



An
Bord
Pleanála

Inspector's Report

ABP-311260-21

Development	Demolition of the existing two-storey building and the construction of a 3-7 storey mixed use building (8 no. 2-bedroom apartments and 1 no. commercial unit).
Location	13-15, Rock Hill, Blackrock, Co. Dublin.
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D20A/0567
Applicant(s)	Tribal Investments (Rockhill) Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party vs. Grant
Appellant(s)	Deryn Mackay, Grestel Ltd T/A Khan

Observer(s)

1. David Martin of BVRAG
2. Ken J. Byrne
3. Tom Feeney (Blackrock Business Network)

Date of Site Inspection

13th July 2022

Inspector

Stephen Ward

1.0 Site Location and Description

- 1.1. The site of the proposed development is located on the northern side of Rock Hill, to the northwest end of Main Street, Blackrock. The DART rail line and its Blackrock station are located along the coastline c. 50m to the north of the site. Otherwise, the surrounding area is characterised by a mix of residential, retail, and commercial uses.
- 1.2. The site has an overall stated area of c. 300m² and contains 13-15 Rock Hill, which is a flat-roofed 2-storey-over-basement building. The ground floor currently comprises a single retail unit, while the 1st floor appears to consist of an apartment and offices. The application states that the building dates from the 1960's. The building frontage along Rock Hill is notably setback from the adjoining buildings and the resultant forecourt area contains a small street tree.
- 1.3. The site levels drop significantly from the front to the rear with a total drop of approximately 5 metres. The rear of the site consists of two small gardens/terraces and planting which bound onto a public car park on lower ground to the north. To the east and west of the site are 2-storey buildings with retail/commercial units at street level and offices at first floor level.

2.0 Proposed Development

- 2.1. In summary, permission was sought for a development consisting of the following:
 - demolition of the existing two-storey over partial basement building and associated structures
 - construction of a 3-7 storey mixed use building with 8 no. 2-bedroom apartments with associated recessed balconies and 1 no. commercial unit,
 - provision of part of a pedestrian route to facilitate a future connection from Rock Hill to the current public carpark and DART station to rear off Bath Place
 - the provision of vehicular access with 3 no. undercroft car parking spaces, refuse area and bicycle storage at ground level to rear
 - drainage and all associated site and infrastructure works necessary to facilitate the development.

- 2.2. The applicant's further information response included alterations to the proposed development. The main changes can be summarised as follows:
- Replacement of one of the ground floor apartments (unit 3) with an office unit
 - Extended the scope of works to include a footpath and flight of stairs to the existing car park to the rear, along with associated amendments to the existing car park layout. This was proposed as an interim solution while a plan for the car park is developed.
 - Additional bicycle parking (total of 22 spaces) included in lieu of the 3 no. car spaces.
 - Alterations to the design of the top floor level and various alterations to the floor plan layout and elevational treatment.
- 2.3. The proposal will have a sedum roof to attenuate rainwater. Any excess water will drain to a public surface water drain on Rock Hill. Foul water will be discharged to the existing public sewer on Rock Hill. The apartment below street level may either be pumped to this sewer or alternatively via a line through the car park to an existing sewer on Bath Place. It is proposed to connect to the existing public water supply.

3.0 Planning Authority Decision

3.1. Decision

By order dated 4th August 2021, Dun Laoghaire-Rathdown County Council (DLRCC) issued notification of the decision to grant permission subject to 26 conditions.

Condition no. 2 requires the developer to complete the pedestrian connection prior to occupation of any units. Condition no. 4 requires the ground floor unit fronting onto Rock Hill to be a 'retail' unit.

3.2. Planning Authority Reports

3.2.1. Further Information

Following initial assessment of the application, the planning authority issued a further information request. The issues raised in the request can be summarised as follows:

- Clarification of the design and delivery of the proposed pedestrian connection, including consent for its delivery and implications for the existing car park.
- Lighting proposals for the pedestrian connection.
- Request to omit the third-floor level in order to mitigate the visual impact of the scheme, including impacts on the streetscape and the wider cACA.
- Request to submit verified photomontages with viewpoints from the seafront to the north of the site.
- Concerns about vehicular access through the existing car park and a request to omit the proposed car parking spaces.
- Comprehensive landscaping proposals.
- Proposals for building setback to facilitate a footpath along Rock Hill.
- Proposals for a minimum of 20 no. bicycle spaces.
- Proposals for a construction management plan.
- Proposals for waste management and environmental management.

Following a response to this request, a request for clarification of the further information was issued. The matters raised can be summarised as follows:

- Confirmation of consent for the proposed works outside the applicant's control.
- Confirmation that the pedestrian connection is to be taken in charge and clarification of lighting design proposals for same.

3.2.2. Planning Reports

Following the submission of the above information, the DLRCC planner's assessment can be summarised as follows:

- The proposed uses are consistent with the zoning for the site and have the potential to strengthen the role of the district centre. The proposed 'commercial' unit should be conditioned to have a 'retail' use.
- The proposed pedestrian connection has the potential to greatly enhance permeability through the village. The revised design submitted as further

information will successfully deliver the connection in accordance with the Public Realm Strategy of the Blackrock LAP.

- The existing building makes a limited contribution to built heritage and there is no objection to its demolition.
- While concerns were raised about the visual impact of the top floor level, the further information response has reduced its impact and the planning authority is satisfied that it is suitably articulated. The top floor level will be legible from a distance but will not detract from the character of the streetscape or the wider cACA.
- The building is designed to a high standard and the proposed palette of materials and finishes are durable and sympathetic to the context.
- The proposed contemporary shopfront design is sympathetic to surrounding character and will provide a positive impact on the streetscape.
- The proposal will not have an unreasonable impact on the residential amenity of properties in the vicinity.
- The omission of car-parking and the revised façade at lower ground level (to the north) will provide a satisfactory interface with the adjoining car park.
- The Daylight and Sunlight Assessment submitted as further information has satisfactorily established that additional overshadowing would be minimal and would not compromise the future use of the space.
- The removal of the street tree to the front of the site is acceptable given the need for redevelopment of the site. Any requirement for a development contribution from the 'Parks and Landscape section' can be waived in light of the proposed delivery of the pedestrian connection.
- It was recommended to grant permission, and this forms the basis of the DLRCC decision.

3.2.3. Other Technical Reports

Drainage: No objections subject to conditions.

Environment Section: Report of 22/9/20 requests that deficiencies be addressed in relation to Construction Waste and Environmental Management; Operational Waste Management; and Environmental Impacts at Operational Stage.

Environmental Enforcement: Report of 10/5/21 outlines concerns about rock-breaking proposals and recommends that a Construction Management Plan be agreed by condition.

Environmental Health: Report of 28/7/21 states that there are no objections subject to conditions relating to noise, hours of working/operation, emissions, waste etc.

Transportation: The initial report of 30/9/20 requests further information in relation to building setback and footpath provision; omission of vehicular access and car-parking; cycle parking proposals; consent for the pedestrian connection works outside the applicant's ownership; construction management plans; and operational waste management plans. Report of 11/5/21 confirms that proposals relating to building setback, bicycle parking, and construction management are acceptable, but that clarification is required in relation to consent for works outside the applicant's ownership. Report of 22/7/21 confirms that there are no objections subject to conditions.

Public Lighting: Report of 10/5/21 requests further information in relation to lighting design and specification. Report of 15/7/21 confirms that lighting levels are acceptable but that some lighting will not be taken in charge by DLRCC.

Heritage Office: Report of 29/9/20 states that the proposal fails to preserve or enhance the character of the streetscape and is contrary to Policy AR17 of the CDP.

Parks & Landscape Services: Report of 22/9/20 requests further information in relation to Landscape Design Rationale and Landscape Design and Maintenance proposals; a comprehensive Tree Report; and the appointment of an ecologist and associated ecological mitigation measures.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Several submissions were received at various stages of the planning application process. The issues raised in the submissions can be summarised as follows:

- Excessive scale and building height and impact on the streetscape
- Concerns about the pedestrian connection and potential anti-social behaviour
- Tenancy rights of the existing occupants
- Adverse impacts on the development potential of the adjoining lands to the north, including impacts relating to overshadowing
- Loss of public parking
- On-site parking requires a vehicular right of way and should not be included
- Management concerns relating to waste
- Contradictory information in the submitted plans
- The proposal is contrary to the Blackrock LAP aims for the public realm at the seafront
- Further information was not received within the statutory time period
- There are many positive attributes associated with the proposal, including increased density and vitality.

4.0 Planning History

There would not appear to be any recent relevant planning history pertaining to the subject site.

Under **ABP Ref. 311728-21** there is a current appeal case on a site to the northwest end of the DART car park. The proposal is for the demolition of existing one and a half storey structure with pitched roof and the construction of a part two storey and part 15 storey mixed use development.

DLRCC Reg. Ref. D21A/0729: Planning permission sought from the Local Authority for a mixed use residential (13 apartments) and retail development at 23 Rock Hill.

At the time of writing this Report, the Local Authority had issued a decision to grant permission (dated 15th July 2022).

5.0 Policy Context

5.1. National Policy/Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards;
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking;
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location;
- NPO 35 aims to increase residential density in settlements through a range of measures including infill development and site-based regeneration.

5.1.2 Following the theme of 'compact urban growth' and NPO 13, **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**, hereafter referred to as 'the Building Height Guidelines', outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**, hereafter referred to as 'the Sustainable Residential Development Guidelines', sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

5.1.4 **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)**, hereafter referred to as ‘the Apartments Guidelines’, sets out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking.

5.2. Development Plan

5.2.1. Although the DLRCC decision was made on the basis of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, that plan has since been replaced by new Dun Laoghaire-Rathdown County Development Plan 2022-2028, which came into effect on 21st April 2022 and is now the operational plan for the purposes of the Board decision.

5.2.2. The site is zoned as ‘Objective DC’, which is ‘*To protect, provide for and-or improve mixed -use district centre facilities.*’ Table 13.1.2 confirms that uses including ‘residential’, ‘offices less than 1000sq.m.’, and a range of ‘shop’ types are ‘permitted in principle’ in this zone.

5.2.3. Specific Local Objective (SLO) 129 relates to lands to the north of the site at Bath Place and is ‘*To provide for the development of the publicly owned lands at Bath Place, Blackrock for primarily public uses, in conjunction with the community of Blackrock during the lifetime of this Plan.*’

5.2.4. Chapter 4 ‘Neighbourhood – People, Homes and Place’ aims to increase delivery of housing subject to alignment with the NPF and RSES; the Core Strategy, Housing Strategy, and Housing Need Demand Assessments; and embedding the concept of neighbourhood and community into spatial planning. Section 4.3 deals with ‘Homes’ and relevant policies/objectives can be summarised as follows:

PHP18: Promotes increased density on suitable sites subject to suitable design which respects the character of the surrounding area.

PHP20: Seeks to protect the residential amenity of existing properties.

PHP27: Encourages an appropriate mix of housing

5.2.5. Section 4.4 ‘Place’ promotes quality design and healthy placemaking in accordance with national policy and guidance. It sets out policies/objectives aimed at achieving a

high quality of design and layout in residential developments. Relevant policies can be summarised as follows:

PHP37: All development proposals to contribute positively to enhance public realm.

PHP42: Ensure high quality design of all new development and compliance with the Building Height Strategy (consistent with NPO 13 of the NPF).

PHP43: Use LAPs and/or Urban Framework Plans to promote the principles of good urban design.

- 5.2.6. Chapter 7 deals with 'Towns, Villages and Retail Development'. Blackrock is identified as a 'District Centre' in the overall Retail Hierarchy. The overall strategy is to support the ongoing redevelopment of the Blackrock and Frascati Shopping Centres and the consolidation of Blackrock Main Street as a mixed-use centre in accordance with an approved Local Area Plan. Any retail expansion should be limited and proportionate to the current percentage share of the overall net retail floorspace in the core retail area, as indicated in the Local Area Plan.
- 5.2.7. The site is included within a candidate Architectural Conservation Area (cACA) and the former Post Office building (No. 7 Rock Hill) is a Protected Structure. Chapter 11 of the Development Plan deals with Heritage and Conservation and Policy Objective HER18 states that development proposals within cACAs will be assessed having regard to the impact on the character of the area.
- 5.2.8. Chapter 12 of the Development Plan deals with Development Management. The following sections are relevant:
- 12.3** outlines guidance on criteria for residential developments and aims for high quality design to improve the living environment for residents.
- 12.4** sets out Transport guidance, including standards relating to traffic management, road safety, and parking.
- 12.6** outlines criteria and guidance for the assessment of various commercial/retail proposals in Towns, District and Neighbourhood Centres.
- 12.8** deals with Open Space and Recreation, including quantitative and qualitative standards for residential developments.

5.3. **Blackrock Local Area Plan 2015-2021 (extended to 2025)**

In 2020, the life of the Blackrock LAP 2015-2021 was extended to 2025. Drawing 4 'Public Realm Strategy' indicates an aim to improve pedestrian connections through the site to the seafront and to provide a relocated Bus Interchange / Terminus along Rock Hill to the east of the site. The site is also located within the 'core retail area' as per Map 15. Relevant policies and objectives of the LAP can be summarised as follows:

BV3: Encourage the redevelopment of buildings which are considered detrimental to the character of the village core.

BV4: Ensure that the design of new development shall respect existing scale and form and shall enhance the well-defined streetscape.

UDS1: Strengthen the urban structure, ensuring the new development incorporates a coherent, legible and permeable urban form that protects and compliments the character of the street/area - in terms of proportion, enclosure, building line, design and by the marrying of new modern architecture with historic structures.

BK04: Ensure residential development is at a scale and density appropriate to its location.

BK05: Ensure Building Height makes a positive contribution to built form and does not adversely impact on local amenity.

SH1: Ensure that building height is in accordance with the limits set out on Map 12.

BK08: Facilitate the upgrade and enhancement of the public realm adjacent to the seafront and to encourage the reconnection of, and relationship between, Blackrock Village, the Main Street and the seafront.

PR3: To reconfigure and upgrade the existing roadway between Bath Place and the DART Station to provide for a dedicated pedestrian precinct.

PR4: To remodel and reconfigure the public car parks adjacent to the seafront at Blackrock to create a more efficient and user-friendly layout that would be complemented with the planned public realm improvements.

PR5: In the event of any redevelopment of the area adjacent to the DART Station, proposals shall be advanced to afford priority to pedestrians and the creation of

active street frontage onto the seafront. Any new development shall have regard to orientation and micro-climate issues and shall be stepped down from Main Street to avoid overshadowing.

PR6: To seek a new pedestrian connection between Rock Hill / Main Street and the DART Station identified on Drawing 4.

BK09: Upgrade the public realm along Main Street and Rock Hill.

PC2: To encourage the provision of a new pedestrian link from Bath Place through to Main Street / Rock Hill.

CP3: To rationalise and improve car parking facilities at the DART Station, in conjunction with the relocation of the bus terminus under Objective PT1, creating a new, more efficient and user friendly car parking area together with the potential to allow for the enhancement of the public realm in accordance with Section 3.6 the 'Public Realm Strategy' and to allow for any further redevelopment of this area in the future.

H5: To promote the creation and take up of residential uses over commercial properties to facilitate the provision of a wide mix of housing types.

BK22: To support the continued vitality and viability of Blackrock District Centre by facilitating a mix of uses and activities.

VV2: To control the provision of non-retail uses at ground floor level on Main Street, Rock Hill and in both the Blackrock and Frascati Shopping Centres.

5.4. **Natural Heritage Designations**

The South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA extend to the coastline, approximately 40m north of the site.

5.5. **Preliminary Examination Screening for Environmental Impact Assessment**

5.5.1. With regard to EIA thresholds, Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,

- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha 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.)

5.5.2. It is proposed (as amended by further information) to demolish the existing building and construct a new building consisting of 2 no. commercial units and 7 no. apartments. Therefore, the number of dwellings proposed is well below the threshold of 500 dwelling units. The site has an overall area of c. 0.03 ha and is therefore well below the applicable thresholds, even if the area is considered a ‘business district’.

5.5.3. Having regard to the nature and limited scale of the proposed development, the location of the site on lands that are zoned and serviced, the existing pattern of development in the vicinity, and the distance of the site from any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended), I consider that the proposed development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR is not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

The decision of DLRCC to grant permission has been appealed by Deryn Mackay, T/A Khan, of 15 Rock Hill, Blackrock. The appellant is stated to have a long-term lease for the existing retail unit in the building and has outlined concerns in relation to the impact on leaseholder rights. The grounds of appeal can be summarised under the following headings:

Massing, Design, and Height

- The proposal would be contrary to specific objectives outlined in the CDP 2016-2022 (Policy AR17) and the Blackrock LAP, which was reinforced in the Planner’s Report of 5th October 2020.

- The applicant's response did not include a height reduction and the revisions to the top floor mean that it is still clearly visible, overbearing, and obtrusive in the streetscape.
- The appellant is not aware of the construction in recent years of any taller buildings in the Main Street / Rock Hill area.
- The proposal is in contravention of Objective SH1 (building height) and Policy PR5 (seafront public realm objectives) of the Blackrock LAP.

Pedestrian passageway

- The location and constrained dimensions would be contrary to best practice and would constitute a risk to public safety.
- While the concept of enhanced permeability is supported, this narrow, enclosed passageway has the potential for anti-social behaviour and would not be a positive addition to the village.
- There is no indication of integration with the proposed seafront plaza and the proposed pedestrian connection would be premature.
- The Urban Design Manual (DoEHLG, 2009) outlines guidance for the design of such connections. The proposal would have limited sightlines, limited passive surveillance, and inactive flanking frontages. The local authority has a history of trying to eliminate such passages and should not create a new one.

6.2. **Planning Authority Response**

The Planning Authority's response refers to the previous Planner's Report and contends that the appeal does not justify a change of attitude to the proposed development.

6.3. **Observations**

Three submissions have been received on the appeal. The concerns raised in the submissions are generally similar and can be summarised collectively under the following headings:

Building height, design, massing, and scale

- The proposed top floor is still clearly visible, overbearing, and obtrusive in the streetscape.
- The absence of the construction in recent years of any taller buildings in the area.
- The proposal is inconsistent with the streetscape at Rock Hill and Bath Place and will dominate historical buildings. It runs counter to the designation of the area as a cACA.
- The proposed height exceeds the recommended height for the site (2 stories to Rock Hill, 3 stories to Bath Place) as per the LAP.
- The proposal will obstruct sunlight to the proposed 'concourse area' at Bath Place and does not provide a stepped down height profile as per the LAP.
- The lack of active street frontage at ground level on Bath Place does not contribute to the public realm.

Pedestrian passageway

- The proposal requires the removal of up to 11 car parking spaces. The DART long term car park is very important to people who work in the village and there are limited spaces as things stand.
- While the concept of enhanced permeability is supported, this narrow, enclosed passageway has the potential for anti-social behaviour and public safety concerns and would not be a positive addition to the village.
- The width of the passageway is inadequate in terms of health and safety guidelines.
- Ken J. Byrne (17 Rock Hill) is concerned that his side door access will adjoin the passageway. The concerns relate to potential blockage of access/egress; anti-social behaviour; and inadequate width.
- Access to the seafront is available via Bath Avenue or Blackrock Park and the proposed access is therefore unnecessary.
- Similar walkways have caused problems in the past.

6.4 Applicant Response

The applicant has responded to the grounds of appeal. The issues raised can be summarised under the following headings:

Tenancy and other issues

- Landlord/tenant issues have no bearing on the planning process.
- A retail unit of a similar size to that currently leased by the appellant is included in the proposal.
- The applicant's original submission to the planning authority concerned only tenancy issues. It was only in a later observation to DLRCC that additional issues were raised by the appellant. The applicant is of the view that the appellant's actions are vexatious, and the Board is requested to seriously consider the validity of the appeal under 'Section 138'.

Building design, massing, and height

- The further information response revised the design of the top floor, including changes to materials, form, and setback. Verified views were submitted and proposals were deemed acceptable by DLRCC.
- The proposal does not contravene Policy AR17. Buildings along Main Street vary from 2-3 stories and it is clear that the proposal does not detract from the streetscape as the roofspace echoes the prominent brick gabled roofs of the Victorian buildings.
- Objective SH1 and Map 12 of the LAP refers to existing building heights, not height limits. The 'Building Height Guidelines' caution against the use of blanket limitations and there is nothing in these guidelines or the LAP that determines a fixed height limit for Blackrock Village.
- The appeal does not clarify the alleged aspects of the development which are not in compliance with Policy PR5. The policy has been adhered to by creating an active frontage to the seafront and a direct link to Rock Hill. The overshadowing study has demonstrated that the impact on the area would be minimal.

Pedestrian Passageway

- The proposal has been developed at the suggestion of DLRCC. A number of similar routes have been successfully developed in Dun Laoghaire in the interests of urban permeability and revitalisation. The applicant has always been supportive of the proposal despite the loss of considerable development area and the Planner's Report states that it would bring 'significant planning gain'.
- There will be adequate surveillance given that it includes access to the apartment scheme and office unit, as well as access to offices in an adjoining property. It will also be overlooked by the retail and office units and a detailed lighting design has been included.
- The route would be overlooked by proposed apartments at both entry points, as well as being overlooked by many existing businesses.
- The route is straight and has adequate width to ensure good sightlines. It will be well lit and will not attract anti-social behaviour.
- Conceptual studies have been included to demonstrate how the proposed access will integrate with the potential development of the seafront plaza. The proposal would provide an integral element which will act as a catalyst for the redevelopment of the area.

6.5 Prescribed Bodies

None.

7.0 Assessment

7.1. Introduction

7.1.1. The applicant has questioned the validity of the appeal on the basis that it is vexatious. I acknowledge that the appeal raises concerns about the tenancy rights of the existing leaseholder and the associated implications of the proposed development. I would agree with the applicant's contention that this matter is not relevant to the planning process, and I am satisfied that the matter should be resolved between the relevant parties, having regard to the provisions of s. 34(13) of the Planning and Development Act 2000 (as amended). However, I do consider that the appeal raises other valid planning issues and I do not consider that there are grounds for the Board to dismiss the appeal in accordance with s. 38 of the Act.

7.1.2. Having inspected the site and examined the application details and all other documentation on file, including all the submissions received in relation to the appeal and relevant local and national policies, I consider that the main issues in this appeal are as follows:

- The principle of the development
- The pedestrian connection and public realm
- Visual amenity and built heritage
- The standard of development proposed
- Impacts on surrounding properties
- Traffic and parking.

7.2. The principle of the development

7.2.1. The proposed development involves a mix of uses including a retail unit, office unit, and 7 no. apartments. The site is located with the 'District Centre' zoning, where it is the objective '*To protect, provide for and-or improve mixed-use district centre facilities*'. Having regard to the scale and range of uses proposed, I am satisfied that the proposed development is consistent with the zoning objective for the site.

7.2.2. The site is also located within the designated 'retail core' of Blackrock, within which it is planning policy to consolidate and improve the existing retail offer. The proposed

development involves the replacement of an existing retail unit with a new unit at street level onto Rock Hill. The unit is described as 'commercial retail' and I am satisfied that a 'retail' use should be conditioned in accordance with Policy VV2 of the LAP. This approach applied to the DLRCC decision (condition no. 4) and the applicant has not appealed the condition.

7.2.3. The proposed office unit further strengthens the commercial presence at ground floor level. Otherwise, the proposed upper floor apartments would be consistent with Policy H5 of the LAP which promotes residential uses over commercial uses.

7.2.4. Having regard to the foregoing, I am satisfied that the proposal involves a suitable range and scale of uses which are consistent with the zoning objective and main policies relating to the area. Accordingly, I have no objection in principle to the proposed mixed-use development at this location.

7.3. The pedestrian connection and public realm

7.3.1. The proposed development incorporates a pedestrian connection between Rock Hill and the DART car park, which is clearly consistent with the aims and objectives of the Blackrock LAP. And while this concept is generally supported by parties to the appeal, serious concerns have been raised about the design of the connection and the potential for anti-social behaviour and public safety concerns.

7.3.2. The proposed passage will have a consistent width of 2 metres. The length of the passage which would be enclosed / bounded on both sides extends to c. 20 metres, while the remainder of the route (c. 28m) would be within the open domain of the public car park. The upper level of the passage would be flat over a distance of c. 8m and would be overlooked by the side glazing of the retail unit and the glazed door of the entrance to the apartments. It would also be overlooked by the adjoining street at Rock Hill and there would be passive surveillance given the presence of the entrance to the offices at No. 17 Rock Hill. I note that concerns have been raised regarding the blockage of access to No. 17, but I consider that any such matter should be resolved between the relevant parties, having regard to the provisions of s. 34(13) of the Planning and Development Act 2000 (as amended).

7.3.3. The remainder of the enclosed passage extends to c. 12 metres over 2 flights of steps. The height of this space varies to a significant maximum of c. 5.3 metres and

2 no. office windows would overlook the space from ground floor level. I also consider that the space would be overlooked from the adjoining car park area to the north. A detailed lighting design has been included and I am satisfied that final details of same can be agreed by condition with the planning authority.

- 7.3.4. In ideal circumstances, I acknowledge that the proposed connection would be open, level, wider, and overlooked by active frontage on both sides. However, the particular characteristics of the site must be acknowledged, including its challenging topography, the presence of existing development, and the need to achieve an appropriate level of density and improved permeability at this central and accessible location. Therefore, having regard to the design characteristics as previously outlined, I consider that it would constitute a relatively short passage and I am satisfied that it would be adequately lit and overlooked by existing/proposed development and the public domain.
- 7.3.5. In addition to providing an improved connection to the DART station, the policy rationale for the proposed connection is largely based on planned public realm improvements to the car park area in accordance with policies PR4 and PR5 of the Blackrock LAP. The design details of any such public realm scheme have yet to be finalised and the proposed connection has been proposed as a temporary measure. The applicant has included an indicative study to illustrate how the proposed development could integrate with future development of a seafront plaza. I am satisfied that the proposed connection is acceptable as a temporary measure and that sufficient flexibility exists to ensure that the connection can be satisfactorily integrated into any future development of the car park / seafront lands.
- 7.3.6. I also note that Policy PR5 highlights the need to create active street frontage onto the seafront and to avoid overshadowing of this seafront space. The current proposal includes significant glazing and private amenity space overlooking the seafront space. And while the basement frontage is understandably more enclosed, the elevational details aim to soften its appearance through the use of perforated brick and soft landscaping. I consider this to effectively be a temporary frontage as the redevelopment of the area will ultimately provide a comprehensive and improved frontage. Accordingly, I am satisfied that the proposal provides a suitable interface with the car park area.

- 7.3.7. In terms of overshadowing impacts, the applicant has included a Daylight and Sunlight Assessment Report, prepared by 3D Design Bureau. The report assesses the impact of the development on sunlight levels to the existing car park and adjoining bus space to the north of the site. The assessment has been carried out with reference to the standards outlined in the BRE guide 'Site Layout Planning for Daylight and Sunlight'. I have considered the report submitted by the applicant and have had regard to the BRE guide. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings.
- 7.3.8. For such external amenity spaces to appear adequately sunlit throughout the year, the BRE guide recommends that at least half of the space should receive at least 2 hours of sunshine on 21st March. If as a result of new development this cannot be met, and the area which can comply is less than 0.8 times its former value, then loss of sunlight is likely to be noticeable.
- 7.3.9. The applicant's assessment outlines that 74.5% of the existing car park and 79% of the existing bus space would achieve 2 hours of sunlight on the 21st March. This would comply with BRE standards, and I would concur with the applicant's conclusion that any impacts would be 'imperceptible'. Shadow studies have also been prepared for June 21st and December 21st and I am satisfied that they demonstrate that the proposed development would not have any unacceptable impacts on sunlight levels to these spaces.
- 7.3.10. Having regard to the foregoing, I conclude that the proposed design for the pedestrian connection is acceptable and that it and the remainder of the development will satisfactorily integrate with the planned public realm improvements for the adjoining lands to the north. Accordingly, I have no objections in this regard.

7.4. Visual amenity and built heritage

- 7.4.1. At the outset, the proposed development involves the demolition of the existing 2-storey-above-basement building on site. I am satisfied that this building does not make a significant contribution to the character of the area, and I have no objection to its demolition.
- 7.4.2. Much of the appeal debate centres around the height, scale, and design of the proposed building and its impact on the streetscape and wider cACA. In terms of

building height policy, I note that Map 12 of the Blackrock LAP outlines 'proposed building height limits' for certain sites. Furthermore, Appendix 5 (Building Heights Strategy) has been incorporated into the current CDP 2022-2028 in response to the Building Height Guidelines. Section 4.2.7 refers to the Blackrock LAP and outlines that there may be instances where an argument can be made for increased height within the plan area subject to assessment of the criteria outlined in section 5 of the Strategy. However, Map 12 of the LAP does not apply any such limits for the subject site as the map simply reflects the 'existing building height'. Therefore, I do not consider that any particular height limit applies to the site.

7.4.3. Section 4.4 (Policy Approach) of the Building Height Strategy outlines that proposals for increased height in certain circumstances (including Blackrock District Centre as per Policy Objective BHS I) shall be assessed in accordance with the criteria set out in Section 5 of the Strategy. Policy Objective BHS I supports the consideration of increased height and taller buildings in Blackrock District Centre and in areas well served by public transport links (e.g. within 1km/10 min walk of DART Stations) subject to protection of existing amenities / sensitivities and compliance with the criteria outlined in Table 5.1 of the Strategy.

7.4.4. Table 5.1 of the Strategy outlines performance-based criteria for the assessment of application at various levels, which is similar to the criteria outlined in the Building Height Guidelines. Having considered the Table 5.1 criteria, I would summarise as follows:

At County Level

- The proposal assists in achieving NPF objectives by providing increased density on a brownfield, infill site.
- Given the proximity to the DART and bus services, the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.
- In section 7.3 of this report, I have previously outlined that the proposed development will satisfactorily integrate with the public realm to the north of the site. The applicant's 'Planning Submission' report includes an 'architectural statement' and 'Verified Views' were submitted as further information. When viewed from the north of the site, the proposed

development would largely be seen in the context of other modern developments of similar scale. I would accept that the proposed development will be taller than adjoining developments, but not to any significant or unacceptable extent. Along Rock Hill to the south, the proposed 3-storey height would exceed that of the prevailing 2-storey buildings adjoining. However, it would reinforce the existing building line and consolidate the streetscape, and I am satisfied that the recessed top floor would not be prominent in localised views from Rock Hill. I accept that the top floor would be more visible in more distant views (e.g. from Main Street, Verified View V1). However, while it would be higher than adjoining properties, I consider that the top floor has been suitably articulated in form and materials and would largely assimilate with the form and scale of the existing streetscape. Accordingly, it would successfully integrate into the character and public realm of the area.

- There are no protected views or prospects toward the appeal site.
- The proposal is of limited scale and would not significantly impact on the infrastructural carrying capacity of the area.

At District / Neighbourhood / Street level

- The proposed development responds to the existing built environment by reinforcing the existing streetscape and form of development along Rock Hill. It also responds to the natural environment (the seafront) by providing an appropriate interface with the coastline and adjoining areas to the north of the site. I have considered the 12 criteria outlined in the 'Sustainable Residential Development Guidelines' and I am satisfied that the proposal appropriately responds to the relevant elements.
- The scale of the development is limited, and the form of the building has been appropriately composed to minimise its impact. The proposed elevational treatment ensures that it will not appear monolithic or include slab blocks.
- The proposed materials include brick, concrete panels, glazing, aluminium windows, and bronze-coloured zinc cladding on the top floor. The proposals are sympathetic to the context while also providing a high-quality contemporary addition to the area.

- As previously outlined, the proposal will provide an interface and a key pedestrian linkage which will facilitate an enhanced urban design context for the planned public realm improvements to the north of the site and the marine frontage.
- The proposed development and the pedestrian connection will positively contribute to the legibility and permeability of the site and the wider area. It will facilitate public realm improvements where it meets Rock Hill and the car park to the north.
- As previously outlined, the proposal will contribute to the mix of uses and building/dwelling typologies in the area.
- The proposal is consistent with the existing urban grain and street level activity and pedestrian connection will facilitate human contact between various levels and streets/spaces.
- Having considered the proposed design and the character of the existing development on site, I consider that the proposed development will make a positive contribution to the character and identity of the neighbourhood.
- The proposed design respects the form of buildings / landscape around the site perimeter and will not detract from the amenity of neighbouring properties.

At site/building scale

- Five of the seven apartment are dual-aspect, and all units include panoramic, unobstructed views of the seafront. The glazed openings are extensive and ceiling heights exceed the 2.4m requirement, with most levels being 2.7m. Therefore, I am satisfied that the proposal maximises access to natural daylight, ventilation and views. I have previously outlined that overshadowing impacts on the adjoining lands to the north will be acceptable and given the commercial nature and form of adjoining developments to the east and west, I do not consider that there would be any unacceptable overshadowing impacts.
- Table 5.1 outlines that proposals should demonstrate compliance with the quantitative performance standards on daylight and sunlight as per the BRE guide. However, it does not state that this is a mandatory requirement and I note that the BRE guide itself allows for flexibility in terms of the application of these standards, with paragraph 1.6 stating that 'Although it gives numerical

guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'. The application was prepared in advance of the finalisation of the CDP 2022-2028 and does not include an assessment of BRE standards. However, having regard to the particular site characteristics and the design of the scheme, including a high proportion of dual aspect units, high ceilings, and extensive openings, I am satisfied that the proposed development provides an acceptable level of daylight and sunlight for the scheme.

- Given the commercial nature and form of adjoining developments to the east and west, I do not consider that there would be any unacceptable overlooking, overbearing, or overshadowing impacts.
- The proposal is not located within an ACA. I acknowledge that it is within a 'candidate ACA' and that there are protected structures in the surrounding area, including the former Post Office, Blackrock Station, and Deepwell. However, having regard to the scale and design of the proposed development and the character of adjoining development, together with the distance of the site from any Protected Structures, I do not consider that the proposed development would detract from the cACA or any protected structures.
- The application does not include an assessment of energy cost and carbon emissions. However, I am satisfied that this matter will be satisfactorily controlled via the Building Regulations and Building Control process.

County Specific Criteria

- I have acknowledged the architectural heritage and character of this coastal area. However, I do not consider that the proposed development would seriously detract from these assets in any significant way.
- I do not consider that any further specific requirements are required in respect of impacts on down draft, bird/bat areas, telecommunications channels, or air navigation.
- Relevant environmental assessment requirements are addressed in sections 5.5 and 8 of this report.
- The site is not a larger redevelopment site and has does not have potential to incorporate new streets. However, through the incorporation of the pedestrian connection and integration with the existing/planned public realm, together

with the use of increased density of an appropriate scale and form, I consider that the proposal makes a positive contribution to place making.

- 7.4.5. Having regard to the foregoing, I am satisfied the proposed development is acceptable having regard to the criteria outlined in Table 5.1 of the Building Heights Strategy in the CDP 2022-2028. The proposed building height, massing, scale, and design is acceptable and can be accommodated on the site without adversely impacting on the visual amenity or built heritage of the area. Accordingly, I have no objections in this regard.

7.5. The standard of development proposed

Quantum of development

- 7.5.1. A total of 7 apartments is proposed on a stated site area of 0.03 hectares. While this equates to a high density of c. 233 units per hectare, it must be noted that this density is proposed at a limited scale. Policy Objective PHP18 generally supports higher residential density on infill/brownfield sites subject to compliance with development management criteria as outlined in Chapter 12. Consistent with section 5.8 of the Sustainable Residential Development Guidelines, Section 4.3.1 of the CDP also confirms that higher densities (minimum 50 units per hectare) will be encouraged on sites within 1km/10-min walk of a rail station or District Centre. The CDP or the Blackrock LAP does not place any specific density limit / range on the subject site.
- 7.5.2. Having regard to its central and accessible location within the District Centre and adjoining the DART station, I consider the appeal site to be suitable for higher densities in principle. The suitability of the proposed density will be assessed further in this section with regard to other relevant standards and criteria.

Mix of Units

- 7.5.3. It is proposed to provide 7 no. 2-bed units. I note the policies of the Development Plan including PHP27 regarding housing type and mix, which is easier to achieve in larger schemes. However, SPPR 2 of the Apartments Guidelines outlines that on urban infill sites of up to 0.25 ha where up to 9 units are proposed, there shall be no restriction on dwelling mix, provided no more than 50% of units comprise studio-type units. Given that no studio units are proposed, I have no objection to the dwelling mix

proposed. The application states that a Part V exemption application was made under s.97 of the Act, but it is not clear whether this was granted or not. A standard Part V condition should apply, which allows for the eventuality of an exemption certificate having been granted.

Floor areas and dimensions

- 7.5.4. I have reviewed the gross floor areas for each individual unit, and I am satisfied that they comfortably exceed the minimum areas as per the Apartments Guidelines. Section 3.8 (a) of the Guidelines sets out that the majority of apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1-, 2- or 3-bedroom unit types, by a minimum of 10%. And while this clearly does not apply to the current proposal for 7 units, I note that the proposal would also exceed this standard.
- 7.5.5. I have also examined the internal room areas and widths and consider that they comply with the minimum requirements for living/kitchen/dining spaces, bedrooms, and storage as set out in Appendix 1 of the Guidelines. I note that some individual storage spaces exceed 3.5m but I am satisfied that the spaces are not suitable for any other use and are acceptable. Excluding the rear basement level, all ceiling heights exceed the minimum recommendations of the Apartments Guidelines for 2.7m (ground/street level) and 2.4m (above ground level).

Aspect

- 7.5.6. The Apartments Guidelines (SPPR 4) require that a minimum of 33% dual aspect units be provided in central and accessible urban locations, albeit that this may be relaxed on urban infill sites up to 0.25ha. I am satisfied that the site is within a central/accessible urban location having regard to the criteria outlined in section 2.4 of the Apartment Guidelines and the proximity of the site to the district centre and public transport services. I consider that 5 of the 7 proposed units (i.e. 71%) can be considered dual aspect. I note that the single-aspect units are north-facing, but I consider that they are acceptable in accordance with section 3.18 of the Apartments Guidelines given that they would overlook the seafront area. Accordingly, I consider that the dual-aspect ratio significantly exceeds requirements and I have no objections in this regard.

Amenity Space

- 7.5.7. Each of the proposed units has direct access off living areas to a private amenity space and the amenity areas meet the minimum requirements of the Apartments Guidelines. Section 3.39 of the Guidelines also states that private amenity standards on urban infill sites of up to 0.25ha may be relaxed in part or whole, subject to overall design quality. Accordingly, private amenity spaces are not necessarily mandatory in this case. I accept that the spaces are predominantly north-facing, but I consider this to be appropriate given the attractive seafront outlook to the rear of the site. I consider that the private amenity space proposals are acceptable in terms of quantity and quality.
- 7.5.8. A shared communal amenity terrace (21m²) is proposed on the top floor with a south-facing aspect. Based on Appendix 1 of the Apartments Guidelines, the proposed development would require a minimum communal open space area of 49m². Again, section 4.12 of the Apartments Guidelines also allows for relaxation of this requirement in part or whole in the case of small urban infill sites less than 0.25ha. Having regard to the limited size and restricted nature of the site, the inclusion of private amenity spaces for all units, and the proximity of the site to a wide range of public open spaces and amenities, I consider that the communal amenity space proposals are acceptable in this case.
- 7.5.9. Section 12.8.4 of the CDP states that 10% of the overall site area for all large-scale mixed-use development shall be reserved for public open space/public realm. This is not a 'large-scale' development and accordingly this requirement does not apply. However, it also states that the residential element of mixed-use scheme shall comply with Table 12.8 of the Plan, which requires 15% of the site for open space in built-up areas. Where the required public open space standards cannot be achieved for mixed use schemes, the Council will also require a contribution in lieu to be paid by the developer.
- 7.5.10. Given the restriction and limitations of the site, I do not consider it feasible to provide the open space requirements on site in a conventional manner. The issue of a financial contribution was addressed by the planning authority, and it was decided that a contribution should be waived given the inclusion of the pedestrian connection in the scheme. I note that the area of the pedestrian connection extends to c. 95m²,

which is a substantial proportion of the overall site (c. 31%) and represents a significant contribution to the public realm. Accordingly, I have no objections in relation to public open space requirements.

Communal Facilities

7.5.11. A designated residential bin store is proposed at basement level. It would have adequate capacity to cater for the 3-bin system and would be enclosed and ventilated through the use of perforated brick. It is easily accessible for the occupants of the units and collection can be facilitated via the adjoining car park. Sheltered bicycle storage facilities would also be provided at the basement level for the convenience of residents. The communal access and stair/lift cores are also appropriately designed and laid out and are acceptable in accordance with the provisions of the Apartments Guidelines. Given the limited scale of the development I am satisfied that no other communal facilities are required.

Security

7.5.12. Access to the retail unit is provided off the street. Access to the apartments and office unit is provided through the pedestrian connection to the side and the rear basement level entrance. I have previously outlined the concerns raised about public safety and anti-social behaviour associated with the pedestrian connection. However, I am satisfied that the pedestrian connection and other access points have been adequately designed and will be appropriately overlooked by existing/proposed development and the public realm. Accordingly, no significant security concerns arise in this case.

Conclusions on the standard of development

7.5.13. Having regard to the foregoing, I am satisfied that the proposed development provides a suitable density and mix of units with appropriately designed and sized internal and external spaces. Accordingly, I am satisfied that it would provide a suitable standard of amenity for the prospective occupants.

7.6. Impacts on surrounding properties

7.6.1. In outlining design criteria for residential development, section 12.3.1.1 of the CDP highlights the need to consider levels of privacy and amenity, including consideration of overlooking and the appropriate use of screening devices. In this case the

proposed development is bounded by commercial properties to the east and west, which are not overly sensitive to overlooking impacts. Otherwise, the proposed development predominantly overlooks the public street to the south and the public car park to the north. Having considered the nature of existing development and the design of the proposed development, I do not consider that there will be any significant overlooking of windows or private amenity spaces. Accordingly, I have no objection in relation to potential privacy impacts.

- 7.6.2. Section 12.3.1.1 of the CDP also highlights the need to consider sunlight/daylight standards. It does not specify any particular standards, but the Sustainable Residential Development Guidelines (section 7.2) acknowledges the potential for overshadowing issues and states that the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 1991) or B.S. 8206 Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting should be followed in this regard.
- 7.6.3. I have previously outlined that the BRE guidelines allow for flexibility in their application. It should also be noted that they relate predominantly to impacts on residential properties, although other properties that have a requirement for daylight/sunlight are also considered. In this regard, I again highlight that the proposed development is flanked by commercial properties to the east and west, the open public car park to the north, and the public street to the south.
- 7.6.4. I have already outlined my opinion that the proposed development would not result in any unacceptable overshadowing impacts on the car/bus parking spaces to the north of the site. I acknowledge that the adjoining commercial properties also contain some private open space on the rear (northern) side. However, having considered the applicant's shadow study for the 21st March, I note that these spaces are already substantially overshadowed by existing development and this would not be significantly exacerbated by the proposed development. There are no significant windows or private amenity spaces to the east or west sides of the development, and I do not consider that the proposal would have any significant impacts to the south.
- 7.6.5. In conclusion regarding daylight/sunlight impacts, I do not consider that the proposed development would result in any unacceptable impacts on surrounding properties. I would again highlight the stated requirement for flexibility in the application of BRE

standards and I would also consider that the proposed development is appropriate given the need to achieve higher density on infill/brownfield sites at central and accessible locations such as this.

- 7.6.6. I acknowledge that there is potential for some level of disturbance to adjoining properties during the construction stage. However, the subject site and adjoining properties are on zoned lands in a 'District Centre' where temporary construction disturbance is common and should be accommodated. In this regard I note that the Construction Management Plan identifies measures for environmental management, waste management, and traffic management to avoid nuisance impacts arising to neighbouring properties. I note that the planning authority has raised concerns about rock-breaking proposals and requires revised proposals in this regard. The final details of this plan will be subject to agreement with the Planning Authority prior to commencement of development, and as such, I am satisfied that these matters can be satisfactorily addressed by way of planning condition.
- 7.6.7. The proposed residential and commercial uses are largely consistent with surrounding development, and I do not consider that there would be any unacceptable disturbance at operational stage.
- 7.6.8. Having regard to the foregoing, I consider that, subject to conditions, the proposed development would not have any unacceptable impacts on surrounding properties, and I have no objections in this regard.

7.7. **Traffic and Parking**

- 7.7.1. The overall development would comprise 7 no. 2-bed apartments, retail unit (69m²), and an office unit (93m²). The site is within Parking Zone 1 of the CDP. According to Table 12.5 of the CDP, the proposed development would have a maximum standard of 9 car-parking spaces. As per the applicant's further information response, no car-parking spaces are proposed.
- 7.7.2. The Development Plan states that the parking zones are indicative and section 12.4.5.2 allows for a deviation (including zero parking) depending on criteria such as proximity to public transport; walking/cycling facilities; the need to encourage modal shift; sharing facilities; existing parking availability; the nature, scale and characteristics of the development; the range of services in the area; traffic safety,

capacity and amenities; urban design and other benefits; mobility management; on-street parking controls; and any other specific measures.

- 7.7.3. Having regard to the location of the site in close proximity to the DART station and other bus service routes; the proximity of existing public parking to the north of the site; the need to encourage a shift in transport modes as per local and national policy; the need to promote pedestrian priority in the public realm to the north of the site; the existing quantum of development on site; the brownfield/infill nature of the site and its good permeability; and the wide range of services available in the Blackrock District Centre; I consider that a 'zero-parking' approach is acceptable in this case.
- 7.7.4. Given the location of the site and the absence of car-parking, I consider that vehicular traffic associated with the proposed development would be limited and would have no significant impact on the capacity or safety of the road network. I acknowledge that there will be impacts from construction traffic and operational servicing requirements. However, I am satisfied that these will not be significant and can be adequately addressed through the agreement of construction / operational plans by condition.
- 7.7.5. For cycle parking, the CDP indicates that proposals shall comply with the DLRCC 'Standards for Cycle Parking and associated Cycling Facilities for New Developments (2018). According to these standards, the proposed development would require a total of 17 no. spaces. The Apartment Guidelines standards indicate that 17 no. spaces would be required for the residential element alone. It is proposed to provide 22 no. spaces in a sheltered basement area which is accessed via the adjoining car park. Accordingly, I am satisfied that the quantity of cycle space is acceptable. I also consider that the cycle storage is appropriately designed, secured, and accessible, and I have no objection in this regard.
- 7.7.6. I note that the proposed amendments to the existing public car park may have implications for the quantity and layout of existing spaces. However, it should be noted that this area has been identified for significant redevelopment with an increased emphasis on quality public realm and pedestrian priority. Accordingly, I have no objection to the temporary impacts on the existing car park.

7.7.7. In conclusion, I consider that the proposed development would provide a mixed-use development based on sustainable transport modes including rail, bus, walking and cycling. It would not have any significant adverse impacts on vehicular traffic convenience or safety and would not have any unacceptable impacts for pedestrians and other vulnerable road users.

8.0 Appropriate Assessment – Screening

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

8.1. Background to the application

8.1.1. The application did not include an AA Screening Report. The DLRCC Planner's Report concluded that the proposed development will not significantly impact upon a Natura 2000 site.

8.1.2. Having reviewed the documents, drawings and submissions included in the appeal file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

8.1.3. 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 would have any possible interaction that would be likely to have significant effects on a European Site(s).

8.2 Brief description of the development

8.2.1 As previously outlined, the proposal involves the demolition of the existing building and the construction of a 3 to 7-storey mixed use development consisting of 7 no. apartments, 1 no. retail unit, and 1 no. office unit. The majority of the site is composed of buildings and artificial surfaces, while a small rear garden portion is overgrown and includes a large tree. It is proposed to connect to the existing surface water and foul wastewater system which both ultimately discharge to Dublin Bay.

8.3 Submissions and observations

8.3.1 No submissions or observations received in connection with the proposed development made reference to potential impacts on Natura 2000 sites.

8.4 European Sites

8.4.1 The closest European Sites are The South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA, which extend to the coastline, approximately 40m north of the appeal site. Given the close proximity of the proposed development it is considered that there is potential for construction-related impacts on these sites. Surface water in the area also discharges locally to these sites via the Priory Stream and the Maretimo Stream.

8.4.2. There are several other Natura 2000 sites in and around Dublin Bay, all of which are in excess of 4.5km from the appeal site. The nearest of these are the North Dublin SAC and the North Bull Is land SPA. Given the significant separation distance that exists, I do not consider that there is potential for direct effects on these sites. I note that there are potential indirect connections via the wastewater outfall at Ringsend and surface water outfalls to Dublin Bay.

8.4.3. With regard to the wastewater outfall at Ringsend and having regard to the limited scale of the proposed development, I consider that the foul discharge from the site will be negligible in the context of the overall licenced discharge at Ringsend WWTP. I note that emissions from this plant are currently not in compliance with the Urban Wastewater Treatment Directive. However, the pollutant content of discharges to Dublin Bay is likely to decrease in the longer term due to the permission to upgrade the WWTP which was granted in 2019 and will be completed in 2023-2025. It is also an objective of the GDSDS and all development plans in the catchment of Ringsend WWTP to include SuDS within new developments and to protect water quality in the receiving freshwater and marine environments and to implement the WFD objective of achieving good water quality status in Dublin Bay. Therefore, I conclude that the wastewater emission impacts from Ringsend are not likely to significantly impact on the water quality of Dublin Bay, the North Dublin Bay SAC, or the North Bull Island SPA.

8.4.4. With regard to surface water impacts, I note that there is a significant separation distance and hydrological assimilative capacity between local outfalls and the North Dublin Bay SAC and the North Bull Island SPA. Accordingly, I do not consider that there is any potential for significant effects on these sites.

8.4.5. A summary of European Sites that occur within the possible zone of influence of the development is presented in the table below.

Summary of European Sites within a possible zone of influence of the development

European Site (Code)	List of Qualifying Interests / Special conservation interest	Distance from proposed development (km / metres)	Connections (source, pathway, receptor)	Considered further in screening (Yes/No)
North Dublin Bay SAC (000206)	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 (<i>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]	5km	Potential indirect connection via surface water and wastewater outfall to Dublin Bay.	No. No potential for impacts given the limited scale of the development and the assimilative capacity of Dublin Bay.
North Bull Island SPA (004006)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140]	5km	Potential indirect connection via surface water and wastewater outfall to Dublin Bay.	No. No potential for impacts given the limited scale of the development and the assimilative capacity of Dublin Bay.

	<p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>			
<p>South Dublin Bay and River Tolka Estuary SPA (004024)</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>	40 metres	Potential effects due to construction impacts and surface water outfall.	Yes
<p>South Dublin Bay SAC</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p>	40 metres	Potential effects due to construction impacts and	Yes

(000210)	Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]		surface water outfall.	
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8.4.6. Having regard to the scale of the proposed development; the separation distances involved and the dispersal/dilution capacities of the Dublin Bay waters; and the absence of identified pathways; I do not consider that any other European Sites fall within the possible zone of influence.

8.5 Identification of likely effects

8.5.1 I have concluded that the potential for effects is limited to impacts on South Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA. The potential effects relate to construction impacts and surface water impacts.

8.5.2. In relation to *construction related impacts*, I note that the site is not within or directly adjacent to any of these European Sites (c. 40 metres away). There are no open water courses or indications of groundwater that form a hydrological pathway between the appeal site and the Natura 2000 sites.

8.5.3. Construction works can raise the potential for construction related pollution through the disposal of substances and run-off that may affect habitats and/or species. I consider that these potential impacts would be satisfactorily addressed by standard best-practice construction management. The application includes an Environmental Management Plan which outlines proposals for the storage of plant, materials, and vehicles, which are aimed at preventing any contamination or polluting emissions. A dust management programme will also be implemented. I am satisfied that these best-practice measures will prevent any potential for significant effects as a result of construction run-off or pollution.

8.5.4. Construction works can also cause disturbance to species as a result of noise, vibration, lighting and other activities. However, having regard to the limited scale of the development and the location of the site within a busy built-up area, the absence of direct pathways, and the separation distance from Natura 2000 sites, I do not consider it likely that there will be significant construction related disturbance effects in this case.

- 8.5.5. In terms of construction-related vegetation clearance and habitat loss, it is again noted that no part of the development site is located within any European Sites and that there will be no direct loss of habitat. I note the presence of an existing tree and other vegetation on the site. However, I do not consider that there is habitat on the site that would be used by any of the qualifying interests on an ex-situ basis. Accordingly, it is not considered that there is potential for habitat loss or fragmentation by reason of direct loss, disturbance or otherwise.
- 8.5.6. The potential for surface water impacts would apply at *operational stage*, as a result of local outfalls to Dublin Bay. However, it must be acknowledged that the site is already developed, and the proposed development would result in improved surface water management measures. Any surface water emissions would therefore be of a minor scale in the context of the overall drainage system. In the context of the overall area of Dublin Bay, its tidal cycles and dilution effects, I do not consider that any surface water outfall associated with the proposed development would result in significant effects on the European sites.
- 8.5.7 The operational stage may also result in an increase in disturbance related to additional people, lighting etc. However, I do not consider that this would be significant in the context of the scale of surrounding development.
- 8.5.8 In terms of *cumulative effects*, the development must be considered in the context of various other projects around the bay area. As previously outlined, the proposed development would not be considered to have a significant cumulative impact in respect of the existing wastewater and surface water loading. The implementation of the Water Framework Directive, the policies of the Greater Dublin Drainage Study and the planned upgrade of the Ringsend treatment plant will see improvements to the water quality in Dublin Bay.
- 8.5.9 I note the proximity of the proposed development to other recent significant applications including ABP Ref 311728-21 (current appeal case) and P.A. Reg. Ref. D21A/0729 (current application for mixed use development consisting of 13 apartments and retail unit at no. 23 Rock Hill). However, given the scale and separation distances between these developments, and their location within the built-up area, I do not consider it likely, in the event of permission being granted for

the developments, that the cumulative effects would result in significant emissions or disturbance impacts on any European Sites.

8.6 Mitigation measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.7 Screening Determination

8.7.1 The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of a Natura Impact Statement is not, therefore, required.

8.7.2 This determination is based on the following:

- The limited scale and duration of the proposed works;
- The distance of the proposed development from European Sites and the absence of direct pathways; and
- The hydrological assimilative capacity of Dublin Bay.

9.0 Recommendation

Having regard to the foregoing, and based on the following reasons and considerations, it is recommended that permission be granted subject to conditions.

10.0 Reasons and Considerations

Having regard to the location of the site within Blackrock District Centre and in close proximity to a wide range of public transport options and community and social facilities, and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, the Blackrock Local Area Plan 2015-2025, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities

issued by the Department of Housing, Local Government and Heritage in December, 2020, the Urban Development and Building Heights - Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December, 2018, and the National Planning Framework, which seeks to direct new residential development in cities into built-up serviced areas, and having regard to the pattern and character of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site and would constitute an acceptable quantum of development in this central and accessible urban location, would not detract from the visual amenity of the area or the character of the Blackrock candidate Architectural Conservation Area, would provide an acceptable standard of residential amenity for the prospective residents and would not seriously injure the amenity of surrounding properties, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 23rd day of April, 2021, and on the 9th day of July, 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 developer shall complete the proposed pedestrian connection from Rock Hill to Bath Place in full prior to the occupation of any of the proposed units.

Reason: In the interests of orderly development and pedestrian permeability.

3. The ground floor unit fronting onto Rock Hill shall be used as a retail unit.

Reason: In the interest of clarity and to protect the vitality and viability of the retail core.

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

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

6. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health

7. Proposals for a development name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements /

marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including rock-breaking/removal proposals, management measures for noise, dust, dirt, and any other potential emissions, and construction traffic management proposals.

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

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan

shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

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

(b) The plan shall provide for screened communal bin stores, which shall be adequately ventilated, drained and illuminated. The design and location of same shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

12. Prior to the occupation of the development, a Mobility Management Plan / Residential Travel Plan shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The plan shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists.

13. Any alterations to the public road and the public car park shall be in accordance with the requirements of the planning authority and where required, all repairs to the public road and services shall be carried out to the satisfaction of the planning authority at the applicant's expense.

Reason: In the interests of clarity, public safety and amenity.

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

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

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

Reason: In the interests of visual and residential amenity.

16. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

Reason: In the interests of visual and residential amenities.

17. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

18. Details of all public lighting design shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in

connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

21. 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.

Stephen Ward
Senior Planning Inspector

2nd August 2022