



An
Bord
Pleanála

Inspector's Report

ABP-309240-21

Development	Demolition of vacant buildings and construction of mixed use development.
Location	Site of c. 0.232 ha at The Tramyard, Castle Street, Dalkey, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0932
Applicant(s)	Clos Nua Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First and Third Party Appeals
Appellant(s)	<ol style="list-style-type: none">1. Clos Nua Ltd.2. Gerald and Anne Irvine and others3. Dalkey Community Council and others
Observer(s)	<ol style="list-style-type: none">1. Sharon O' Connell2. Brian Kenny

3. Raymond Kenny
4. The Queens Inn Ltd.
5. Pat and Marie Murphy
6. Patrick N. and Elizabeth O' Reilly
7. Orla O' Hagan and Others
8. An Taisce

Date of Site Inspection

1st April 2021 and 11th July 2021

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site has an area of 0.23 hectares and is located on the northern side of Castle Street in the centre of the village of Dalkey, Co. Dublin.
- 1.2. Historically, the site was occupied by the tram yard (formally the Dublin United Tramways Company) as part of the Dalkey terminus at the end of Castle Street, serving the route to O'Connell Street. The tramyard was constructed in 1879 and the tracks, cobbles, and a number of tram sheds and the gates and entrance piers remain intact on site. The tracks and gates and entrance piers are Protected Structures. The tram lines run from the site's entrance towards the tram yard buildings.
- 1.3. The site is bounded by a number of different uses including commercial, residential and a Boy's National School. To the west of the site adjoins 'The Queens', a Protected Structure (RPS No. 1464).
- 1.4. There are a number of buildings on the site at present including the old tram sheds and a small cottage in the tramyard. All buildings are currently vacant.
- 1.5. In recent years, the site has been used for a mix of commercial and temporary uses. These included a licensed café/ restaurant, bookshop and jewellery shop. A number of local cultural festivals were also held in the Tramyard.
- 1.6. A right of way to the site is outlined on the application documentation from a laneway to the east of the site known as 'Farmyard Lane'.

2.0 Proposed Development

- 2.1.1. The proposed development comprises of the demolition of 2 No. single storey buildings and the construction of a mixed use development to accommodate:
 - Cultural Use (c.311m²)
 - Retail (c. 94m² or c. 562m² if the northwest ground floor level unit is occupied as retail space with off sales)
 - Café bar (c. 127m²)
 - Office Space (c. 594.5m²)

- Health Centre (c. 700.5m² over two floors)
- Bar/ restaurant use (c. 287.5m² or c. 755.5m² if the northwest ground floor level unit is occupied as a restaurant with bar space)

2.1.2. Works to existing buildings would comprise:

- Demolition of two existing non-original warehouse-type buildings and concrete plinth in eastern and north-eastern portion of the site,
- Partial demolition of three interconnected partly original tram shed buildings with pitched roof profiles in the north-western portion of the site.
- Partial demolition of existing single storey detached cottage style building in the western part of the site.

2.1.3. The overall mixed-use development would be accommodated within a three storey over basement level with the fourth floor pavilion element and feature external staircase, all in the northern portion of the site; kiosk elements adjacent to the site entrance off Castle Street; and attendant external areas including central plaza, all accessed via Castle Street.

2.1.4. The application was accompanied by the following documents:

- Planning Application Report
- Energy Statement/ Sustainability Report
- Noise Impact Assessment
- Ecological Impact Assessment
- AA Screening Report
- Engineering Services Report
- Construction Management Plan
- Demolition and Construction Waste Management Plan
- Site Specific Flood Risk Assessment
- Mobility Management Plan
- Quality Audit

- Landscape Drawings and Schedule

2.1.5. The development was modified at Further Information Stage to include the following:

- Redesign of the pavilion and walkway area to include a reduction in the pavilion and increase in walkway.
- Redesign of plant areas so that they are completely enclosed by acoustic screening. The rooftop plant area on the pavilion element will be located within a roof well.
- Redesign of the proposed development further away from the site boundaries.
- Further details and breakdown of proposed uses as follows:
 - Cultural Use (c.340m²)
 - Retail (c. 115.5m² including 3 kiosks)
 - Food/ Retail 519 m² at ground floor level
 - Café bar (c. 127m²)
 - Office Space (c. 562.5m²)
 - Health Centre (c. 674m² over two floors)
- Amendments to drawings to show the vents, flues and plants to be installed in association with the proposed uses.
- Mobility Plan
- Sunlight and Daylight Analysis
- Revised Noise Impact Assessment
- Revised landscaping proposals
- Protected Structures Methodology Statement
- Revised Construction Management Plan
- Revised Lighting details
- Revision to boundary line adjacent to The Queens Bar.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 28 No. Conditions. Noteworthy conditions include the following:

Condition No. 2 required revised plans to be submitted to the Planning Authority prior to commencement of development as follows:

- (a) The omission of the third floor level of the development, comprising the pavilion bar/ restaurant, attendant walkway, third floor level staircase access and core, and also the roof garden areas and escape stairs to the second floor shown.
- (b) The amendments to the proposed development consequent to (a) above shall provide for a high quality design and finish to the roof detailing, including in particular any parapet detailing,
- (c) In the interests of clarity and for the avoidance of doubt, the roof level shall not be used as an external roof terrace/ roof garden.

Condition No. 3 required revised plans to be submitted to the Planning Authority (Conservation Division) prior to commencement of development as follows:

- (a) The omission of intervention works proposed to the roof of the existing single storey detached cottage-style building in the western portion of the site, or alternatively, a revised design for any interventions to the roof of this structure to respect the composition and proportions of the subject building.
- (b) Details of the lamp elements proposed to the subject site access gateway piers. Any lamp element proposed shall be historically accurate and appropriate, with revised plans and particulars to detail same.

Condition No. 5 required a total of 72 No. cycle parking spaces.

Condition No. 6 required a quality audit to include a road safety audit, access audit, cycle and walking audit, to be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage.

Condition No. 8 required the applicant to comply with the guidelines set out in the submitted Mobility Management Plan.

Condition No. 14 required the applicant to submit details of proposed rock breaking/ excavation methods, which shall be a specialist technique, such as chemical splitting or micro-blasting to the Planning Authority (Environment Section) prior to commencement of development.

Condition No. 15 required a detailed Construction and Environmental Management Plan to be submitted to the Planning Authority prior to commencement of development.

Condition No. 24 required access to roof areas to be restricted for the purpose of maintenance works only.

Condition No. 25 required no music or other amplified sound to be emitted to the public street or in such a manner as to cause nuisance to the occupants of nearby properties.

All other conditions are of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first planner's report dated 2nd of December 2020 considered that the principle of a mixed use development at this location was acceptable but raised a number of issues including impact on the Dalkey ACA and adjoining protected structures, impact on residential amenities of adjoining properties, access arrangements and mobility management issues.
- The second report considered that notwithstanding modifications to the proposed pavilion element and design statement relating to same, having regard to the form of development proposed in the northern part of the overall site, impact of the pavilion level element of the proposed development on the ACA and Heritage Town of Dalkey and the provisions of the Development Plan, it was recommended that a condition was included requiring the omission of the pavilion element and the attendant walkway.

3.2.2. Other Technical Reports

Conservation Section: Report is 'generally supportive' with no objection to the contemporary design approach taken. However, in terms of complying with best conservation practice and AR12 (iii) it is the view of the Conservation Section that the development proposed has a particularly unwelcomed presence when viewed from White Villas. View G of the Visual Impact Assessment Report demonstrates that the development would have an overpowering visual impact on the streetscape at this location within the ACA. In this regard, the omission of the bar/ restaurant/ roof garden element of the proposal would be welcomed in order to reduce and improve the scale/ height/mass and to allow the development to integrate more successfully within the historic context of the ACA/ streetscape.

It was considered that whilst it is accepted that the proposed café/bar building is not a protected structure, the treatment of the roof looks 'rather peculiar' and fails to enhance the composition and form of the building.

The reduction in the scale of the development is acknowledged, notably the 'pavilion' element, however concerns remain in relation to the visual impact on the historic skyline of the ACA and Heritage Town of Dalkey. It is the opinion of the Conservation Section that the development would benefit greatly with further reductions in scale or the removal of the pavilion element.

Architecture Department:

Two reports submitted on both original and revised drawings. The second report summarised the concerns as follows (11th December 2020):

- Given its proposed height, the proposed roof pavilion element will rival the existing significant buildings in Dalkey, namely Dalkey Castle and the two churches, when viewed from higher vantage points in the surrounding area, thus altering the distinctive, historic skyline of the town.
- The form and expression of the pavilion is incongruous in the architectural context of Castle Street Main and appears over scaled, is too urban and will be overbearing.
- It is considered that the pavilion detracts from the prominence and rhythm of the tram shed.

- It is consequently recommended that the roof pavilion bar together with the top level staircases are omitted.

Roads Report: First report required Further Information. Second report had no objections subject to conditions.

Drainage Planning: No objection subject to conditions.

Municipal Services: Public lighting section - Considered that lights at main entrance gate are too bright.

Environmental Health Officer: No objection subject to conditions.

Waste Section: Further Information required.

3.3. **Prescribed Bodies**

An Taisce: Considers the proposed development to be contrary to the principles of the County Development Plan.

Irish Water: Advised the applicant that wastewater receiving sewer is combined. The development has to incorporate Sustainable Drainage Systems/ Attenuation in the management of storm water and to reduce surface water inflow into the combined sewers.

Department of Culture, Heritage and the Gaeltacht: No objection subject to conditions.

3.4. **Third Party Observations**

- 3.4.1. A total of 48 No. third party observations were submitted to the Planning Authority. The issues raised are similar to the grounds of appeal and the observations submitted to the Board.

4.0 **Planning History**

- 4.1.1. An extensive and detailed planning history is set out in the report by the Planning Authority. The most relevant recent decisions are as follows:

Reg. Ref. D12A/0071 - Retention permission was granted for development at a site of c. 0.1 ha located within the former Tramyard, 15, Castle Street, Dalkey. The

application site is located within an Architectural Conservation Area and includes the tram lines, gates and entrance piers which are protected structures (Refs. 1463 & 1471). Retention permission was granted for a 3 year period for a number of structures/uses on site as follows: Art Studio (c. 21.3 sq.m); Retail/Showroom & Art Gallery (c. 62.16 sq.m); Landscape Studio (c. 3.81 sq.m); Garden Centre (c. 6.65 sq.m); Coffee Shop with ancillary areas (c. 141.8 sq.m); 2 wall murals totalling c.22.6 sq.m; signage (including freestanding sign and shop signs) totalling c. 8.87 sq.m. All associated site development and landscaping works including timber decking areas.

Reg. Ref. D07A/1030 - Permission was granted on site of c. 460sqm subsequent to grant of permission as per Reg Ref D06A/0910; PL06D.220098. This permission relates to site which includes the tramlines which are PROTECTED STRUCTURES. Permission was granted for the provision of 2 no. retail units (1 no. unit c. 86sqm GFA, and 1 no. unit c. 100sqm) and 1 no. café unit (c. 35sqm GFA) at ground floor level in compliance with Condition 2(a) of Grant of Permission Reg Ref D06A/0910; PL06D.220098. This application also seeks revisions to elevations associated with the proposed commercial/ café uses at ground floor level. The total gross floor area relating to the application is c. 221sqm.

Reg. Ref. D06A/0910 & PL06D.220098 – Permission granted for the demolition of existing warehouses and associated buildings, erect a mixed-use development comprising 23 no. residential units, works to existing tramlines (protected structures) and associated works.

5.0 Policy Context

5.1. Development Plan

The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned NC – To protect, provide for and or improve mixed-use neighbourhood facilities.

The site is located within the Dalkey Village Architectural Conservation Area (ACA), as included in Appendix 4.3 of the Plan, and also within the Area of Archaeological Potential – Dalkey (Historic Town) boundary, RMP Ref. 023-23 as included in Appendix 4.2 of the Plan.

Appendix 4 - Record of Protected Structures

Tram Yard Castle Street, Dalkey, Co. Dublin. Tram Lines - RPS No: 1463

Tram Yard Castle Street, Dalkey, Co. Dublin. Gates and Entrance Piers - RPS No: 1471

Section 6.1.4 sets out policy for Architectural Conservation Areas.

Appendix 9 – Building Height Strategy

5.2. Natural Heritage Designations

- 5.2.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are Dalkey Island SPA and Rockabill to Dalkey Island SAC, located c. 600m south east and c. 940m east respectively.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, comprising a mixed use development on a brownfield site in an urban location, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal against conditions, and two third party appeals have been submitted to the Board.
- 6.1.2. The grounds of the first party appeal can be summarised as follows:

- The first party seeks the omission of Conditions 2 and 3 (a) and the granting of permission in full as originally submitted at Further Information Stage.
- The pavilion element is essential to the design strategy of the overall scheme.
- It has been reduced in size and redesigned so that neighbouring sites are not negatively affected in terms of visual impact, overlooking and overshadowing.
- The proposed intervention to the roof of the existing single storey cottage-style building is considered appropriate, given that it is not a protected structure, the roof needs to be replaced due to its current state of disrepair, the new roof will be similar in profile and material, the remainder of the building will be retained and overall it will remain a prominent recognisable feature of the site.
- An alternative design was submitted for consideration by the Board.

6.1.3. The grounds of the third party appeal by Gerald and Anne Irvine and others can be summarised as follows:

- Expresses concern in relation to overdevelopment of the site and the impacts on residential amenity of adjacent houses. Under a section entitled – ‘Our Requests’ – it is requested that ABP make some adjustments to the proposed development as follows:
 - A reduction in the height of the proposed first floor office area by a minimum of 2 metres.
 - The removal of the proposed second level of the medical centre because of overshadowing of our properties/ loss of light/ amenity/ value and unsuitable scale and height.

6.1.4. The grounds of the third party appeal by Dalkey Community Council and others can be summarised as follows:

- The appeal is against both the scheme as granted by the Planning Authority and the original scheme as submitted in the first instance to the Planning Authority.

- A Noise Impact Report is attached to the appeal which considers that there is a high risk of potential noise disturbance to adjoining residences. A number of conditions are recommended by the report in order to reduce the impact on adjoining residences.
- Concerns regarding overdevelopment of site, visual intrusion, overlooking, negative impact on ACA and noise impacts on adjoining residences.
- The applicant has not updated the photomontages following the submission of the Further Information Response.
- The Board is referred to the image shown from the junction of Carysford Road and White's Villas in order to fully consider the visual impact from the residences at White's Villas.
- Concerns regarding overshadowing with significant overshadowing of Nos. 6 and 7 White's Villas.

6.2. Applicant Response

6.2.1. A response to the third party appeals has been submitted by the applicant which can be summarised as follows:

- Undue overlooking and impact has been avoided through a sensitive and high quality design.
- The proposed development would not undermine the integrity of the Dalkey ACA.
- No significant overshadowing impacts from the proposed development would occur on the neighbouring properties.
- Any instances of direct overlooking from the site into adjacent properties are avoided.
- A separate response has been included with the appeal response in relation to the concerns regarding noise. The overall development will be constructed and operated in a way that ensures that any potential adverse noise impacts on neighbouring residential properties are addressed.

- The site is conveniently located within walking and cycle distance of a large population and served by good public transport. It is considered that there is ample car parking capacity in the town of Dalkey and 72 No. bicycle spaces will be provided on the site.

6.3. Planning Authority Response

- The Planning Authority response notes both the first party appeal against conditions and the 2 No. third party appeals.
- The reasoning of the Planning Authority is set out in the Planning Report and it is not proposed to respond in detail to the grounds of appeal as the Planning Authority considers that the comprehensive planning report deals with all issues and justifies its decision.

6.4. Observations

A total of 8 No. observations have been submitted which can be summarised as follows:

- Negative Impact on ACA.
- Precedent for future unsympathetic developments in ACA.
- Concerns regarding noise pollution and music from late night events together with plant noise.
- The position of the plant room immediately beside and on top of people's walls will be a constant nuisance to residents.
- A scaled down more appropriate development with no outdoor drinking should be granted.
- Insufficient car parking.
- Concerns regarding light pollution and anti-social behaviour.
- Clos Nua insist on including the rooftop restaurant and top floor pavilion bar/restaurant. The planned height at this level will cause lots of overlooking and loss of privacy and will be very much out of place.

- It is necessary for the Board to retain Condition No. 2.
- The pavilion element fails to protect adjoining and neighbouring residential and visual amenities.
- The proposal fails to protect the built heritage of Dalkey including The Queens which is a protected structure.
- Concern regarding lift over-run and connection within an enclosure proposed as 'alternative option' in first party appeal. It is not clear why such an enclosure was not shown originally on top of the proposed pavilion element.
- The proposed bin store should be relocated away from The Queen's or failing this, the bins should be stored in a properly constructed shed that is sealed when not in use.
- The use of the narrow laneway to the side (Farmyard Lane) needs to be challenged as this laneway is not suitable or fully accessible for what the applicant is proposing.
- Concern regarding fire escape route.

6.5. Further Responses

6.5.1. Further responses have been submitted on behalf of Gerald and Anne Irvine and others and Dalkey Community Council and others which can be summarised as follows:

- Remain totally opposed to the entirety of the proposed development including the 'alternative option' submitted by the First Party.
- Concern regarding condition 23 of the grant of permission and location of plant indicated in 'alternative option'.
- The removal of Condition 2 would materially compound the adverse impact of the proposed development.
- 'It is disingenuous to us the local residents to see that our resident rock star, Bono, Temple Hill, junction of Strathmore and Vico Roads, is a shareholder in

the company proposing this, and that his intentions to 'give something back' to his adopted town by his association with this scheme, are perverse and would constitute a selfish and unsuitable addition to the town if allowed in full.'

- The current proposal has the potential to do immeasurable and permanent damage to Dalkey.

7.0 Assessment

7.1. The main issues in this appeal are as follows:

- Principle of Development
- First Party V Conditions
- Traffic
- Design and Visual Impact on Dalkey ACA
- Impact on Residential Amenities
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The development broadly comprises for the demolition of the 2 No. non-original buildings and reconstruction of the original tram yard buildings to provide for a 1 to 3 storey mixed-use development (over basement) plus third floor level pavilion, walkway and garden. The scheme will provide for cultural, retail, café bar, office, health centre and restaurant uses.

7.2.2. Under the current Development Plan, the site is zoned 'NC' which seeks 'to protect, provide for and or improve mixed use neighbourhood facilities. I note that the planner's report states that 'range of uses proposed as part of the proposed mixed use scheme are considered generally acceptable and in line with the uses permitted in principle and open for consideration under the NC land use zoning objective of the subject site. I concur with this view.

7.3. First Party V Conditions

- 7.3.1. A First Party Appeal has been submitted to the Board against Condition No. 2 and 3 (a). Condition No. 2 requires the omission of the third floor of the development, comprising the pavilion bar/ restaurant, attendant walkway, third floor level staircase access and core and also the roof garden areas and escape stairs to the second floor. Condition No. 3 (a) requires the omission of intervention works proposed to the roof of the existing single storey detached cottage-style building in the western portion of the site, or alternatively a revised design for any interventions to the roof of this structure to respect the composition and proportions of the subject building.
- 7.3.2. The main concerns raised by the Planning Authority related to design and matters relating to visual amenity and impact on Dalkey Architectural Conservation Area.
- 7.3.3. The pavilion element was significantly reduced in size from 171m² to 138.5m² at Further Information Stage. In addition, a setback which varied from 3.8m to 6.5m was proposed at roof level of the buildings along the northern boundary. The development was also set back further from the eastern boundary and the size of the walkway increased in size by 53m². The First Party Appeal considers that the original application is acceptable as submitted and amended by Further Information. However, an alternative option has been submitted for the Board to consider. This option provides for the omission of the third floor (i.e. pavilion, walkway etc.) in order to address the concerns of the Planning Authority. This option consists of the lift over-run and connection within an enclosure with the roof planted with trailing plants/ivy to soften the form.
- 7.3.4. I am of the view that the omission of the third floor is essential to the successful design of this scheme in order to protect the architectural character of Dalkey Architectural Conservation Area. I consider that the alternative design allows for an appropriate balance between maximising the potential of the site and protecting the amenities of the area. Policy AR12 (iii) of the Development Plan states that it is Council policy to 'seek a high quality, sensitive design for any new developments that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.' I am of the view that the development as proposed in both the original drawings and in the revised drawings would have an overpowering visual presence when viewed from both within and

outside the Dalkey ACA and would be contrary to the policy expressed above. This is a unique and extremely sensitive site and its impact will be very significant to the wider area of Dalkey. If the Board is minded to grant permission, I would recommend that condition 2 could be amended to allow for the revised 'alternative option' in the interests of protecting the ACA.

- 7.3.5. I note that Condition 3 required the omission of intervention works proposed to the roof of the existing single storey detached cottage-style building in the western portion of the site, or alternatively a revised design for any interventions to the roof of this structure to respect the composition and proportions of the subject building.
- 7.3.6. The applicant has made a case in the first party appeal that this semi-derelict building is not a Protected Structure and possibly not part of the original tramyard development. It is stated that 'regardless of no requirement to keep this building, it will be largely retained and incorporated into the scheme'. Due to the current derelict state of the building, repair work is required including the replacement of the roof.
- 7.3.7. I am of the view that the proposal to re-use the existing single -storey cottage as a café bar is acceptable. The main concern relates to the scale and design of the interventions proposed and the impact on the special architectural or historic interest of the structure.
- 7.3.8. I am of the view that the impact of the cottage and any interventions to same would be for the most part local to the site itself. I refer the Board to the photomontages-visuals 1 and 2 cottage café bar included in the book of drawings - Architectural Design Statement submitted both with the application and in response to the Further Information Request (No Changes to this element of the application). I note that the main concern raised in the conservation officer's report was that the interventions proposed were excessive and would result in the cottage appearing 'lost'.
- 7.3.9. I consider that the proposed design provides for the protection and re-use of the existing building and would welcome its re-use. The proposed re-use of the cottage would in my view add interest to the scheme and add to the sense of place. The main structure of the cottage is retained and the interventions to the roof in terms of raising the roof height are transparent. The extension proposed is set back from the cottage and the use of extensive glazing would allow for the original building to be the dominant element. I consider that the interventions do not detract from the

scheme or the Dalkey ACA and they tie in with the design and scale of the proposed overall scheme on the site. As such, if the Board is minded to grant permission, I would recommend the omission of Condition 3(a).

7.4. Design and Visual Impact on Dalkey ACA

- 7.4.1. The main concerns raised in relation to design and visual impact relate to height, overdevelopment of site and impact on Dalkey Architectural Conservation Area.
- 7.4.2. In addition to the original design submitted with the scheme, a revised design was submitted in response to the Further Information Request which substantially scaled back the development at 2nd and 3rd floor levels and relocated the development further from the site boundary. A revised option was also submitted to the Board with the first party appeal which omitted the 3rd floor level.
- 7.4.3. The Planning Authority expressed concern about elements of the scheme including the design of the café/ bar and the third floor and omitted these elements from the scheme by condition Nos. 2 and 3.
- 7.4.4. I have already discussed these conditions in the section of the report regarding the first party appeal against conditions. My view is that the design of the café/ bar is acceptable and that it is subsidiary in the context of the overall scheme. The 3rd floor proposed is problematic in terms of the impact on the ACA. My view is that the alternative option presented to the Board on appeal is acceptable in terms of its impact on the ACA and the wider area of Dalkey. The response by the Planning Authority notes the 'alternative option' drawings submitted, and refers the Board to the reasoning set out in reports previously forwarded to the Board based on both the original drawings and the revised drawings submitted in response to the Further Information Response.
- 7.4.5. I consider that the scheme both as originally designed and as modified in the Further Information response would be likely to undermine the integrity of Dalkey ACA. Dalkey is a designated Heritage town and I concur with both the Architect's Report and the Report of the Conservation Officer that the development proposed by way of its height and the proposed pavilion element, is incongruous with the built character of the ACA. There are many important and protected structures in the vicinity of the

site including Dalkey Castle and Heritage Centre (RPS No. 1458), Archibold's Castle (RPS No. 1466) and the spire of the Church of the Assumption (RPS No. 1472).

These buildings should remain dominant in the skyline. It is my view that the proposed height would detract from the existing urban skyline and would compete with existing protected structures in close proximity to the site. The form and scale of the development proposed would be overscaled and overbearing in both the immediate context and the wider context. The development would be highly visible from White's Villa's/ Carysfort Road, Castle Street, St. Patrick's Road, railway bridge and from higher vantage points in the surrounding area. I share the concerns of the Architect's Section that 'the pavilion detracts from the prominence and rhythm of the tram sheds.'

7.4.6. The Building Height Strategy in Appendix 9 of the Development Plan requires that new buildings in ACAs should respond to the local character and protect and enhance the built heritage, and new buildings should not have an adverse effect in terms of scale, height, massing, alignment and materials. I consider that the development as proposed in the drawings submitted to the Planning Authority is inappropriately scaled for the site and would be visually incongruous with the built character of the Dalkey ACA.

7.4.7. I am of the view that removal of the 3rd floor as proposed in the alternative option presented to the Board will significantly reduce and soften the impact of the proposed development. The reduction of the height and scale by the removal of the 3rd floor would provide for a well considered design with a high quality of finishes and would not detract from the existing protected structures in the vicinity of the site and the overall integrity of the Dalkey Architectural Conservation Area.

7.5. Traffic

7.5.1. The primary concerns raised in relation to traffic relate to insufficient car parking for the scheme. Concerns are also raised in relation to construction car parking.

7.5.2. The proposed development provides for no car parking. Section 3.1 of the Traffic and Transport Report states that no parking is provided 'due to the nature of the development itself, the characteristics and location of the site, the availability of

public car parking in the vicinity of the site and the convenient availability of high quality public transport services in the immediate vicinity.'

- 7.5.3. Section 6 of the Mobility Management Plan outlines that the site is located in the centre of Dalkey with a population of 11,500 residents within a 20 minute walk of the site. A total of 87,500 residents are located within a 20 minute bicycle journey of the site. Dalkey DART station is located within a 5-minute walk of the development. A number of bus stops are located within a 5 minute walk of the site. There are 3 No. bases for the GoCar car-sharing service within a 5/10 minute walk of the site.
- 7.5.4. The Mobility Management Plan identified that the proposed development will generate a park parking demand of 35 No. vehicles. Figure 1 of the Plan indicates that the town of Dalkey was surveyed which indicated a total of 244 publicly accessible car parking spaces within easy walking distance of the site. These areas for surveyed for occupancy on Friday and Saturday the 7th and 8th of August 2020 and a minimum of 114 No. spaces were available on Friday the 7th of August and 70 No. spaces were available on Saturday the 8th of August.
- 7.5.5. I note that a number of observations have raised concerns about the survey and car parking provision within the town of Dalkey. Firstly, car parks in SuperValu and at the church were included in the survey, and secondly the survey was carried out in a pandemic when occupancy rates would not be typical. It was stated that the SuperValu car park was private and the church car park was also private and did not allow overnight car parking on a Saturday night.
- 7.5.6. I would share these concerns and agree that both the church and SuperValu may not allow the customers of the proposed development to share their car parking at all times, if they need them for their own use. I also note that a lot of both Irish and International tourists would not have been visiting Dalkey at normal levels last Summer and occupancy rates of car parking spaces would have been lower than normal when the occupancy survey was carried out. I also note that there has been recent public realm improvement works and mobility measures on Castle Street and there is very limited car parking spaces available on Castle Street.
- 7.5.7. In terms of construction parking, Section 3.8 of the Construction Management Plan outlines that a limited number of onsite parking spaces may be provided during the early stages of development. Nearby public street car parking will be identified to

avoid congestion in the surrounding area and construction staff will be instructed not to park in residential estates or in the adjacent main streets. Construction staff will also be encouraged to use public transport.

- 7.5.8. The Roads Report noted the details provided by the developer in terms of the absence of car parking spaces and considered that the description, together with the site layout, can be considered as a suitable justification for the lack of car parking spaces on the site. Permission was recommended subject to conditions.
- 7.5.9. I consider that the layout, protected structures, the proposed re-use of existing buildings, requirement to provide for emergency vehicles, and the limited site size, would make the provision of car parking on this site extremely difficult. I note that the Development Plan includes a caveat that reduced car parking standards may be acceptable dependent on specific criteria including the site location, proximity to public transport and the nature and characteristics of the site. Notwithstanding my reservations regarding the higher than normal occupancy rates during the pandemic and the number of full time parking spaces available in the town of Dalkey, I note the central location of the site, the availability of alternative transport options and the proximity of a sizeable residential population within the immediate area. The proposed development would result in the intensification of development in a central area of the town of Dalkey and would contribute to a reduction in journeys to other suburbs in the vicinity and to the city of Dublin. I do not therefore consider that the proposed development would give rise to significant additional impacts on the surrounding road network and regard the proposed development as acceptable in principle. I am satisfied that there is sufficient car parking in the town of Dalkey to accommodate the additional car parking needs of the proposed development.
- 7.5.10. I note the observations made regarding construction traffic impacts on the surrounding area. It is the case that, in common with all such developments, the redevelopment of the site will result in short-term impacts from construction traffic. Such impacts are of a temporary nature only and I am satisfied that the construction management plan submitted has considered these impacts and submitted proposals to mitigate against such impacts.

7.6. Impact on Residential Amenities

- 7.6.1. The main concerns raised in relation to impact on residential amenities relate to overlooking, overshadowing, and noise impacts.

Overlooking

- 7.6.2. Concerns were raised in relation to overlooking from the bar and terrace/ walkway along the northern and eastern boundaries. Revised plans were submitted at Further Information stage to reduce the scale of the development when viewed from adjacent properties. The pavilion walkway was reduced in size and set back from the eastern boundary. Additionally, increased setbacks were provided to the north and east.
- 7.6.3. It is proposed to use obscured triple glazing for the health centre windows where there are windows at boundaries to eliminate the potential for overlooking. Details have been provided of the screening proposed on the pavilion walkway which provides for 2m high timber acoustic screen embedded with a 2m high hedge.
- 7.6.4. The planner's report concludes in relation to this issue that 'having regard to the layout, fenestration treatment, and planted screening elements proposed along the north-eastern and eastern boundaries of the subject site, it is considered that the proposed development would not adversely impact on the amenities of existing adjacent properties by way of overlooking'.
- 7.6.5. I concur with this conclusion and I consider that the applicant has carefully designed the proposed development to prevent undue overlooking.

Overshadowing

- 7.6.6. Concerns were raised by adjacent properties regarding the potential for overshadowing and loss of daylight.
- 7.6.7. The applicants submitted a Sunlight and Daylight Access Analysis as part of the Further Information Response.
- 7.6.8. The analysis indicated that the construction of the proposed development would result in little change in daylight access to most neighbouring existing properties. Whilst the construction of the proposed development had the potential to result in a 'slight' to 'moderate' impact on daylight on a small number of houses at The Mews, St. Patrick's Road and No. 7- 9 White's Villas, the impact of the proposed

development on daylight access to most rooms within the existing buildings surrounding the application site ranged from 'imperceptible' to 'slight'.

- 7.6.9. In terms of the Harold Boy's National School, the analysis stated that the potential impact of the proposed development on the school is likely to be minor: 'The school yard is likely to receive a level of sunlight very considerably in excess of the level recommended by the BRE Guide for amenity areas after the construction of the proposed development. Similarly, notwithstanding additional overshadowing during the evenings of the autumn, winter, and spring months, ARC's analysis indicated that the rear windows of the school building (i.e. windows facing the application site) will continue to receive a level of sunlight in excess of that recommended by the BRE Guide'. The analysis indicated that the Vertical Sky Component on the existing window was 35.7% and after the proposed development, this would change to 33.8%. The vertical sky component on a window is described in the BRE Guidelines as a good measure of daylight entering a window. The BRE Guidelines recommend that any reduction above 27% should be kept to a minimum.
- 7.6.10. Table 3.1 of the Analysis outlines the potential impact on daylight access to sample rooms in buildings near the application site. I note that the vertical sky component is below 27% for a number of existing windows. When the proposed development is taken into account, of those windows currently above 27%, a small number of windows are impacted at 7 White Villas, 5A St. Patrick's Road and two windows at 3 and 4 The Mews, St. Patrick's Road. The BRE Guidelines recommend that where the reduction in the VSC is less than a value of 27%, it should not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure), beyond which such reduction would be noticeable to occupants. In the cases outlined above, the analysis indicates that the VSC would be reduced by more than 0.8 times its former value at properties at Nos. 4 and 5 The Mews- Windows 19 and 20.
- 7.6.11. The proposed development provides for the regeneration of this centrally located site (described as the last remaining central site in Dalkey) and the principle of development is acceptable. The proposed development would result in reductions in daylight to a small number of properties. I consider that it would be appropriate to amend the development by condition to ameliorate such impacts. This would involve a reduction in height in accordance with the revised option submitted with the appeal documents.

Noise

7.6.12. I note the concerns raised in the third party appeal and observations regarding noise and disturbance from activities on site, particularly arising from music/ amplified sound, voices from the external terrace, and plant noise.

7.6.13. The third party appeal submitted a technical report by RSK Group which undertakes an analysis of the noise assessment submitted with the application. The first party response is accompanied by a technical memo carried out by iAcoustics in order to respond to the issues raised.

7.6.14. The main issues raised are as follows:

Monitoring Location and Determination of Background Noise Levels

7.6.15. The baseline noise survey was carried out within the site close to the location of the cottage. The appellants state that this location would have resulted in a significantly higher normally occurring ambient noise level than if taken at the rear of any of the properties on White's Villas.

7.6.16. The appeal response states that it is not possible to undertake background noise measurements in back gardens of residential properties and best practice calls for the practitioner to measure at a location that is comparable to the assessment location.

7.6.17. I consider that the location chosen is acceptable in terms of accurately measuring background noise. I am aware that noise levels would be lower in residential area, however if the residential area was chosen as a monitoring location, this may well have resulted in higher background noise level measurements compared to where the measurements were actually taken from.

Plant Noise

7.6.18. Concern is raised that the location of plant was badly chosen due to its proximity to residential properties. Concern is also raised that given the significant number of plant items and uncertainties, it is considered that an assessment outcome of 'low likelihood of adverse impact' cannot be reached with confidence, in the absence of detailed plant noise/ calculation model.

7.6.19. Section 4.1 of the Noise Assessment submitted with the application notes that the development is bounded by residential dwellings with rear-facing bedroom windows.

Mitigation measures are outlined in relation to plant including appropriate selection of roof plant with due consideration to reducing noise levels at source, appropriate placement and orientation of plant, plant screening at appropriate height and acoustic jackets to reduce the sound.

- 7.6.20. I consider that it is not possible to know the exact nature of the plant at this stage until tenants are identified, however the specified noise limit is regarded as reasonable for the nature of plant identified. In the event of a decision to grant permission, it is recommended that conditions requiring operational monitoring to ensure compliance with the specified limit values be attached.

Music Noise from Terrace

- 7.6.21. The appellants consider that it was not clear from the noise impact assessment whether amplified sound would be present within the external terrace area or if the proposed criteria for amplified music within the terrace could result in audible music within nearby dwellings.
- 7.6.22. Best practice guidelines indicate that music/ amplified sound from venues where frequent musical events occur should be inaudible in nearby dwellings. The applicant understands the definition of inaudibility in this context as defined in the Institute of Acoustics – Good Practice Guidance on the Control of noise from Pubs and Clubs (2003): ‘Noise is considered to be inaudible when it is at a low enough level such that it is not recognizable as emanating from the source in question and it does not alter the perception of the ambient noise environment that would prevail in the absence of the source in question.’
- 7.6.23. The response to the appeal clarifies that it may be possible to locate small speakers in outdoor area and simultaneously achieve a status of inaudibility in any nearby noise sensitive premises. It is expected that the applicant will commission noise measurements to be taken upon completion of development to calibrate outdoor speakers, should they be installed, to the required output level. It is also recommended that any speakers, indoors or outdoors, should have no strong low-frequency components. In addition, the landlord should have a strict, zero-tolerance noise policy for the rooftop restaurant bar.

Patron Noise

7.6.24. The main concern raised relates to voices from the proposed external terrace area. Having regard to the capacity of the terrace area, it is considered that there is significantly more potential for noise nuisance than predicted by the noise report.

7.6.25. The response to the appeal states that the only reliable means of controlling this aspect of the development is through managerial procedures. It is stated that a number of design features have been incorporated into the scheme to minimize noise impacts including:

- The bar/ restaurant is elevated in height in comparison to nearby noise-sensitive locations which maximises the effective path difference of sound propagation, resulting in lower levels of noise emissions to nearby noise-sensitive locations than if the bar/ restaurant were at a lower height.
- An acoustic barrier will be constructed along the rooftop boundary to further increase the path difference of sound propagation to nearby noise-sensitive locations.
- Residential properties at White Villas along the northern boundary will benefit from the building which houses the indoor seating area of the restaurant.

I am of the view that subject to the appropriate management of this space, it is not considered that significant adverse impacts on adjoining residential amenity are likely.

7.7. Appropriate Assessment

7.7.1. There are a number of Natura 2000 sites within 15km of the site as identified on Figure 1 of the screening statement submitted with the application. The statement notes that the proposed site is located in an urban environment with no direct hydrological or biodiversity corridor between it and identified Natura 2000 sites.

7.7.2. Having regard to the distance between the proposed development and the Natura 2000 sites, there will be no direct impacts on sites. There is no pathway connection between the subject site and Natura sites and therefore no indirect effects occur.

The development will not impact on the features of interest or conservation objectives of any of the sites.

- 7.7.3. In conclusion, having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site. An appropriate assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the provisions of the Dun-Laoghaire Rathdown County Development Plan 2016-2022, the location of the site within the Dalkey ACA and the proximity of the site to a number of protected structures, and the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 17th day of November, 2020 and by the further plans and particulars received by An Bord Pleanála on the 19th day of January 2021, except as may otherwise be required in order to comply with

the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) The third level pavilion, walkway and garden shall be omitted in accordance with the alternative option drawings submitted to An Bord Pleanála on the 19th of January 2021.

A complete set of revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/ An Bord Pleanála prior to commencement of development.

Reason: In the interest of visual amenity having regard to the location of the site in the Dalkey ACA and the proximity of the site to protected structures.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of

development. In default of agreement the matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

4. Prior to first occupation of the ground floor commercial units and the 3 No. kiosks, details of the exact use and opening hours of the units and kiosks shall be submitted to and agreed in writing by the Planning Authority:

Reason: To ensure a satisfactory standard of development and in the interest of the proper planning and sustainable development of the area.

5. Details of all security shuttering, external shopfronts, lighting and signage shall be as submitted to An Bord Pleanála with this application unless otherwise submitted to, and agreed in writing with, the planning authority prior to occupation of the commercial/retail units.

Reason: In the interest of the amenities of the area/visual amenity.

6. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external

plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

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

8. Proposals for a development name, commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

9. (a) Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development / installation of lighting.

(b) External lighting shall be directed away from adjacent housing and shall be directed and cowled such as to reduce, as far as possible, the light scatter over adjacent houses. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

10. The developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11. (a) All mitigation measures outlined in the Noise Report submitted to the Planning Authority on the 17th day of November 2020 shall be complied with.

(b) Operational noise levels shall, in any event, not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the

nearest noise sensitive location or between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.

12. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

14. The developer shall facilitate the planning authority in the archaeological appraisal of the site, and in preserving, recording or otherwise protecting

archaeological materials or features which may exist within it. In this regard, the developer shall -

- (a) employ a suitably qualified archaeologist who shall test the site prior to commencement of development;
- (b) submit to, and agree in writing with, the planning authority full details of the foundation design to include details of pile layout and pile caps along with a report prepared by a suitably qualified archaeologist on the inspections of same;
- (c) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development;
- (d) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works; and
- (e) provide satisfactory arrangements for the recording and removal of any archaeological material which may be considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site on account of the location within the Zone of Archaeological Potential and to secure the preservation of any remains in situ.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be

referred to An Bord Pleanála to determine the proper application of the terms of the Scheme

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

Emer Doyle
Planning Inspector

16th July 2021