



An
Bord
Pleanála

Inspector's Report

ABP-311728-21

Development

Development consisting of 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 and all associated site and infrastructure works

Location

Hill Motors, Bath Place, Blackrock, Co Dublin, A94RH98

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D21A/0697

Applicant(s)

Castlestar Property Holding Limited

Type of Application

Planning Permission

Planning Authority Decision

Refused Permission

Type of Appeal

First Party Appeal

Appellant(s)

Castlestar Property Holding Limited

Observer(s)

Blackrock Village Rejuvenation Action Group

Blackrock Business Network
Idrone Terrace Blackrock Residents'
Association
Cynthia Chua
Colin and Paula Campbell
Tribeca Limited Partnership

Date of Site Inspection

23rd May 2022

Inspector

Susan Clarke

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1.0 Site Location and Description

1.1. The rectangular shaped site is located at Hill Motors, Bath Place, Blackrock, Co, Dublin and has a stated area of 0.0248ha. Blackrock Dart Station (designated a Protected Structure (RPS 106)) and the Dart line are located to the north of the site with Blackrock Baths beyond, a surface car park and bus terminus area are located to the east, two/five storeys of mixed use terraced development is located to the south, and Deepwell house (designated a Protected Structure (RPS 110)) is located to the west with Blackrock Park beyond. Idrone Terrace consists of a terrace of 27 No. Victorian two storey over basement dwellings (all designated Protected Structures) and is situated to the east of Bath Place. At present, there is a one and half storey, pitched-roof, industrial structure, occupying the entire footprint of the site. The area is generally characterised by residential and mixed-use development.

2.0 Proposed Development

2.1. The proposed development consists of:

- The demolition of a one and half storey structure (233 sq m),
- Construction of part 2 storey/part 15 storey mixed use development comprising one commercial unit (204 sq m) and 13 No. 2-bed (4 person) apartments (1,979 sq m), and
- Bicycle parking, refuse storage and associated works.

The proposed part 2 storey/part 15 storey development has a split flat roof with service facilities (bicycle store (38 No. spaces), refuse areas, and circulation core) at ground floor level and a commercial unit at first floor level. Each of the upper floors comprises one apartment (each measuring 94 sq m) with a recessed balcony. The proposal will have a residential density of 541 units per hectare. No public or communal open space is proposed. Furthermore, there is no car parking proposed as part of the scheme.

As part of the First-Party Appeal, the Applicant has suggested that if the Board is not satisfied with the 15 No. storey proposal, that it be reduced to 10 No. storeys.

2.2. Documentation Submitted with Planning Application

In addition to a Planning Application Form and Statutory Notices, the application comprised supporting documents (in association with architectural drawings) including a Planning Submission (dated July 2021), Operational Waste Management Plan (dated July 2021), Construction Management Plan (including Environmental Management Plan, Waste Management Plan & Noise Mitigation Measures) (not dated) and an Independent Tree Survey (July 2021).

As part of the First-Party Appeal, the following documents were included; Photomontages (October 2021) (illustrating the 15 storey proposal), Appendix A: Study of 10 Storey Proposal (not dated) (includes views of the 10 storey proposal and an overshadowing analysis of the reduced scheme), Engineering Services Report and Flood Risk Assessment, Shadow Study (not dated) (relating to the 15 storey proposal), Concept Plans (October 2021) and four drainage drawings.

3.0 Planning Authority Decision

3.1. Decision

Dun Laoghaire Rathdown County Council refused permission for the proposed development on 23rd September 2021 for two reasons:

- 1. The proposed development, by reason of its height, massing, scale and design, would negatively impact on the residential amenities of adjacent properties by reason of overshadowing and overbearing appearance. Furthermore, it would detract from the existing visual and residential amenities of the area and it would negatively impact on the character of the receiving environment which would result in a poor interface with the urban environment and public realm. In addition, it is considered that the proposed development would, be contrary to Policy UD1: Urban Design Principles and Policy UD3: Public Realm Design, of the Dun Laoghaire Rathdown County Development Plan 2016-2022 which states that it is policy to ensure that all development is of high-quality design that assists in promoting a 'sense of place', and seeks to ensure that development proposals are cognisant of the need for the proper consideration of inter alia context, variety, layout, public realm, amenity and detailed design.*

The proposed development is thereby considered to be contrary to the proper planning and sustainable development of the area.

2. *The subject site is located within the Blackrock Local Area Plan 2015-2021, extended to 2025. Chapter 3 of this Local Area Plan sets out the policy framework for Urban Structure and Character in the area, particularly objective UDS1, Section 3.4 Scale & Building Height and Policy BK05. Having regard to this policy framework, it is considered that the proposed development, by reason of its height, scale, massing and design, represents an excessive and visually incongruous development, which fails to protect or complement the existing character of this part of Blackrock and thereby does not accord with the objectives and policies of the Local Area Plan as aforementioned. The proposed development would therefore contravene the Blackrock Local Area Plan and would thereby be contrary to the proper planning and sustainable development of the area,*

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planner noted the planning history associated with the adjoining lands, the policy and plan context for the development, the third-party submissions, and the reports received. The Officer considered that the proposal was not consistent with Policy BK19 of the Blackrock Local Area Plan (LAP) regarding employment generating uses in the area, given the lack of an appropriate mix of uses for this zone and the predominance of residential uses proposed. The Officer was satisfied that the proposal was generally compliant with the requirements of the Apartment Guidelines, but stated that lack of communal open space was contrary to the Development Plan. In addition, the lack of mix of apartment types was noted. In terms of building height, the Officer stated that the proposal would contravene Appendix 9 of the Development Plan and Policy BK05 of the LAP. The Officer stated that the proposal would adversely impact on the amenities of the area by way of overshadowing and overbearing appearance including on the nearby Protected Structures. The Planning Officer's report reflects the decision of the Planning Authority.

3.2.2. Other Technical Reports

Conservation Officer: Refusal recommended – inappropriate scale and visually incongruous which would have a detrimental impact on the Protected Structures and detract from their setting.

Housing: Certificate for Exemption granted (V/055/21).

Drainage Planning: Further Information required including *inter alia*: Site-Specific Flood Risk Assessment and drainage details.

Public Lighting: External lighting details or clarify if there are any alterations or additions to the existing lighting.

Environmental Section Planning: Further Information required including *inter alia*: Noise Plan, Construction Waste Management Plan and Operational Waste Management Plan.

Biodiversity Officer: Further Information required including *inter alia*: bat survey, bird survey, Appropriate Assessment Screening/Natura Impact Statement, CEMP, OMP

Transportation Planning: Further Information required including *inter alia*: detailed Traffic Management Plan and Mobility Management Plan and Autotrack drawings for refuse trucks.

Environmental Health Officer: Further Information required including *inter alia*: detailed construction management plan, geology of the site, demolition management plan

Architect Department: No comments received.

Parks & Landscape Services: No comments received.

3.3. Prescribed Bodies

Irish Water: No objection subject to condition.

Iarnrod Eireann: Requests additional information including *inter alia* insurance that there is no increase in risk to the railway as a result of the proposed development, detailed drainage layout, traffic management plan, and a full condition survey of Blackrock Station required.

National Parks & Wildlife Service: No comments received.

The Heritage Council: No comments received.

An Taisce: No comments received.

3.4. **Third Party Observations**

A number of Third-Party Observations were received by the Local Authority in respect of the proposed development. The key points raised can be summarised as follows:

- Insufficient technical assessment provided as part of the planning application to fully understand potential impacts from the proposed development.
- Incomplete tree survey.
- Proposed 15 storeys is excessive and out of character with the surrounding area. The height would negatively impact the character and setting of the Protected Structures and cACA.
- Overdevelopment of the site with resulting overbearing impacts on neighbouring properties.
- Poor architectural design proposal that will adversely impact the visual and residential amenity of the area.
- The proposed ground floor uses do not animate the street frontage.
- The proposal will overshadow the surrounding area and reduce daylight and sunlight to nearby residential and commercial properties.
- Contravenes the Blackrock LAP.
- The proposal does not satisfy the development management criteria in the Building Height Guidelines.
- Piecemeal proposal with no planning or architectural justification.
- Subject site may have formed part of Deepwell.
- No evidence of consent from Local Authority to use the public car park as a construction compound.
- Potential noise and traffic impacts.

4.0 Planning History

No applications identified relating to the subject site.

23 Rock Hill

DLRCC Reg. Ref. D21A/0729: Planning permission sought from the Local Authority for a mixed use residential (13 apartments) and retail development. At the time of writing this Report, a decision from the Local Authority had not been issued in respect of this planning application.

13-15 Rock Road

DLRCC Reg. Ref. D20A/0567/ABP Ref. 311260: A Notification of Decision to Grant Permission was issued on 4th August 2021 for the demolition of existing two storey over basement building and construction of a 3-7 storey mixed use building with eight apartments. The Decision was appealed to An Bord Pleanála in August 2021 and a decision is awaiting.

5.0 Policy Context

5.1. National Policy

5.1.1. Urban Development and Building Heights Guidelines for Planning Authorities, 2018

The Guidelines highlight the need for a development plan to place more focus in terms of planning policy and implementation on reusing previously developed brownfield land building up urban infill sites. It notes that increasing building height is a significant component in making the optimum use of the capacity of sites in urban locations where transport employment, services and retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable the proper consideration of development proposals for increased building height linked with the achievement of greater density of development.

It is acknowledged that taller buildings will bring much needed additional housing and economic development to well-located urban areas and that they can also assist in reinforcing and contributing to a sense of place within the city or town centre.

The Guidelines contain a number of the specific planning policy requirements that are of relevance to the appeal case including *inter alia* SPPR1:

In accordance with government policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, Planning Authorities shall explicitly identify through the statutory plans, areas where increased building heights will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

Special planning policy requirement SPPR2 states that in driving general increases in building heights, Planning Authorities shall also ensure appropriate mixtures of uses, such as housing, commercial and employment development, are provided for in the statutory plan context. SPPR3 allows provision in certain circumstances for planning authorities to approve developments, even where specific objectives of the relevant development plan or local area plan may indicate other requirements to the Guidelines. Section 3.2 of the Guidelines outlines the Development Management Criteria that an applicant must demonstrate compliance with to the Planning Authority/ An Bord Pleanála.

5.1.2. **Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, (DoHPLG, 2020)**

These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and the 2018 Guidelines in relation to Shared Accommodation schemes. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding

Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines.

Section 2.4 of the Guidelines states that ‘Central and/or Accessible Urban Locations’ *“are generally suitable for small- to large-scale (will vary subject to location) and higher density development, that may wholly comprise apartments, including: ...Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high-capacity urban public transport stops (such as DART or Luas)”*.

Appendix 1 of the Guidelines set out the required minimum floor areas and standards for apartments.

5.1.3. The following are also considered relevant:

- National Planning Framework: Ireland 2040 Our Plan, 2018
- *Architectural Heritage Protection; Guidelines for Planning Authorities, 2004*
- *The Planning System and Flood Risk Management: Guidelines for Planning Authorities, 2009*

5.2. Local Policy

5.2.1. Dun Laoghaire Rathdown County Development Plan, 2022-2028

Since the Local Authority issued a Notification of Decision to Refuse Permission for the proposed development, a new development plan has been prepared and adopted for the County. The applicable plan is the Dun Laoghaire Rathdown County Development Plan, 2022-2028.

The site is located within a District Centre, which seeks *“To protect, provide for and/or improve mixed-use district centre facilities”*. Both residential and commercial development are permitted in principle under this zoning objective.

The site is located immediately northwest of the candidate Blackrock Village Architectural Area. There are two Protected Structures in close proximity to the site: Deepwell (RPS No. 110) and Blackrock Dart Station (RPS No. 106). In addition, Idrone Terrace is a terrace of Protected Structures located east of the site. A public right-of-way is located to the north and south of the site. There are objectives *To Protect and Preserve Trees on Woodlands* on the adjoining site to the west. In addition, the site is

northwest of a recorded cross comprising of an upper portion of granite cross set on a later plinth (DU023-005).

Furthermore, Objective 129 of the Development Plan aims “*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*”.

Residential

- Policy Objective PHP18: Residential Density
- Policy Objective PHP20: Protection of Existing Residential Amenity
- Policy Objective PHP37: Public Realm Design
- Policy Objective PHP42: Building Design & Height
- PHP43: Design in Local Area Plans

Development Management

- Section 12.3.11 Design Criteria
- Section 12.3.3 Quantitative Standards for Residential Development
- Section 12.3.5 Apartment Development
- Section 12.4.5 Car Parking Standards
- Section 12.4.6 Cycle Parking
- Section 12.8.2/12.8.3/12.8.8 Open Space
- Section 12.8.6.2 SuDS
- Section 12.8.11 Existing Trees and Hedgerows
- Section 12.11.2 Protected Structures
- Section 12.11.3/12.11.4 Architectural Conservation Areas
- Appendix 5: Building Height Strategy

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

In 2020, the life of the Blackrock LAP 2015-2021 was extended to 2025. The site is not identified for any increase in building height, however a number of policies and objectives relevant to the appeal case including *inter alia*:

UDS1 It is an objective of the Council to strengthen the urban structure of Blackrock by ensuring that any new development incorporates a coherent, legible and permeable urban form that protects and compliments the character of the street or area in which it is set - in terms of proportion, enclosure, building line, design and by the marrying of new modern architecture with historic structures

POLICY BK04 It is Council Policy to ensure that future residential development within Blackrock is at a scale and density appropriate to its location whilst providing for the sustainable growth of the area.

POLICY BK05 It is Council Policy to ensure that Building Height within future developments in Blackrock makes a positive contribution to the built form of the area and do not adversely impact on local amenity.

POLICY BK08: It is Council policy to 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.

POLICY BK19 It is Council policy to encourage new uses that have the potential for additional employment generation within Blackrock.

PR1 It is an objective of the Council to upgrade pedestrian access to the seafront and improve the relationship of the village core with the seafront at Blackrock through the introduction of a viewing terrace and upgraded access facility located in the vicinity of the existing pedestrian footbridge across the railway line.

PR3 It is an objective of the Council to reconfigure and upgrade the existing roadway between Bath Place and the DART Station to provide for a dedicated pedestrian precinct having regard to Section 3.6.1.1, Section 3.6.1.2 (Drawing 4) and Chapter 4, Section 4.4 of this Plan.

PR4 It is an objective of the Council 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 in accordance with Drawing 4 and Objectives PR1 and PR3 and Chapter 4, Section 4.5 Objective CP3.

PR5 It is an objective of the Council to ensure that, 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 in accordance with Drawing 4 Public Realm Strategy.

5.3. Natural Heritage Designations

- 5.3.1. The South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA are located c.60m, directly north of the site.

5.4. EIA Screening

- 5.4.1. On the issue of environmental impact assessment screening I note that the relevant classes for consideration are Class 10(b)(i) “construction of more than 500 dwelling units” and Class 10(b)(iv) “urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere”. Having regard to the modest size of the site at 0.0248ha and the number of units to be provided at 13 No., which is considerably below the 500 dwelling threshold, it is considered that, having regard to the nature and scale of the proposed development, the location of the development on a brownfield serviced site together with the characteristics and likely duration of potential impacts, that the proposal is not likely to have significant effects on the environment and that the submission of an environmental impact assessment report is not required. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination.

6.0 The Appeal

A First-Party Appeal was submitted to An Bord Pleanála on 20th October 2021 opposing the Local Authority’s decision to refuse permission. As part of the First-Party Appeal, the Applicant has suggested that if the Board is not satisfied with the 15 No. storey proposal, that it be reduced to 10 No. storeys. As outlined in Section 2.2 above, additional information was included with the First-party Appeal. I note that the Appeal states that a revised southern elevation, with increased glazing to create visual interest, is enclosed with the appeal documentation. However, there are no drawings

on file or specific drawing reference numbers or titles referred to in the Appeal relating to same. I note that the original drawings submitted to the Local Authority illustrate one window on each level from Second to Fifteen Floor level on the southern elevation. Similarly, the views of the 10 No. storey proposal illustrate one window. However the Photomontages of the 15 No. storey illustrate two windows on this elevation.

The grounds of appeal can be summarised as follows:

- The proposed development should be seen in the context of the Blackrock Village Rejuvenation Action Group (BVRAG)'s 'Seafront Plaza' concept and the application for No. 13/15 Rock Hill, which will collectively act as a catalyst for the redevelopment of the area.
- The proposed development balances local employment with the Policies RES 3 and RES 4 in relation to the densification of existing residential communities. Given the housing crisis and changes to working practices, the proposed mix is acceptable.
- The site due to its location beside the DART station and the bookend function that it will perform in the delivery of the plaza concept is key to the rejuvenation of this underutilised area.
- The site can be considered under many of the Development Plan's Building Height Strategy's Upward Modifiers and is a site suitable for height.
- The criteria that the LAP outlines to assess height in relation to infill development under SH2 are hard to apply in this instance as the true context of the site, lies in the future when a new public realm is created.
- The LAP does not take account of the requirements in the Building Height Guidelines 2018 as a site for regeneration and appropriate residential density.
- Due to the site's constraints a mix of apartment types is not feasible.
- The apartments will be dual aspect and have shallow plans, floor to ceiling glazing and views of the sea, and as such daylight and natural ventilation are maximised.
- Due to the site's location north of all the properties, except the Dart station, overshadowing will not occur to the extend as argued by the Planning Officer.

- In the event of a grant of permission, it is envisaged that specific assessments regarding lighting, environment assessments, micro-climate effects mobility management plan, improved public lighting, and a traffic impact statement will be submitted to the Local Authority by way of condition.
- It is unclear given the site's location why the proposed density is a problem. Only one unit per floor is envisaged.
- The purpose of the application is to engender Policy UD1 and act as a catalyst for urban renewal.
- The proposal will create a 'sense of place'.
- The proposal is 49m north-east from Deepwell house and so overshadowing will only occur in the morning and at the equinox at 12 noon. As a result of the trees to the west of the site, only the upper floors of the proposed building will be visible from the Protected Structure.
- Blackrock Dart station is no longer in use. A new use will only happen in a rejuvenated area.
- The proposal includes dedicated set down areas and defined routeways.
- The effect of overshadowing is limited due to the position of the site. As Rock Hill is due south of the proposed development, overshadowing is impossible. The slenderness of the proposed building ensures no overbearing impacts.
- A financial contribution is proposed in lieu of communal open space.
- The Applicant has no right to survey the trees on the neighbouring site.

6.1. Planning Authority Response

- 6.1.1. The Local Authority advised the Board on 11th November 2021 that the grounds of appeal do not raise any new matter, in the opinion of the Planning Authority, that would justify a change of attitude to the proposed development.
- 6.1.2. As part of the Response, I note that the Local Authority's Municipal Services stated it was generally satisfied with the response to the surface water and flood risk matters included as part of the First-Party Appeal. However, the Response highlights that many items which would have been more suited to agreement prior to grant of

permission will now require compliance documentation to be submitted for agreement prior to the commencement of development, should permission be granted for the development.

6.2. Observations

Six Observations were received by local residents and local representatives in respect of the First-Party Appeal, requesting that the Local Authority's refusal be upheld. The key points raised in the Observations are summarised below.

Blackrock Village Rejuvenation Action Group

- The Blackrock LAP is the most up to date and detailed strategy referenced for the location, and it does not support the proposed development.
- The proposed 15 storeys (or 10 storeys) is not supported in Appendix 9 of the Development Plan.
- The LAP provides clear guidance in relation to building height, and it does not support 15 storeys (or 10 storeys) on the subject site.
- The proposal would not act as a catalyst for development but would rather put at risk the public realm development potential for this area as envisioned by the LAP.
- The subject application in addition to the applications relating to 13-15 Rock Hill (D20A/0567) and 23 Rock Hill (D21A/0729) are designed for maximum value extraction from Bath Place, with little consideration for the DLRCC strategies for these areas and the long-term implications of this value extraction both for current and future generations in Blackrock.
- The concept designs for Bath Place concourse emphasize cars and new retail space as the LAP objectives aim to dedicate this area to pedestrians and to better connect and improve the legibility between the Village Core, the Seafront and Blackrock Park.
- The 15 storey tower would irreversibly damage the rejuvenation and public realm potential for this area.

- Should the Seafront Plaza be developed in this area, it would be reasonable to assume an increased height on the subject site to about four storeys with two above the plaza level and two below the plaza level.
- The LAP includes a number of policies and objectives (BK08, PR3, PR5) to develop the area for public realm benefit. As such, the LAP fully recognises the potential for the area.
- DLRCC recently approved a Strategic Level Objective for the new DLRCC County Plan that calls “*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.*”
- The Appellant appears to dismiss the impact of a 15 storey tower on the architectural heritage of the area despite it very significantly visually impacting on the nearby aACA at Rock Hill/Main Street and towering over the protected Dart Station.
- The proposal has a disproportionate scale and massing relative to the area and would represent gross overdevelopment of the site to the detriment of the local public realm and local heritage.

Blackrock Business Network

- The proposed 100% site coverage and 15:1 plot ratio is out of character and sets an unwanted precedent for the area.
- The site is not designated for higher buildings.
- Building a standalone 15 storey skyscraper without any reference to the potential of the concourse area would fall short of the LAP’s vision for the area.

Idrone Terrace Blackrock Residents Association

- The proposed height of the development is overbearing and simply out of keeping with the area having regard to the protected and heritage aspects of nearby buildings at Idrone Terrace and equally the adjacent period residential property, Deepwell, and the protected structure Blackrock Train Station.
- The proposal is contrary to the LAP’s vision for a stepped-down development height from Rock Hill levels to the train station.

- The proposal is incongruous and significant detracts from the visual amenity of the area.
- Due to the distance the massing photographs were taken from in Blackrock Park, they are insufficient to the point that their accuracy cannot be verified.
- The Residents are supportive of the Blackrock Seafront Plaza, however the proposed development is seeking to devise an alternative plan to extract further commercial value.
- The subject site may be afforded special attention due to its proximity to Deepwell house and its outbuildings.
- The proposal would fall in the direct line of sight when looking from Idrone Terrace and would cause substantial shadowing effects in the late evening.
- A minimum of one space per apartment and two spaces for the commercial unit should be provided.
- The appeal should be rejected on the basis that the Local Authority has not consent to the use of the car park by the Applicant.
- No commitment in the application to managing noise levels or avoiding noise or disturbance outside standard business hours. Construction hours are described by the Applicant as what will only “generally” be adhered to.
- A well devised traffic management plan is an essential pre-requisite.
- The tower reduces the potential for the regeneration of the Baths, which will be overshadowed by the proposal.
- The Tree Report does not include a survey of the trees to the west of the site. Cutting back parts of these trees could render them unstable.
- The application should be rejected as the Applicant has not addressed Iarnod Eireann’s concerns regarding the proposal.

Colin & Paula Campbell

- The revised proposal submitted with the First-Party Appeal fails to address the reasons for refusal, which do not solely relate to height.

- Whilst Policy SPPR 3 of the Building Height Guidelines remains in force and allows for development contrary to an LAP, this can only happen where it is proven unequivocally that the set criteria under Section 3.2 of the Guidelines are met. The proposal fails to meet the criteria.
- The Appellants arguments that the proposal must be considered from its wider context demonstrates a complete lack of understanding of the impact from the proposal at a local context.
- No visual impact assessment undertaken except verified views of the 15 storey proposal and unverified views of the 10 storey proposal.
- There are no grounds for claiming that the proposal will act as a catalyst for redevelopment of the seafront plaza.
- The proposed design and form fails to address the scale of the street and neighbourhood and will significantly impact upon daylight and sunlight to No. 25 Rock Hill and negatively impact upon the already north facing car park/bus turnaround that would inhibit its redevelopment. Note that the offices are single aspect.
- The development fails in securing a comprehensive urban regeneration of the area, that is a key objective under the Blackrock LAP.
- The Applicant does not provide any specific assessments in order to seek to justify the current proposal.
- The LAP is a site-specific assessment of the ability to develop the site. There are insufficient grounds to warrant granting permission for the development under SPPR of the Building Height Guidelines.
- The proposal does not comply with Policy UD1 and UD3 of the Development Plan.
- The proposal will generate no public realm improvements at all.
- The overbearing development due to its height and scale would form a dominant visual impact that would detract from the setting of the cACA and the listed Protected Structures.
- The tree survey is incomplete.

- The proposal will result in overflow car parking in the area.
- Adverse impact on the value of commercial and residential properties in the area.

Cynthia Chua

- Serious concern that the development will have a detrimental effect on the residential amenity of adjoining properties by reason of overshadowing and overbearing.
- The Applicant's shadow diagrams are not a quantitative assessment and thus are only used to provide context regarding the orientation of the site in respect of the location of the sun. A quantitative assessment in accordance with the BRE Guidelines is required.
- The proposal does not comply with Section 3.2 of the Building Height Guidelines and a landscape and visual impact assessment has not been prepared, as such the Board is precluded from granting permission for the development.
- Concerns that the development will have detrimental impact on the distinctive character and intrinsic heritage qualities of the area, and will detract from the area's visual amenity.
- The Seafront Plaza is at conceptual design stage only and thus is of no relevance at this juncture to the assessment.
- The design is contrary to Policy UD1 of the Development Plan.
- The submitted photomontages illustrate the monolithic nature of the design proposal.
- The proposal would provide substandard residential amenity for its future residents as no communal or public open space is provided for. The proposed development fails to accord with Section 8.2.8.2 and 8.2.8.3 of the Development Plan and the Apartment Guidelines.
- There is insufficient detail to enable a thorough assessment of the proposed development.

Tribeca Limited Partnership

- The proposed development will not act as a catalyst for the densification of our towns and cities.
- The reduction in height to 10 floors does not in any way ameliorate the concerns in relation to the adverse impacts the development would have on local property.
- The proposal would be disproportionate to the size of the site and would have a serious negative impact on the character of Deepwell, the Dart station and Bath Place.
- The proposal is significantly higher than any other building in Blackrock and would be at variance with the character of the immediate area and protected structures.
- The proposal would dominate the skyline and would be unduly overbearing, obtrusive, and could not successfully integrate into the streetscape character.
- The proposal would result in overdevelopment, which would be at variance with the Blackrock LAP.
- The proposal does not adhere to the development management criteria in the Building Height Guidelines.
- The proposal would present as a monolithic structure when viewed in the local context, which does not address the adjoining buildings or the public realm in front of the Dart Station.
- The development will do nothing to invite enhance the vitality and vibrancy of the locality and makes a negative contribution to the redevelopment of the urban neighbourhood.
- The negative visual impacts far outweigh the delivery of 12 residential units.
- The form and massing will significantly impact any development opportunities on adjoining properties.
- The proposal will result in serious overshadowing.

- The proposal has window openings for 14 storeys directly on the boundary with Deepwell and also adjacent to the boundary for 15 storeys, this is not compliant with planning and building regulations. Direct overlooking will occur.

6.3. Further Responses

None received.

7.0 Assessment

My assessment considers the planning application as lodged with the Planning Authority de novo. As stated above, as part of the First-Party Appeal, the Applicant has suggested that if the Board is not satisfied with the 15 No. storey proposal, that it be reduced to 10 No. storeys. Notwithstanding this, in my view the issues that arose in the first instant are still pertinent to a reduced scheme. In the event An Bord Pleanála considers granting permission for the alternative scheme, the Board may wish that the application should be readvertised to the public.

Having examined the application details and all other documentation on file, including the Observations to the Local Authority, First-Party Appeal, and Observations, inspection of the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Land Use Zoning
- Suitability of Design
- Residential Amenity
- Trees
- Construction Compound
- Flood Risk Assessment
- Appropriate Assessment.

Each of these issues is addressed in turn below.

7.1. Land Use Zoning

- 7.1.1. The site is located in an area zoned for District Centre (*To protect, provide for and/or improve mixed-use district centre facilities*) in the Development Plan. Under this land use zoning objective residential and offices less than 1,000 sq m are listed as a permitted in principle use. I note the Planning Officer's concerns in relation to Policy BK19 of the LAP regarding employment generating uses and the predominance of residential uses proposed. However, I consider the proposed development to be acceptable in principle, subject to quantitative and qualitative safeguards in respect of design and amenity.

7.2. Suitability of Design

- 7.2.1. The Local Authority refused permission for the proposed development due to its height, scale, massing and design and the resultant overshadowing and overbearing impacts it would have on the residential amenity and public realm of the area. It was considered that the scheme was contrary to the design principles of the Development Plan and LAP. As stated above, the applicable Development Plan is now the 2022-2028 plan, not former 2018-2022 plan. There are no material differences between the plans in terms of this site's development context (i.e. neither Plan identifies the site for high rise development). However, it should be noted that where the Applicant and Observers make reference to the former Development Plan's Building Height Strategy and its upward and downward modifiers, these are no longer applicable and have been superseded by the criteria in Table 5.1 of the current Development Plan's Building Height Strategy. The applicable criteria in Table 5.1 is based on the principles from the Development Management Standards in the Building Height Guidelines.
- 7.2.2. The proposed development consists of the demolition and clearance of all onsite structures and the construction of a part 2/part 15 storey mixed use building. The building would comprise services facilities at Ground Floor Level, a commercial unit at First Floor Level, and a single apartment on each of the upper floors.
- 7.2.3. The surrounding context of the site comprises buildings mainly ranging in height between 2 and 5 storeys. This includes Blackrock Dart Station, a two storey, Protected Structure located to the north of the site. Deepwell, a part two/part three storey residential dwelling and its landscaped gardens are located south-west and west, respectively, from the subject site. The mixed use commercial property to the south of

the site is two storey fronting Rock Hill and five storeys fronting Bath Place as a result of the significant changes in ground level. A surface car park and bus terminus area are located to the east. A key consideration, therefore, should be to ensure that any redevelopment of the site employs a high-quality, sensitive design that is cognisant of the Protected Structures and established character of the surrounding vicinity.

7.2.4. The Applicant contends that the proposal will act as a catalyst for the redevelopment of the area in tandem with the redevelopment of Nos. 13/15 and 24 Rock Hill and BVRAG's 'Seafront Plaza' concept for the area. Furthermore, the Applicant argues that the scheme is compliant with the Building Height Guidelines and the (former) Development Plan's building height strategy. The following sections review the development proposal in the context of the Building Height Guideline's Development Management Criteria.

7.2.5. The site is in a prominent location in the Village, adjacent to Blackrock Dart Station, Deepwell, and Blackrock baths. Whilst a robust landscape and visual assessment of the proposal has not been prepared, due to the height of the proposed development, it is clear that the proposal would be very visible from several approaches into Blackrock, including on the Dart line, R118, and N31. In my opinion, it would fail to integrate successfully into the area, and would not be consistent with Policy BK04 of the LAP. Furthermore, whilst not to the same extent as the 15 storey proposal, I consider it likely that a 10 storey proposal would also have a significant negative visual impact on the area. In my view, the scheme has had very limited regard to the site context and the surrounding architecturally sensitive buildings and cACA and so would be contrary to UDS1 in the LAP. The photomontages (including View 3) and the Ground Section (Dwg. No. 2110-02) clearly demonstrate the overbearing and imposing presence the building would have on the Blackrock Dart Station (a designated Protected Structure) and also illustrates that the proposal would not be consistent with PR5 of the LAP. The proposed building would be 10.79m from the Protected Structure. While the recessed balconies would be located along the northern elevation facing the Station, no other attempts appear to have been made to mitigate the domineering impact it will have on this two storey structure. Although the impact from the proposed 10 storey amended scheme would be reduced in comparison, I do not consider that the architectural and cultural heritage of the subject building has been fully acknowledged in the design proposal. Rather a very abrupt transition in scale

would result, adversely impacting the character and setting of this building and the area's visual amenity and so would be contrary to Policies BK05 and BK08 of the LAP.

- 7.2.6. In addition, whilst the building would be located c.49m from Deepwell, the height, scale and massing would adversely impact on the character and setting of this Protected Structure. Furthermore, the monolithic appearance of the structure, in particular north-west and south-west elevations of the building (see Dwg. Nos. 2110-06 and 2110-05), would have a detrimental impact on the visual amenity of the Protected Structure and wider area including Blackrock Park. The poor palette of materials fails to create any visual interest and as such in my view would adversely impact the visual amenity of the area. I note the Applicant's comments regarding the screening that the trees within the Deepwell property will provide for the lower levels of the proposed building. However, due to the overall proposed height, in my view, the proposal will still have an overbearing impact on the area.
- 7.2.7. The two storey element of the proposed building would be two metres north of No. 25 Rock Hill. Whilst this separation distance exists today, the existing structure is only one storey with a pitched roof. The 15 storey (10 storey) element of the proposed development would be c.10m from the northern elevation of No. 25 Rock Hill. The neighbouring building appears to be in commercial use and as such is unlikely to require the same level of amenity as a residential property. Notwithstanding this, the proposed building would have an adverse impact on the visual amenity currently enjoyed from this space and there would be a significant loss of light to this property. Due to the separation distance between the sites, both the 15 storey and 10 storey proposals would have detrimental overbearing impacts on this property.
- 7.2.8. I note the Applicant's arguments that the proposal would act as a landmark and a catalyst for the redevelopment of the area. Whilst the redevelopment of this strategic area in the Village would be welcomed, I consider that a landmark building should not be solely linked to height, but a multitude of design considerations that reflect the site's strategic, but sensitive context. Reducing the height of the proposal from 15 storeys to 10 storeys, does not fully address potential issues concerning visual impact, massing, and scale of development. Both the 15 storey and 10 storey proposals would be a significant intervention in the skyline and would likely be transformative in terms of the negative visual impact it would have on the shoreline and Village.

- 7.2.9. The Applicant argues that the building would perform a bookend function that will contribute to the delivery of the Plaza concept. However, it is important to note that while the Development Plan and LAP support the regeneration of the Bath Place in principle, neither statutory plan specifically includes for the Seafront Plaza concept as proposed by the BVRAG. Furthermore, planning permission has not been secured for the redevelopment of Nos. 13/15 Rock Hill (Reg. Ref. D20A/0567) or No. 23 Rock Hill (Reg. Ref. D21A/0729). I do not consider that this proposal will benefit the public realm. While the Applicant argues that the proposed ground floor uses could be changed in the future to accommodate restaurants or retail development, the current proposal would fail to provide any vibrancy or vitality in the area or make a positive contribution to the streetscape. Whilst the Building Height Guidelines require that developments integrate in a cohesive manner, I concur with the Observers that the proposed development is piecemeal and will fail to enhance the urban design context of Bath Place and surrounding public areas.
- 7.2.10. In terms of overshadowing, I note the Applicant's Shadow Study (October 2021) that was submitted with the First Party Appeal. I concur with the Applicant that due to the site's orientation the proposed development will not adversely overshadow the properties along Rock Hill. The analysis demonstrates that while there will be an increase in overshadowing on the Deepwell property during the Spring Equinox, it will not be significant and will be temporary. Similarly the analysis demonstrates that the proposal will not cause adverse overshadowing in the Summer Solstice. However, I note that there will be significant overshadowing over Bath Place in the late evening (7pm) in the Summer Solstice. Should this area be regenerated in the future (Objective 129 of the Development Plan and PR4 of the LAP), in my view the overshadowing from the proposed development would negatively impact on the amenity value this area could potentially offer.
- 7.2.11. In terms of loss of light, the Applicant has not submitted a quantitative analysis of the potential daylight loss to surrounding properties. However, as discussed above in relation to overshadowing, due to the site's orientation I do not consider that the loss of daylight will be significant for the majority of the surrounding properties. It is likely that the proposal will result in a significant loss of light to Blackrock Dart Station. However, this property is not in residential use and as such does not have a prescribed lighting standard. Due to the separation distance and orientation of Deepwell, I do not

consider that the proposal will result in an adverse impact on this large, detached residential property. As discussed above, in my view, it is likely that No. 25 Rock Hill will experience a significant loss of light due to the minor separation distance between the site and the height and scale of the proposed building.

7.2.12. In relation to specific assessments, having assessed the information on file, I consider that there is a lack of detail on relevant matters including, construction management, traffic and mobility management, public lighting, environmental assessment, bat survey, and building lifecycle report. Furthermore, it is not clear if the photomontages submitted with the First Party Appeal of the 10 storey proposal are verified images. In addition, the Applicant did not avail of the opportunity to address the concerns raised by Iarnrod Eireann in the First-Party Appeal. The information gaps have been highlighted by the Observers. Unfortunately, whilst the Applicant availed of the opportunity to submit additional information as outlined in Section 2.2 above as part of the First Party Appeal, no further information has been furnished to the Board. I note that the Applicant states that in the event of a grant of permission, it is envisaged that specific assessments regarding lighting, environment assessments, micro-climate effects mobility management plan, improved public lighting, and a traffic impact statement will be submitted to the Local Authority by way of condition. Collectively this information is required in order to carry out a complete assessment of the potential planning and environmental matters that arise. In the absence of such information, unresolved environmental matters could remain and the development would be contrary to the proper planning and sustainable development of the area. I note that a site-specific flood risk assessment was submitted with the First Party Appeal. I discuss this issue in further detail separately below.

7.2.13. Having regard to the foregoing, I do not consider that the Applicant has made a genuine attempt to justify the suitability of the site for a taller building. Whilst I recognise the site's constraints in terms of its size, changes in ground level conditions in the area, and the proximity to Protected Structures and the cACA, I reiterate that, in my view, a landmark building should not be solely linked to height. In my opinion, compliance with the Building Height Guidelines' Development Management Criteria has not been comprehensively demonstrated, with the exception of the subject site being located in close proximity to public transport. Whilst the proposed development would result in the provision of residential development in close proximity to public

transport on serviced land, I do not consider that the low number of residential units outweighs the adverse impacts the proposal would have on the area.

7.2.14. Appendix 5 of the current Development Plan outlines the Building Height Strategy for the County. The Strategy has taken regard of the Building Height Guidelines, which were published in 2018. One of the primary differences between the Building Height Strategy in the former Development Plan (2016-2022) and the current Strategy (2022-2028), is that the latter does not contain maximum height controls. In addition, the former strategy contained factors known as 'Upward Modifiers' and 'Downward Modifiers' that were used to determine whether or not an increase or decrease in height would be applicable to sites. The current Strategy contains performance criteria set out in Table 5.1. These criteria are similar in nature to those in the Building Height Guidelines. I note that Table 5.1 also states that having regard to the County's outstanding architectural heritage which is located along the coast, where increased height and/or taller buildings are proposed with the Coastal area from Booterstown to Dalkey the proposal should protect the particular character of the coastline. Any such proposal should relate to the existing coastal towns and villages as opposed to the coastal corridor. Section 6 of the Strategy outlines the documentation required for planning applications relating to landmark buildings: design statement, architectural design statement, impact assessment study, a movement statement, building services strategy, and EIAR if required. In summary, whilst the assessment criteria has changed from the former Development Plan (upward and downward modifiers) to the current Development Plan (Table 5.1), neither Plan identified the site for high rise development. For similar reasons as to why the proposal does not comply with criteria in Section 3.2 of the Building Height Guidelines, I do not consider it complies with the criteria in Table 5.1 of the Development Plan.

Similar to the Development Plan, the LAP does not identify the site for high-rise development on the site. On the contrary, the LAP, which was extended in 2020 to 2025, contains very clear policies in relation to the new development being appropriately scaled and that building height makes a positive contribution to the built form (BK04 and BK05). As stated above, I do not consider that the proposal will positively contribute to the area's visual amenity and public realm. Policy UDS1 requires that any new development incorporates a coherent, legible and permeable urban form that protects and compliments the character of the street or area in which

it is set - in terms of proportion, enclosure, building line, design and by the marrying of new modern architecture with historic structures. As stated above, in my view, little consideration has been given to the surrounding Protected Structures and cACA. As highlighted above, the Local Authority's Conservation Officer recommended permission be refused for the development. In my opinion, due to the scale and height of the proposed development and its resulting overbearing and overshadowing impacts, it could potentially adversely impact future plans to redevelop the public realm adjacent to the seafront and as such would be contrary to the policies of the LAP relating to the area.

7.2.15. In summary, the proposed development would result in an excessive form of development that would be a visually dominant and discordant feature in the area, integrate poorly within the context of the setting of the site and its receiving environment, and that it would be out of character with the established pattern of development in the vicinity of the site. In my opinion, the proposal would have a significant and unacceptable visual impact and be out of scale with its surrounding vicinity and would not be an appropriate form of development for the reasons outlined above. The revised 10 storey proposal would also be a very largescale form of development that would be highly visible from many nearby and distant vantage points. It would appear as a discordant feature in the town and have an unacceptable and significant negative impact on the public realm in the area.

7.3. Residential Amenity

Standard of Accommodation

7.3.1. The Planning Authority raised no significant concerns in relation to the proposed standards of accommodation. The 15 No. storey scheme provides for 13 2-bed (4 person) apartments, while the 10 No. storey proposal would provide 8 2-bed (4 person apartments). While there are no mix of units proposed, having regard to the overall low number proposed and the site's constraints, I consider the proposal acceptable in this regard. Furthermore, as noted by the Local Authority, the units are compliant with the Apartment Guideline's minimum overall floor areas, room sizes, refuse areas, private amenity space, and dual aspect. I am satisfied that the existing surrounding development would not have any significant overbearing or overshadowing impacts

on the proposed units, and that future residents could avail of an adequate level of amenity.

Open Space

- 7.3.2. The proposed development does not include any public or communal open space provision. The Applicant has suggested that a financial contribution be paid in lieu of communal open space. The Development Plan (Section 12.8.3.1) states that a financial contribution may be paid in lieu of public open space on sites less than 0.25ha. In terms of communal open space, the Development Plan (Section 12.8.3.2) states that on urban infill schemes of up to 0.25ha, the quantity of communal amenity space may be relaxed in part or whole, on a case-by-case basis, however this is subject to overall design quality. Having regard to the low number of units proposed, and the site's proximity to Blackrock Park and the coastline, I consider that a financial contribution in lieu of open space would be acceptable in this instance.

Car Parking

- 7.3.3. The proposed development does not provide for any car parking spaces. Whilst I note the Observers concerns in relation to car parking overspill in the area, having regard to the low number of units proposed and the site's proximity to various public transport modes, I consider the scheme acceptable in this regard. In relation to potential traffic impacts during construction, I submit that these could be addressed in a detailed construction traffic management plan. As such, I do not recommend that planning permission be refused on traffic related grounds.

7.4. Trees

- 7.4.1. The site immediately abuts the boundary of Deepwell, which has a number of mature trees along its eastern boundary, which overhang the site (see Photograph 8 attached to this Report). A Preliminary Tree Report (dated July 2021) was submitted with the application. It is important to note that the Report states that an inspection outside the property from which the trees originate using visual observation methods only was carried out. The Report states that the subject trees are mature Sycamore, measuring 14-15m in height, and 'appear' to be suited for inclusion in Category B2 (moderate value); "*some may be greater value (category A), and some maybe of lesser value (category C or U) depending on their actual condition.*" The Report highlights that branches overhanging the boundary may legally be cut back to the vertical property

boundary, but not beyond without the consent of the tree owner. As outlined above, the Development Plan includes objectives “*To Protect and Preserve Trees on Woodlands*” in respect of the trees on the Deepwell property. The Report advises that the root protection area (RPA) should be calculated as an area equivalent to a circle with a radius 12 times the stem diameter. Whilst a detailed survey of the trees has not been completed, having viewed the trees during my site visit and noting the separation distance between the trees and the proposed building, I would have concerns that the construction of the proposed development could potentially damage the trees, in particular their roots, and as such would be contrary to the Development Plan’s objective to protect and preserve same.

7.5. Construction Compound

The Applicant proposes to utilise part of the public car park to the east of the site as a construction compound. There are no permanent works proposed in this area as part of the planning application. The Observers question whether or not the Local Authority has consented to the use of the part of the car park as a temporary construction compound. Section 34(13) of the *Planning and Development Act 2000 (as amended)* states: “*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*” As such, should the Board be minded to grant permission for the development, it is the Applicant’s responsibility to ensure sufficient legal interest exists to implement the permission. In terms of the validity of the application, I am satisfied that the Applicant has provided evidence of sufficient legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. This is a matter to be resolved between the relevant parties, having regard to the provisions of Section 34(13) of the *Planning and Development Acts 2000 (as amended)*.

7.6. Flood Risk Assessment

- 7.6.1. A site-specific flood risk assessment was submitted with the First Party Appeal. The development is considered “Less Vulnerable” at ground floor level and first floor level, but “Highly Vulnerable” on the upper floor levels. The proposed ground floor level is to be 3.10m AOD, which is stated to be approximately level with the existing road level on Bath Place. The Report highlights that the OPWs records show that the site has

not suffered from flooding in the past. The Report states that the site is outside the 0.1% AEP, 1.0% AEP and 10% AEP fluvial flood events. In addition, the site is outside the 0.1% AEP coastal flooding. There are no records of pluvial flooding for the site. The National Coastal Flood Hazard Mapping identifies flooding (depths 0-0.25m) adjacent to the site, but not on the site itself. Flooding appears to bound the site to the east under the Medium-End Future mapping scenario, which allows for a 0.5m rise in sea levels with glacial isostatic adjustments of -0.5m/year. The Report states that flooding to the west is unlikely to affect the property given the variation in levels along with the lack of openings proposed to the western¹ boundary.

- 7.6.2. A source-pathway-receptor model was produced to summarise the possible sources of floodwater, the people and assets that could be affected by potential flooding. Potential flooding as a result of blockages of the public combined sewer on Bath Place (0.67m below ground level), coupled with the floor level were identified as a possible, medium risk. As such, a number of mitigation measures have been proposed: (1) demountable flood barriers are to be installed on all entrances to the building at ground floor level. Flood barriers are to extend to a minimum of 300mm above the maximum predicted flood depth of 0.25m. The overall height of the proposed barriers are to be 600mm above finished ground level. (2) a non-return valve is to be incorporated into the outfall sewer. (3) The ground floor is to be constructed as flood resilient. I note that the Local Authority's Municipal Services stated in the Planning Authority's Response to the First-Party Appeal that it was generally satisfied with the response to the surface water and flood risk matters included as part of the First-Party Appeal. I am satisfied that the submitted flood risk assessment is robust and that it accords with relevant national guidance. In conclusion, I do not consider that there is a flood risk to the proposed development during its operational phase.

7.7. **Appropriate Assessment**

- 7.7.1. The South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA are located c.60m, directly north of the site. The qualifying interests and conservation objectives associated with the two sites are listed in Table 1 below.

¹ I note the Report (page 19) states 'eastern' boundary, however it is assumed having regard to the context of the report, this is a typographical error, and should state 'western'.

Site	European Site (Site Code)	Qualifying Interests	Conservation Objectives
1	South Dublin Bay SAC (000210)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	To maintain favourable conservation condition of condition of Mudflats and sandflats not covered by seawater at low tide
2	South Dublin Bay and River Tolka Estuary SPA (004024)	<p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Sanderling (Calidris alba) [A144]</p> <p>Dunlin (Calidris alpina) [A149]</p>	To maintain favourable conservation condition of the species for which the SPA has been selected.

		Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Wetland and Waterbirds [A999]	
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7.7.2. As outlined in the Engineering Services Report and Flood Risk Assessment (dated October 2021) submitted as part of the First Party Appeal, the site is currently served by an existing connection to the public drainage network. The Applicant states that given that the location and condition of the existing connection is unknown, it is proposed to decommission the existing connection. It is proposed to construct a new 150mm diameter connection from the development to an existing 225mm diameter combined public sewer located on Bath Place. The Report highlights that there is no proposed increase to the existing roof areas or hardstanding areas and as such there will be no increase in surface water loading from the proposed development. It is proposed to construct a blue roof on both roof levels to provide attenuation and to reduce overall volume of surface water discharge. I consider this proposal to be acceptable in this regard.

7.7.3. The Construction Management Plan (including Environmental Management Plan, Waste Management Plan & Noise Mitigation Measures) prepared by the Applicant

provides very limited detail regarding proposed construction techniques and measures that may be implemented during the construction phase of the development. As stated above, the Applicant has advised that in the event of a grant of permission, it is envisaged that specific assessments including environment assessments will be submitted to the Local Authority by way of condition. I note the Local Authority's Biodiversity Officer's recommendation for further information to be requested in relation to a bat survey, bird survey, appropriate assessment screening report/natura impact statement, and environmental management plans. Furthermore, as discussed above, potential flooding as a result of blockages of the public combined sewer on Bath Place was identified as a potential flood risk for the site. A number of mitigation measures have been included as part of the proposed development to reduce flood risk during the operational phase of the development. Due to the lack of detail in the application it is unclear if any specific measures may be required during the construction phase of the development to mitigate any potential direct or indirect impacts should such a blockage occur. No appropriate assessment screening report has been prepared by the Applicant. Having regard to the scale of the proposed development in close proximity to the European Sites and the limited detail provided with the application, I am not satisfied that the proposal by itself, or in combination with other developments (including Reg. Ref. D21A/0729 and DLRCC Reg. Ref. D20A/0567/ABP Ref. 311260) should planning permission be granted for these developments) would not be likely to significantly impact the qualifying interests of the European sites.

- 7.7.4. In conclusion, on the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement I am not satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European sites South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024), in view of the sites' conservation objectives. In such circumstances I recommend that the Board refuse permission.

8.0 Recommendation

I recommend that planning permission be refused for the proposed development based on the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the location and setting of the site which is in close proximity to Protected Structures, in particular Blackrock Dart Station (RPS 106) and Deepwell (RPS 110), and the candidate Architectural Conservation Area it is considered that the proposed development, by reason of its overall scale, height, massing and design, would be out of scale with its surroundings, would have significant overbearing and overshadowing impacts, and would seriously detract from the existing visual amenities of the area and would negatively impact on the character of the receiving environment. The proposed development would not be consistent with the Urban Development and Building Height Guidelines for Planning Authorities 2018, the policies and objectives of the Dun Laoghaire Rathdown County Development Plan 2022-2028 or the Blackrock Local Area Plan 2015-2021 (extended to 2025). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 9.2. On the basis of the information provided with the application and appeal, the Board cannot be satisfied that the development, individually, or in combination with other plans or projects, would not be likely to have a significant effect on European sites South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024), in view of the sites' conservation objectives and such would be contrary to Part XAB of the Planning and Development Act 2000 (as amended).

Susan Clarke
Planning Inspector

26th May 2022