasons and considerations marked (2) below.

### 15.0 Reasons and Considerations

#### 15.1.1. Reasons and Considerations (1)

Having regard to the following:

- (a) the extant permission on the site under Reg. Ref. D17A/0950 & ABP Ref. 300745 and the extent of the alterations proposed,
- (b) the Chief Executive Opinion and associated appendices,
- (c) the pattern of existing and permitted development in the area, and
- (d) the report of the Inspector and the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed alterations would constitute an acceptable form of development and would not seriously injure the residential or visual amenity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### 15.1.2. Reason and Considerations (2)

1. The Board considers that the proposed development would seriously injure the residential amenities and depreciate the value of neighbouring residential properties to the north in the Lisalea development by reason of significant daylight and sunlight impacts, coupled with overbearance impacts that arise from the height and scale of the proposed Block E and its close proximity to the neighbouring properties in the Lisalea development. Furthermore, the Board considers that the proposed development would seriously injure the residential amenities and depreciate the value of neighbouring residential properties to the west by reason of overbearance impacts, arising from the height scale and mass of proposed Blocks D and F and the close proximity of these blocks to neighbouring residential properties in Frascati Park to the west. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
  
2. The Board considers that the proposed development would give rise to conflict between vehicular movements, and pedestrian and cyclist

movements associated with the proposed residential units in the surface car park. The proposed development would therefore endanger public safety by reason of traffic hazard.

Note: The Board considers that the main access from Frascati Road to the Phase 2 development is not sufficient to serve as the main access to the entire development and that the route between this access and the Phase 2 development is unduly circuitous. While deciding not to include this matter as a further reason for refusal in this Order, it is considered that any future application for development on this site will need to clarify and address these matters.

## 16.0 Recommended Draft Board Order

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 28<sup>th</sup> August 2020 by IMRF II Frascati Limited Partnership acting through its general partner Davy IMRF II GP Limited, care of John Spain Associates, Planning & Development Consultants, 39, Fitzwilliam Place, Dublin 2.

**Proposed Development:** The proposal relates to alterations to the Phase 1 permission for 45 no. apartments (Reg. Ref.: D17A/0950 & ABP Ref.: 300745-18), from second to fourth floor level of the rejuvenated Frascati Centre. The proposed development also includes the provision of 57 no. additional apartments, as an extension of the Phase 1 permission, located above the existing / permitted podium car park to the north west of the centre, as a Phase 2 residential development. The subject application therefore relates to a total of 102 no. residential units.

The proposed alterations to the 45 no. apartments (Block A and B) and associated development, permitted under the Phase 1 residential development, includes the following:

- Internal rationalisation of the permitted units, including changes in overall unit size and internal layouts, and associated external alterations including the provision of winter gardens.

- Provision of an external walkway connection between the Phase 1 and Phase 2 residential blocks at second floor level.
- The refuse, car and cycle parking facilities permitted at lower ground floor level will be altered to cater for the additional residential units, including the introduction of a barrier control system.
- The main entrance to the Phase 1 residential scheme from Frascati Road will serve both the permitted and proposed units.
- A concierge facility room to serve the overall residential development is proposed at second floor level near the main core of Phase 1, with an associated minor reduction in the area of the permitted communal terrace at second floor level.
- The communal open space for Phase 1 and 2 will be accessible to all residents.
- Alterations to the cycle parking provision at lower ground floor / basement level and at the first-floor level podium car park.

The Phase 2 proposal consists of 20 no. studios, 22 no. 1 beds and 15 no. 2 beds (57 no. apartments) in three no. blocks (Block D, E & F), arranged around a central communal courtyard space, above the existing and permitted podium car park to the north west of the centre. Block D is a five storey block, Block E is a part two to part four storey block and Block F is a part two to part three storey block, all above three levels of podium / basement car park. Balconies / winter gardens are provided to all apartments (on the north western, north eastern, south western elevations and into the internal courtyard) and access to the blocks is via stair / lift cores and an external walkway fronting the communal courtyard. A roof terrace is also proposed at fifth floor level of Block E.

The proposal includes the allocation of 57 no. car parking spaces at lower ground floor level and 214 no. bicycle parking spaces at lower ground and surface level for the 102 no. residential units. The proposal includes alterations to existing surface car parking to provide additional landscaping and bicycle spaces, a bin storage area and stair / lift cores are proposed within the existing / permitted basement / podium car parks below the Phase 2 residential units, and the proposal includes all associated ancillary site development works. The proposal also includes alterations to the

location of 30 no. permitted cycle parking spaces associated with the rejuvenation of the Frascati Centre, Reg. Ref.: D14A/0134, as amended.

The site is zoned 'Objective DC' which seeks 'To protect, provide for and/or improve mixed use district centre facilities' under the Dun Laoghaire Rathdown County Development Plan 2016-2022, under which the proposed uses are permitted in principle. The application contains a statement setting out how the proposal will be consistent with the objectives of the Dún Laoghaire-Rathdown County Development Plan 2016 – 2022 and Blackrock Local Area Plan 2015-2021.

An Environmental Impact Assessment Report has been prepared in respect of the proposed development and accompanies this application.

## **Decision**

### **SPLIT DECISION**

**GRANT** permission for the proposed internal rationalisation of the 45 no. apartments permitted under Reg. Ref. D17A/0950 & ABP Ref. 300745, including changes in overall unit size and internal layouts, and associated external alterations including provision of winter gardens in accordance with the submitted plans and particulars, based on the reasons and considerations set out below and subject to the conditions set out below (1).

**REFUSE** permission for the remainder of the development based on the reasons and considerations set out below (2).

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **17.0 Reasons and Considerations 1**

Having regard to the following:

- (e) the extant permission on the site under Reg. Ref. D17A/0950 & ABP Ref. 300745 and the extent of the alterations proposed,

- (f) the Chief Executive Opinion and associated appendices,
- (g) the pattern of existing and permitted development in the area, and
- (h) the report of the Inspector and the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable form of development, would not seriously injure the residential or visual amenity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the information for the Screening for Appropriate Assessment submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the environmental impact assessment report and associated documentation submitted with the application,
- (c) the submissions from the planning authority, the observers and the prescribed bodies in the course of the application, and
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock in the area.
- Visual and landscape effects due to the change in scale close to existing 1-4 storey residential properties. Given the location of the site within the built-up area of Blackrock and on lands zoned District Centre the effects are considered to be generally positive and in line with national and local planning policy. The potential for effects on adjacent residential properties due to overbearance, are localised in nature and are not considered significant in the context of the wider environment.
- Potential effects arising from noise during construction which will be mitigated by appropriate management measures.
- Potential effects arising from daylight and sunlight impacts on neighboring residential properties are localised in nature and are not considered to be significant in the context of the wider environment.
- Potential indirect effects on surface water which will be mitigated during the phase construction by appropriate management measures to control emissions of sediment and pollutants to water and during the occupation

phase by surface water management and attenuation and the drainage of foul effluent to the public foul sewerage system.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in Chapter 15 of the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

### **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that the proposed development would be compliant with the current Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Blackrock Local Area Plan 2015-2020 and would therefore be in accordance with the proper planning and sustainable development of the area. Furthermore, the Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable form of development, would not seriously injure the residential or visual amenities of the area, and would be acceptable in terms of urban design. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s)

in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted by An Bord Pleanála on 29<sup>th</sup> May 2019, under planning register reference number ABP-300745-18, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

3. All mitigation measures identified in Chapter 15 of the EIAR, shall be implemented in full by the applicant except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity and to protect the environment during the construction and operational phases of the development.

## 18.0 Reason and Considerations 2

1. The Board considers that the proposed development would seriously injure the residential amenities and depreciate the value of neighbouring residential properties to the north in the Lisalea development by reason of significant daylight and sunlight impacts, coupled with overbearance impacts that arise from the height and scale of the proposed Block E and its close proximity to the neighbouring properties in the Lisalea development. Furthermore, the Board considers that the proposed development would seriously injure the residential amenities and depreciate the value of neighbouring residential properties to the west by reason of overbearance impacts, arising from the height scale and mass of proposed Blocks D and F and the close proximity of these blocks to neighbouring residential properties in Frascati Park to the

west. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The Board considers that the proposed development would give rise to conflict between vehicular movements, and pedestrian and cyclist movements associated with the proposed residential units in the surface car park. The proposed development would therefore endanger public safety by reason of traffic hazard.

Note: The Board considers that the main access from Frascati Road to the Phase 2 development is not sufficient to serve as the main access to the entire development and that the route between this access and the Phase 2 development is unduly circuitous. While deciding not to include this matter as a further reason for refusal in this Order, it is considered that any future application for development on this site will need to clarify and address these matters.

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Karen Kenny

Senior Planning Inspector

3<sup>rd</sup> December 2020