



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314653-22

#### Development

Permission for development, comprising refurbishment of existing Protected Structure and construction of 2 new apartment buildings. a) Development will consist of 21 apartments within Blackrock House (a Protected Structure), to provide for 4 additional apartments - 21 in total. b) Construction of 2 new residential blocks, with 42 apartments, and all associated site works.

#### Location

Blackrock House, 28 Newtown Avenue, and Maretimo Gardens East, Blackrock, Co. Dublin.

#### Planning Authority

Dún Laoghaire-Rathdown County Council.

#### Planning Authority Reg. Ref.

D22A/0469.

#### Applicant(s)

Forgebell Ltd.

#### Type of Application

Permission.

#### Planning Authority Decision

Grant & Refuse Permission.

<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Forgebell Ltd.
<b>Observer(s)</b>	Cormac MacNamara & Niamh Sweeney. Frank Miller & Ena Prosser. Irish Georgian Society – Donagh Cahill. Paul & Mary Owens. Declan Collins & Mia Lucas. Maretimo Gardens East Residents Association (Marston Planning Consultancy). C. Twomey. Sean & Suzanne Comaskey. James Duggan. Eric & Christina Haywood.
<b>Date of Site Inspection</b>	21 <sup>st</sup> February 2023.
<b>Inspector</b>	Michael Dillon.

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.3522ha, comprises the curtilage of Blackrock House, a Protected Structure. The house is currently divided into apartments. The three-storey-over-basement main block has two wings – east and west (mostly of two-storeys-over-basement – but with a third floor inserted into part of the east wing). There is a further two-storey-over-basement annexe building, connected to the east wing at right angles, and addressing the entrance front of the house. This annexe contains two exceptionally large chimney stacks on its western elevation to Maretimo Gardens East; and which would appear to have once contained a bellcote between them. Some concrete bridge structures have been inserted across the basement areas, to give access to the ground floor of the building. The central block is of red-brick with pitched-slatted roof behind a low parapet. The wings are plastered and painted, and roofs are of slate. The annexe is similarly plastered, and is painted, where it addresses the forecourt. There are approximately 10 surface car-parking spaces (unmarked) in the forecourt– with vehicular access from Newtown Avenue. There is pedestrian access to the site from Maretimo Gardens East at two points – one of which is gated and the other once contained a door. There is a mature horse chestnut tree, within a lawn area, immediately to the west of the entrance gates – and abutting the gable wall of Blackrock Lodge, on the adjoining site to the west. This house has three ground floor windows opening onto this lawn area. The garden front of Blackrock House contains two exceptionally wide bows – and overlooks an area of flat lawn, with three mature sycamore and cherry trees. Some areas of the garden are unkempt. The original ground level has been excavated to provide light to basement windows in all areas, apart from the east and south sides of the annexe and the west side of the west wing.
- 1.2. To the south, the site abuts the original gate lodge to Blackrock House – now in separate ownership and renamed, Fairhaven – a dormer structure. This former gate lodge has a vehicular entrance from the forecourt of Blackrock House to its front garden area. It also has a further vehicular and pedestrian access to the forecourt – formerly gates to a stable yard. There is also pedestrian access from the forecourt to the rear of 30 Maretimo Gardens East. To the south, the site abuts Newtown Avenue – the boundary with which is high stone wall with entrance gates and

separate pedestrian gate. To the southwest, the site abuts two-storey Blackrock Lodge (now divided into apartments) – the boundary with which is an old stone wall approximately 2m high. To the northwest, the site abuts a laneway (partly surfaced) which serves as a back access to houses within Maretimo Terrace and Maretimo Gardens East – the boundary with which is a 2.5m high stone wall – within which is one of the two pedestrian gates linking Blackrock House and Maretimo Gardens East. This laneway also serves as vehicular access to Blackrock Lodge – which has a pedestrian entrance only from Newtown Avenue. No. 31 Maretimo Gardens is the closest house to the laneway boundary, and it has a dormer window addressing the garden of Blackrock House. There is a short stretch of 2m high concrete boundary wall on this section of the laneway. To the north and northeast, the site abuts Maretimo Gardens East – the boundary with which is old paddock railings with some hedging and rogue smaller trees. Houses on the other side of Maretimo Gardens are two-storey. The boundary of the annexe building with Maretimo Gardens East is a 1.2-1.4m high concrete wall. There is a narrow passage on the other side of this wall at basement level – although there are no windows on the east façade of the annexe at basement level. The one window on the southern basement elevation of the annexe building is provided with very limited light, via a grating on the passageway linking Maretimo Gardens East with the forecourt. The basement passage on the south side of the annexe building is tunnelled.

- 1.3. There are two small metal containers on the site, which are not shown on drawings submitted. Large wheelie bins just inside the entrance currently serve occupants of apartments. There is no dedicated bin storage area.
- 1.4. There is an apartment complex under construction on the other side of Newtown Avenue – referred to as the Europa Garage site. The structures on this site are presently four stories. Newtown Avenue is one-way for vehicular traffic – heading towards Blackrock village centre. There is a contra-flow bicycle lane in place, with on-street (pay & display) parking. There are footpaths on both sides of the road. Maretimo Gardens East is a residential cul-de-sac serving some 44 houses. The road is narrow. Pay & Display parking is in operation on Maretimo Gardens East. There is a narrow footpath on the site boundary with Maretimo Gardens East; but because of growth of the boundary hedge and on-street parking, is realistically, not usable by pedestrians.

## 2.0 Proposed Development

2.1. Permission sought on 30<sup>th</sup> June 2022, for the following-

- Renovation of existing house, which is currently sub-divided into 17 apartments: and sub-division it into 21 new apartments (1,470sq.m). One external concrete bridge across the basement area at ground level (access to apartment 8 is to be removed, whilst a second concrete bridge, giving access to apartments 9 & 16 is to be retained). The metal staircase giving access to the roof of the east wing is to be retained.
- Construction of two apartment blocks (gross floor area 1,430sq.m) within the curtilage of Blackrock House. Block A is three-storey-over semi-basement; and Block B is two-storey. The two new blocks together, will contain a further 21 apartments – bringing the total to be provided on site to 42. Of the total number; 21 will be one-bedroom; 18 will be two-bedroom; and 3 will be three-bedroom units.
- 14 surface car parking spaces – 13 with access from Newtown Avenue and 1 from Maretimo Gardens East. The latter space is to be for shared electric cars – ‘Go Car’.
- 54 bicycle parking spaces are to be provided in two groupings – one on Newtown Avenue and the other on Maretimo Gardens East.
- Connection to existing public watermains and sewers.
- Widening of footpath on Maretimo Gardens East.

2.2. The application is accompanied by the following documentation of note-

- Planning Report – dated June 2022.
- Archaeology & Cultural Heritage Report – dated 27<sup>th</sup> September 2021.
- Construction Management Plan – undated.
- Design Statement – dated June 2022.
- Daylight, Sunlight and Shadowing Assessment – dated 26<sup>th</sup> May 2022.
- Civil Engineering Infrastructure Report for Planning – dated 29<sup>th</sup> June 2022.

- Architectural Heritage Impact Assessment – dated 4<sup>th</sup> May 2022.

### 3.0 Planning Authority Decision

#### 3.1. Decision

By Order dated 25<sup>th</sup> August 2022, DL-RCC issued a notification of decision to grant permission for the refurbishment of Blackrock House and to refuse permission for Blocks A & B (21 apartments). The reason for refusal related to negative impact on the Protected Structure, by virtue of the height of Block A; proximity of both blocks to Blackrock House; setting and grounds of Blackrock House.

The conditions of note of the permission are as follows-

2. Permission relates only to refurbishment of Blackrock House.
3. Blocks A & B shall be omitted.
4. Relates to window replacement within Blackrock House.
7. Required compliance with Part V of the Act.
9. Relates to a bond for completion of development.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Report

The Planner's Report – dated 24<sup>th</sup> August 2022, is detailed and comprehensive. It incorporates the other technical reports of the Council. The report ultimately concludes that permission should be granted for the refurbishment of Blackrock House and refused for Blocks A & B.

##### 3.2.2. Other Technical Reports

Transportation Department – Road Maintenance, Public Lighting and Roads Control Unit – dated 13<sup>th</sup> July 2022, expressed concern that no public lighting layout was submitted, and sought additional information.

Environment Section – dated 13<sup>th</sup> July 2022, was concerned that there was no waste management proposal or construction management plan. Conditions were suggested if permission was to be granted.

Building Control – dated 25<sup>th</sup> July 2022, indicated no comment to make.

Housing Department – dated 27<sup>th</sup> July 2022, indicated that Part V would be complied with by the applicant; with 2 two-bedroom and 2 one-bedroom units proposed to be transferred. A condition could be attached requiring compliance with Part V.

Environmental Health Office – dated 29<sup>th</sup> July 2022, sought information on baseline noise, and mitigation during the construction phase. An operational waste management plan should be submitted.

Municipal Services Department - Drainage Planning – dated 3<sup>rd</sup> August 2022, expressed concern in relation to surface water storage and discharge calculations and capacity of green roofs. Drawings variously show green roofs on one or both Blocks A & B.

Architects Department – Conservation Division – dated 19<sup>th</sup> August 2022, indicated objection to additional development within the curtilage at pre-planning consultation stage; and that stance has not changed. Concern is expressed that it is not known which windows are to be retained and what replacements will look like. Apart from this matter, the refurbishment of Blackrock House could proceed subject to conditions being attached in relation to windows, supervision of works by a suitably-qualified conservation architect, and adherence to best conservation practice in relation to repair works.

### 3.3. **Prescribed Bodies**

Irish Water – dated 5<sup>th</sup> August 2022, requests a Pre-Connection Enquiry in relation to the proposed development.

### 3.4. **Third Party Observations**

A large number of observations were received from surrounding residents. The issues raised are largely those raised in observations to the Board on the appeal.

## 4.0 **Planning History**

**Ref. D01A/0803:** Permission granted by DL-RCC for refurbishment of Blackrock House and creation of new apartments, new three-storey apartment block (6 units).

On appeal by 3<sup>rd</sup> Party to the Board (**PL 06D.128849**), permission was refused on 19<sup>th</sup> day of September 2002, for one reason as follows-

Having regard to the status of Blackrock House as a Protected Structure and the extent of works involved in the proposed construction of a three-storey apartment block within the grounds, it is considered, on the basis of the drawings and submissions made in connection with the planning application and the appeal, that the proposed new development would materially and adversely affect the integrity, character and setting of the Protected Structure. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and development of the area.

**Ref. D13A/0109:** Permission granted for new vehicular entrance from Newtown Avenue for Fairhaven, Blackrock House Lodge – immediately to the south of Blackrock House. This development was carried out in sympathetic fashion in the location of a former pedestrian gate. The property still retains a pedestrian access and two vehicular access points from the forecourt of Blackrock House. A new 2.5m high granite wall has been constructed to separate the garden of Fairhaven from the forecourt of Blackrock House – within which a vehicular entrance has been provided.

**D17A:0137:** Permission granted to construct residential scheme of houses and apartments on opposite side of Newtown Avenue (former Europa Garage site). On appeal by a 3<sup>rd</sup> Party to the Board (**PL06D.248456**), permission was confirmed on 17<sup>th</sup> October 2017. There is construction under way on this site. It is not clear if the construction relates to this permission or a later SHD permission from 2020.

**D17A/0653:** Permission granted for single-storey extension with first-floor roof garden at 30 Maretimo Gardens East – just to the south of the annexe to Blackrock House. This development has been completed.

**Ref. D22A/0409:** Permission granted on 3<sup>rd</sup> October 2022, for two-storey house to rear of Fairhaven – with access from the forecourt of Blackrock House. There was no development on site on the date of site inspection by this Inspector.

**ABP-308877-20:** SHD permission granted for 100 apartments in seven-storey blocks on opposite side of Newtown Avenue (former Europa Garage site). Development has commenced on this site.



**D21A/0958:** Permission granted for development of 91 apartments on the opposite side of Newtown Avenue (former Europa Garage site) in 2 blocks of one- to four-storeys-over-basement, with attic accommodation (2 units). An appeal to the Board by the applicant, against Condition 2 only (**Ref. PL06D.313569**), is awaiting decision.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant document is the Dún Laoghaire-Rathdown County Development Plan 2022-2028.

The site is zoned Objective A – ‘To provide residential development and improve residential amenity while protecting the existing residential amenities’.

Blackrock House & Entrance Gates is a Protected Structure (No. 234). Section 11.4.1.2 states in relation to works to a Protected Structure – HER8-

It is a Policy Objective to:

- i. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- ii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the ‘Architectural Heritage Protection Guidelines for Planning Authorities’ published by the Department of the Arts, Heritage and the Gaeltacht.
- iii. Ensure that all works are carried out under supervision of a qualified professional with specialised conservation expertise.
- iv. Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.
- v. Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed

landscape features, or views and vistas from within the grounds of the structure are respected.

- vi. Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.
- vii. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.
- viii. Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure.
- ix. Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.
- x. Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development (consistent with NPO 17 of the NPF and RPO 9.30 of the RSES).

Section 12.11.2.3 deals with development within the grounds of a Protected Structure and states-

Any proposal for development within the grounds of a Protected Structure will be assessed in terms of the following:

- The proximity and potential impact in terms of scale, height, massing and alignment on the Protected Structure, impact on existing features and important landscape elements including trees, hedgerows, and boundary treatments. Any development should be sensitive of the relationship between the principal residence and its adjoining lands and should not sever this.
- Where a Protected Structure is part of a larger development then the phasing of the works needs to ensure that those relating to the Protected Structure take place early on, preferably first, or in tandem (as agreed by the Planning Authority), so that the conservation, and use of the Protected Structure is secured at the start of the project.

- Development proposals within historic landscapes and gardens shall include an appraisal of the existing landscape character to include identification and description of the structures, features, planting, and boundaries. This appraisal should be undertaken prior to the initial design of any development, as it will provide an understanding of the essential character of the site and help to inform the appropriate location for any development.
- Have regard to the development management criteria as set out in Chapter 3 of the Department of Housing, Planning and Local Government, (DHPLG), 'Urban Development and Building Height Guidelines'; and shall indicate how the proposed development responds to its overall natural and built environment, and make a positive contribution to the urban neighbourhood and streetscape; ensure the proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials/building fabric well considered; ensure the proposal positively contributes to the mix of uses, and/or building/dwelling typologies available in the neighbourhood.
- The retention of an appropriate setting for the Protected Structure to ensure the relationship between the building, associated structures, amenity value, and/or landscape features remain unaffected by the development.
- Impact of associated works including street furniture, car parking, hard landscaping finishes, lighting, and services. These should be designed using appropriate mitigation measures, such as careful choice of palette of materials, and finishes, and use of screen planting.

The site is located within Parking Zone 2.

The site is within the zone of archaeological potential associated with Recorded Monument 023-008, immediately to the south – Castle Byrn alias Monkstown Castle.

Lands on the opposite side of Newtown Avenue are located within the Blackrock Local Area Plan.

## **5.2. Natural Heritage Designations**

The site is not located within or adjacent to any Natura 2000 sites. Wastewater will be discharged to the public system; and surface water run-off will be attenuated on site, prior to discharge to the public sewer network. Natura 2000 sites within the zone of influence include Dalkey Islands SPA (Site Code 004172) and Rockabill to Dalkey SPA (Site Code 003000). The development was screened for appropriate assessment by DL-RCC. No mitigation measures are proposed to avoid/reduce any impact on a Natura 2000 site.

The proposed development is located within an established urban area on zoned lands that are suitably serviced. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 sites. A Stage 2 Appropriate Assessment is, therefore, not required.

## **5.3. EIA Screening**

The development was screened for EIA by DL-RCC. Having regard to the nature of the proposed development, comprising the refurbishment of a house which is already subdivided into apartments and the construction of 2 additional apartment blocks (to provide an overall 42 apartments), including all necessary site works, in an established urban area, where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination; and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The appeal from John Spain Associates, agent on behalf of the applicant; received by the Board on 20<sup>th</sup> September 2022, can be summarised in bullet point format as follows-

- The Board is requested to allow the two apartment blocks, in what is considered to be a well-designed infill scheme.
- The site is centrally-located and proximate to public transport – both DART and Dublin Bus.
- Given the height of Block A (three-storey-over-basement), the building height performance criteria set down in Table 5.1 of Appendix 5 of the Plan should not apply.
- The National Planning Framework supports increased densities in built-up areas – particularly where they are served by public transport and where capacity exists. The quantum of development currently on the appeal site, represents an underutilisation of serviced land.
- Blocks A & B are distinct from Blackrock House – and have their own character to contribute to the area. The use of brick, and the proportion and scale of the blocks connects new and existing buildings.
- The site is recessed, and will not form a prominent feature on the skyline. There are no protected views or prospects in the area. Blackrock House remains the focal point.
- Block A will frame Blackrock House, when viewed from Newtown Avenue. Block B is low-profile – to allow views from Blackrock House towards the sea.
- The mix of unit types proposed is appropriate in the context of declining household size at national level. Blackrock and its environs are primarily defined by larger three- and four-bedroom dwellings.
- The visual prominence of Blackrock House on this site has been maintained.
- Satisfactory daylight and sunlight levels have been achieved in the design of Blocks A & B. Where living-room windows do not receive the required level of sunlight, it is generally because they are located at lower levels of the building or where windows are located to the back of large balconies. A number of rooms within Blackrock House itself fall below standard, and intervention on the walls would be required to remedy this. This is something which would not be in the best interests of protecting the structure.

- Block A is lower than the central portion of the main block of Blackrock House.
- The development will not impact on Newtown Villas Architectural Conservation Area – 50m away, or on nearby Protected Structures at Newtown House and Seapoint Manor.
- It is noted that 22m separation distances are not met within the scheme. However, the overall design incorporates sustainable densities and private balcony spaces within the new blocks.
- The Apartment Guidelines 2020, recommend performance-based criteria over blanket restrictions in relation to height or separation distances.
- A detailed Architectural Heritage Impact Assessment accompanied the application; and concluded that the new blocks would not negatively impact on the setting of Blackrock House.
- All works to Blackrock House will be carried out under supervision of a suitably-qualified conservation professional.
- The curtilage of the house has shrunk over the years, with development of the railway and Maretimo Gardens East. Existing gardens are somewhat overgrown.
- One car-sharing space is proposed – accessed from Maretimo Gardens East.
- Parking requirements for this development can be relaxed owing to proximity to DART and bus services.
- The proposed density is 119 units per ha. This optimises the potential of an urban site, well-served by public transport. It is considered that the site is a ‘brownfield’ one. Site coverage is 37% - with a plot ratio of 0.88.
- The communal open space area is 581.5sq.m – in excess of the 258sq.m in the Schedule of Accommodation.
- The garden of Blackrock House is located to the north of the building and is already over-shadowed by the house itself. This will not be altered by the proposed development.

- The design has taken account of windows in 2 Blackrock Lodge, in order to provide adequate daylight and sunlight at this part of the site – with Block A set back from the common boundary at this location. The affected windows are located on the site boundary – and a mirror-image development could have been proposed on this site. An existing mature tree on the site already overshadows Blackrock Lodge – so any calculations on daylight and sunlight loss would not have taken this into consideration.

6.1.1. The appeal is accompanied by a letter from Metec Consulting Engineers, in relation to daylight and sunlight – dated 20<sup>th</sup> September 2022 – to address concerns of occupants of 2 Blackrock Lodge.

## 6.2. **Planning Authority Response**

The response of DL-RCC, received by the Board on 13<sup>th</sup> October 2022, indicates no further comment to make.

## 6.3. **Observations**

There are a total of 10 observations to this appeal. All are opposed to the development. The issues raised can be summarised in bullet point format as follows-

- Blocks A & B constitute overdevelopment; and would impact negatively on the setting of Blackrock House – a Protected Structure.
- Blocks A & B would result in overlooking and overshadowing of neighbouring property.
- Block B would impact on the setting of Blackrock House and would be out of character with houses on Maretimo Gardens East.
- The proposed footpath in front of Block B would extend into an area used for car parking at present by residents of Maretimo Gardens East; and these spaces (approximately 9) would be lost if the development proceeds. This would impinge on a public right-of-way. Most houses on Maretimo Gardens East have only 1 on-site space, and some have none at all.

- Inadequate parking is provided within the scheme of 42 apartments. Parking would overflow onto Maretimo Gardens East. There is already a problem with parking in this area. At least the Europa Garage development site on Newtown Avenue, provides for 70+ parking spaces. At present, residents of Blackrock House park cars on the grass lawn of the building; for overflow.
- The single parking space on Maretimo Gardens East is indicated as being a shared space. There is the possibility then, that the occupants of 42 apartments could have to enter the Maretimo Gardens East cul-de-sac to check if this space was free, only to have to turn about and leave, when they discovered it was already occupied. This would bring a significant amount of extra traffic into the cul de sac, with no ultimate benefit to anybody. This will have an impact for children playing on the street, and for access by emergency vehicles.
- Residents of the development will have access to residential permits for on-street parking on neighbouring roads.
- Provision of bicycle-parking spaces is just green-washing.
- The existing wall and railings on Maretimo Gardens East should be retained.
- There is no attempt at matching the brickwork in the apartment blocks with brickwork in Blackrock House.
- Residents would be supportive of a scaled back scheme on the site – with adequate parking.
- Exiting onto Newtown Avenue from Maretimo Gardens East is difficult at rush-hour times. The bicycle lane, which theoretically is one way, is used as two-way by cyclists, scooters and joggers.
- The design of blocks A & B is inferior; and materials used would not complement the existing Blackrock House. Allowing Blocks A & B, would be tantamount to de-listing Blackrock House.
- Permission for the apartment blocks at the former Europa Garage site was given by An Bord Pleanála; and should in no way be seen as a precedent for the area.



- Any new development in the garden of Blackrock House should be set back the equivalent of the setback of existing housing in Maretimo Gardens East – all of which houses have front gardens.
- The refurbishment of Blackrock House is welcomed.
- Bin lorries would have to enter Maretimo Gardens East to service Block B.
- It is not clear from the drawings submitted, whether there is vehicular access to Fairhaven from the tarmacadam parking area in front of Blackrock House.
- The zoning of the site for residential use, includes the phrase – ‘while protecting the residential amenities’.
- The Part V letter (dated 30<sup>th</sup> June 2022), submitted by the agent for the applicant, refers to a development at Northern Cross.
- Visual materials presented by the applicant are of poor quality. It is not clear which of the Europa Garage schemes is included in 3D images submitted.
- No public open space has been provided. The applicant proposes to pay a development contribution *in lieu* of on-site provision. This is a clear indication of the over-development of the site.
- Details on existing and proposed site boundaries is lacking in the drawings.
- No tree survey, arborist report or bat survey, has been submitted.
- The site is proximate to an Architectural Conservation Area on Newtown Avenue – and a visual impact statement should have been submitted.
- The car-parking in front of Blackrock House detracts from the setting of the house, and this refurbishment opportunity should have sought to improve the situation.
- The communal open space area on the site will be almost completely overshadowed by Blackrock House.
- The development will result in a devaluation of property in the vicinity.
- Windows and balconies in blocks A & B will overlook houses and gardens in Maretimo Gardens East.

- No consideration is given to the fate of the existing residents of Blackrock House during refurbishment. The existing residents form part of the community of Blackrock.
- The remaining garden of Blackrock House forms an intrinsic part of its character. New buildings within the gardens would forever compromise the Protected Structure and would irretrievably diminish the character of an historic suburban villa. Policy Objective HER8 of the Plan seeks to safeguard Protected Structures and their setting.

#### **6.4. Board Refers Appeal to Prescribed Bodies**

- 6.4.1. By letters dated 14<sup>th</sup> October 2022, the Board referred the appeal for comment to the following Prescribed Bodies:- An Chomhairle Ealaíon, An Taisce, Fáilte Ireland, The Heritage Council, the Development Applications Unit of the National Parks & Wildlife Service.
- 6.4.2. There were no responses received.

### **7.0 Assessment**

#### **7.1. Development Plan and Other Guidance**

- 7.1.1. The site is zoned for residential use, and the principle of apartment development must be seen as permissible. Elsewhere in this report, the issue of architectural and archaeological heritage will be dealt with. The site is outside of the Blackrock Local Area Plan. The development will have no impact on an Architectural Conservation Area (Newtown Villas) on the other side of Newtown Avenue.
- 7.1.2. In relation to Policy Objective HER8, the proposed refurbishment of Blackrock House would not negatively impact on the special character and appearance of the structure. The refurbishment works have had regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities', and condition 5 of the Notification of decision to grant permission required that intervention works be carried out under the supervision of a qualified conservation architect. It is argued elsewhere in this assessment that the siting and scale of blocks A & B would negatively affect the setting of Blackrock House. The form and structural integrity of Blackrock House will

be maintained in the refurbishment. The special interest of the interior will be respected during refurbishment; and I have argued elsewhere in this report in relation to the desirability of retaining the basement staircase (although unused). With reconfiguration to form an additional four apartments, the use of the house will remain residential. It is considered that blocks A & B would constitute inappropriate development within the curtilage; and would adversely impact on the special character of the Protected Structure. This issue is addressed elsewhere in this assessment. The refusal of permission for blocks A & B will ensure that what remains of the attendant gardens will continue to enhance the setting of Blackrock House. There are no historic landscapes and/or gardens remaining with Blackrock House.

- 7.1.3. Section 12.11.2.3 of the Plan deals with development within the grounds of a Protected Structure. The issues raised are dealt with under the following sections of this assessment. In relation to the six bullet points in this section, the issue of phasing does not arise due to the decision to refuse permission for blocks A & B. neither does the issue of historic landscapes or gardens.

## **7.2. Design & Layout**

- 7.2.1. The scheme proposed, provided for the following-

- 21 no. one-bedroom units.
- 18 no. two-bedroom units.
- 3 no. three-bedroom units.

Excluding blocks A & B, the refurbishment of Blackrock House would result in an increase in the number of apartments from 17 to 21.

- 7.2.2. At present, a garden area to the west of the entrance gates (adjacent to Blackrock Lodge) functions as a communal open space area. The main communal open space area is the garden to the north of the house. There is a flat lawn, which is suitable for kick-about and other games. This area to the north of the house is in shadow at certain times. On the date of site inspection, on a sunny February afternoon, the forecourt of the house was in use as a playground by children; and residents were sitting out supervising them. This forecourt area is on the south side of the house

and has the benefit of being sunnier. The construction of block A, together with associated bicycle store and bin store, would effectively eliminate the lawn area to the west of the entrance gates. This area is sunny – facing full south onto Newtown Avenue. The forecourt is to be retained in use for car parking. The northern end of the rear garden is to be built over for block B; whilst the area closest to the house (and most in shadow) is to be retained as open space. It should be noted that the area closest to the house is sloped down to the basement, and so would not be readily usable as communal open space without considerable intervention by way of landscape design or regrading. This remaining garden area is the least attractive of all the open space areas on the site at present, by reason of changes in ground level and overshadowing from the bulk of the house – in particular the central block. Landscaping proposals have been submitted with the application. All mature trees on site will have to be removed to facilitate the construction of blocks A & B. The Design Statement, submitted with the application, shows models with semi-mature trees in place.

- 7.2.3. Apartments within Blackrock House do not have any private open space. The refurbishment of the house will not result in any change in this regard. Because of the Protected Structure status of the house, it would not be reasonable to require such provision, notwithstanding the proposed refurbishment. Block A units are provided with 7.5 or 7.0 sq.m of private open space, within internal terraces – half facing south and half facing west. The semi-basement terraces would receive less daylight and sunlight than those at the upper three levels. All apartments within this block face three directions. The two basement apartments have a shared entrance; and are not linked internally to the upper levels. A separate access is proposed for the ground, first and second floor apartments (six in total). There is no lift within the building. There is no access to the roof – and consequently no ready means of maintaining the sedum roof proposed. Block B is a two-storey structure, served by two staircase cores; with no lifts. Ground floor units are accessed via private amenity terraces on the south side of the block (with the exception of apartment 7). Upper floor units are accessed via Maretimo Gardens East. All apartments, with the exception of no. 9, face at least two directions: no. 9 faces full south. All units have terraces – all of which face southeast/south/southwest.

- 7.2.4. No public open space is proposed for the 21 new apartments in blocks A & B. The applicant proposed to deal with this shortfall within the scheme by way of development contribution.
- 7.2.5. The positioning of block A on the site would result in the loss of the open space area to the west of the entrance. The block is four storeys, with an excavated basement level – a little lower than the basement level of Blackrock House. The roof level of the block will be a little above the roof level of the adjoining west wing. It is contended that the block will reflect the positioning of the annexe on the other side of the forecourt of the main house, to balance the composition. The annexe is a two-storey-over-basement building, whilst block A is three-storey-over-basement. This difference in bulk and scale would unbalance the sought-after effect of balancing the composition. Old maps do show a building roughly in the position of block A, but considerably smaller in footprint. There is no way of knowing from maps, just how high the building may have been. Block A steps back to reflect the building line of Blackrock Lodge on Newtown Avenue. Newer houses within Maretimo Terrace, to the west of Blackrock Lodge, step forward again. I would consider that block A extends too far forward of the main façade of Blackrock House; and would obstruct views of this handsome building from Newtown Avenue. The block will be 13m forward of the building line of the house and its two wings. Block A is located a little more than 3.0m from the west façade of the west wing of Blackrock House. There are no opposing windows within this separation area. Block A is separated from the gable elevation of Blackrock House by 2.0-2.4m. This is exceptionally close, in view of the fact that there are 3 ground floor windows within Blackrock Lodge which address the appeal site – at least two of which light living areas. There are ground floor windows within block A, which directly address these windows in Blackrock Lodge. The separation distance would severely compromise the residential amenities of residents in both buildings. Blackrock Lodge once formed part of the curtilage of Blackrock House. It is not clear when the properties were sundered, and exactly what rights to light exist for the windows in the gable elevation of Blackrock Lodge. This is not something that can be adjudicated upon by the planning system. The basement excavation is set back somewhat from the wall of Blackrock Lodge, and works would have to be carried out to ensure the structural integrity of Blackrock Lodge. The use of brown-brick would be at variance with the existing red-brick and

cream-painted plaster finish of Blackrock House. Whilst it is noted that the desire was to differentiate the new from the old, I would consider that the block is out of character with the external finishes of the protected structure, the granite entrance gates and the painted plaster finish of Blackrock Lodge. The northern elevation of block A is located a maximum of 4.3m from the boundary with the laneway to the north. This laneway would appear to be a public one. The block is separated by more than 25m from the rear elevation of 31 Maretimo Gardens East. Houses in Maretimo Gardens East have large rear gardens – some with garages, accessed from the laneway. The block is set back sufficiently from rear gardens in Maretimo Gardens East to ensure that there will be no significant degree of overlooking in the context of a suburban site such as this one.

- 7.2.6. The positioning of block B, would result in the loss of a significant portion of the lawn, which forms the setting for the garden front of Blackrock House. Maretimo Gardens East is a cul de sac; and this elevation of Blackrock House is not one seen by many. Notwithstanding this, the layout of Maretimo Gardens East, partly within the original gardens of Blackrock House, provided for a retained lawn area to frame the setting of the house. No. 31 is positioned so as not to encroach on the frontal view of the Protected Structure. Block B has been set back, as far as possible, from Blackrock House – but at one point coming within 7.5m. Opposing windows within the old and new buildings would result in unacceptable levels of overlooking – particularly the terraces and balconies of the new building – all of which face south and address the garden front of Blackrock House. The floorplan of block B is dog-legged – to try to address the building line established by no. 31 Maretimo Gardens East and its neighbours. The block is constructed right at the back of the footpath, where it addresses the front elevation of 21 & 22 Maretimo Gardens East. At this point, the separation distance is 17.5m. I note that a public road intervenes within this separation, and so would consider that the block would not impact unduly on the amenities of these houses. A blank gable elevation is presented to the laneway between the site and 31 Maretimo Gardens East. There will be no impact on the amenities of this house, arising from the construction of block B. No access is provided to the roof of block B, which is variously shown as having, and not having, a sedum roof. It would be relatively easy to access such a roof by way of ladder. The use of brown brick on the block would be at variance with the existing finishes of

houses in Maretimo Gardens East and Blackrock House. Again, it is noted that the developer desired to differentiate between the new and the old, but the massing, flat roof, external finishes and proximity to Blackrock House, results in the block being out of character with its neighbours and detrimental to the amenities of residents of Blackrock House and the future residents of block B itself.

- 7.2.7. The application is accompanied by a Daylight, Sunlight and Shadowing Assessment. The modelling does not take account of mature trees on the site – all of which are deciduous. Some units within Blackrock House may not meet the desired criteria for daylight, but as the building is a Protected Structure, it would be unacceptable to widen or create new window openings. At issue is the two new blocks. Block B is a low, two-storey building with a flat roof. It is located to the north of Blackrock House, and will be somewhat overshadowed by the bulk of this building, particularly the central block, on 21<sup>st</sup> March, in the middle hours of the day. This is unacceptable for new-build units – all of whose terraces and balconies are directly impacted. The block will not impact unduly on houses in Maretimo Gardens East on 21<sup>st</sup> March. Of most concern is block A – particularly its position *vis a vis* Blackrock Lodge (referred to as block 10 within the Assessment). The separation distance between block A and Blackrock Lodge is not absolutely clear; but it would seem to be between 2.0m and 2.4m. The proximity of block A to the gable elevation of Blackrock Lodge, results in ground floor windows in the latter building being almost entirely excluded from sunshine, and significantly so from daylight. This is equally the case for basement and ground floor (and to some extent first floor) windows on the western elevation of block A – although affected rooms also have south-facing windows set back behind terraces. This is acknowledged in the Assessment (in relation to Blackrock Lodge only) – where the affected windows are considered on pages 31 & 32; and refers to the impact as ‘minor adverse’. The three windows are marked W1, W2 & W3. It seems that W3 is frosted glass – so not lighting a living area – whilst the other two are clear glazing. Appendix D, at page 71, does not appear to accurately reflect the situation of windows within adjoining Blackrock Lodge. Observers to the appeal claim that windows, and the rooms they light, are not correctly identified within the Assessment, and that the affected rooms do not have alternative sources of daylight from other aspects of Blackrock Lodge. There are two apartments within the building affected. There are single-storey, ground floor extensions, both to the front and back

of Blackrock Lodge, where it abuts the appeal site. The Assessment correctly points out, that a mature horse chestnut tree (deciduous) within the adjoining garden area on the appeal site, does have an overshadowing impact on these windows. Block A will also impact on late afternoon sunshine to Blackrock House (particularly the west wing) on 21<sup>st</sup> March. Windows in the basement, on the north side of block A, will receive poor levels of daylight – particularly as there is 2.5m high stone wall on the boundary with the adjoining laneway. Pages 66 & 67 of the Assessment would seem to indicate that basement windows in block A would receive more daylight on the east and south sides, than would the third floor. This is not logical, and it would appear that the floor levels are out of order or sequence – as fenestration is almost identical at all floor levels. Page 54 of the Assessment indicates that the area to the south of block A is an amenity area, where sunshine levels have been calculated. This area is indicated for bicycle and bin storage and so, cannot be considered an amenity space. The only amenity space provided is between Blackrock House and block B.

### **7.3. Traffic & Parking**

#### **7.3.1. Traffic**

There is no proposal to alter the entrance arrangements from Newtown Avenue. The gateway to Blackrock House is a Protected Structure. This gateway is wide enough for one vehicle only. I would have concerns that it may not be wide enough for trucks and excavation machinery, which might force construction traffic onto Maretimo Gardens East. This is something which would have to be sorted out by way of a Construction Management Plan. The current entrance is a long-established one, at a right-angle bend on Newtown Avenue. Newtown Avenue traffic has been restricted to one-way only – with a contra-flow bicycle lane. There is no reason why the proposed development should result in traffic hazard, notwithstanding claims from an observer that two-way traffic uses the bicycle lane. It is further claimed by observers that the development will result in additional traffic on Maretimo Gardens East. This cul de sac is not wide. There is on-street parking in places (particularly along the Blackrock House boundary), which reduces traffic flow to one-way only. It is proposed to have one shared parking space with access from this road. I note the comment of observers relating to Blackrock House traffic entering this road, only to



find the space occupied; and to have to exit the cul de sac again. The number of residents using shared electric vehicles will be limited, and I do not see that a single shared space will have any significant impact on traffic levels on the road.

Observers point out that exiting Maretimo Gardens East onto Newtown Avenue can be difficult during rush hours. The possible addition of one car, to a road which serves 44 houses in Maretimo Gardens East (in addition to Blackrock Lodge apartments and the rear entrance to some houses in Maretimo Terrace), will not have any noticeable impact on rush-hour queueing. The bin store for block B would be served from Maretimo Gardens East. Bin trucks will be entering Maretimo Gardens east, in any event, to service existing customers. Construction traffic for the Europa Garage site is currently using Newtown Avenue. Newtown Avenue capable of han for such short-term additional traffic volumes.

### 7.3.2. Parking

It is proposed to provide only 14 parking spaces within the development. [I note that the landscaping drawings show 15 spaces]. The Development Plan recommends 1 parking space for one- and two-bedroom units, and 2 parking spaces for three-bedroom units (maximum). This would result in a requirement for 45 parking spaces (maximum). There is no report on file, from the Transportation Planning Division of DL-RCC. Notwithstanding the shortfall of 31 parking spaces, the planning authority was satisfied with the quantum proposed – allowing for the fact that permission was ultimately refused for blocks A & B. The site is located within easy walking distance of two DART stations (Blackrock and Monkstown/Seapoint) and a number of bus routes. There is a dedicated contra-flow bicycle lane on Newtown Avenue. One shared parking space is to be provided on Maretimo Gardens East. I note the concerns of observers in relation to parking provision in the area. However, having regard to the proximity of good-quality public transport, the easy walking distance to Blackrock Village amenities, and the existence of a dedicated bicycle lane on Newtown Avenue, I would agree with the conclusion of the planning authority, that the shortfall in parking is not a reason for refusal of planning permission – particularly where parking standards are maximum ones. The creation of four additional apartments within Blackrock House will not result in any significant increase in parking demand in the area. I note the comment by an observer that existing residents of Blackrock House sometimes park on the grass lawn area to the west of

the entrance – but this is matter for the management of the complex and does not impinge on traffic safety or parking on surrounding roads. There are two vehicular access points from the forecourt area; to front and rear garden of Fairhaven. The proposed parking layout will not obstruct these access points.

The construction of block B would appear, from drawings submitted, to provide for the widening of the footpath on Maretimo Gardens East outside the red line of the site. This matter would need to be clarified, as it could result in the loss of on-street parking spaces along the frontage of the site – perhaps as many as 14. At least one parking space would be lost to facilitate access to the shared parking space beside the bin store.

Construction-derived parking may spill onto surrounding roads. However, this phase will be of limited duration. All on-street parking in the immediate area, is pay-parking.

There is no dedicated bicycle parking for the existing apartments in Blackrock House. The proposed scheme provides for 54 bicycle parking spaces at two locations. I would be concerned in relation to the security of these parking areas. No drawings have been received in relation to the parking structures. They should be roofed and secure against theft of bicycles – otherwise they will not be appropriate for overnight parking. The grant of permission for the renovation of Blackrock House only, made no reference to bicycle parking – as the proposed parking was associated with blocks A & B. It would be possible to attach a condition to any grant of permission for the refurbishment of Blackrock House – to require the submission of a proposal for a safe bicycle parking area for residents – for the written agreement of the planning authority, prior to commencement of development.

#### **7.4. Water Supply, Drainage & Flooding**

##### **7.4.1. Water Supply**

Supply for block B will be taken from an existing 90mm diameter pipe in Maretimo Gardens East. Supply for the existing Blackrock House and block A will be from an existing 180mm diameter watermain in Newtown Avenue. The report of Irish Water to DL-RCC requests a Pre-Connection Enquiry from the applicant. In the absence of such, it is not known if the water supply in the area is sufficient to service the

development. This is particularly the case in relation to blocks A & B, which are considered to be new development. The refurbishment of Blackrock House will result in an increase in the number of apartments within it from 17 to 21. I would consider that as there is to be no extension to the floor area of Blackrock House, the water demands of the refurbished development would not be greatly different to the demand from the existing 17 apartments.

#### 7.4.2. Foul Drainage

Foul waste will be discharged at three points to an existing vitrified clay-pipe combined sewer of 150mm and 225mm diameter in Maretimo Gardens East. The report of Irish Water requests a Pre-Connection Enquiry from the applicant. In the absence of such, it is not known if the foul sewer has capacity to service the development. This is particularly the case in relation to blocks A & B, which are considered to be new development. The refurbishment of Blackrock House will result in an increase in the number of apartments within it from 17 to 21. I would consider that as there is to be no extension to the floor area of Blackrock House, the foul sewer demands of the refurbished development would not be greatly different to the demand from the existing 17 apartments.

#### 7.4.3. Surface Water Drainage

The documentation which accompanies this application, states that there are no dedicated surface water sewers in the immediate vicinity. Surface water is to be discharged to the public combined mains sewer in Maretimo Gardens East, via an underground surface water attenuation tank of 132 cubic metre capacity – located within the landscaped garden area between Blackrock House and block B. Discharge from the attenuation tank will be controlled by ‘Hydrobrake’ flow control mechanism – limited to 2 litres/second. Block A (but not block B) will be provided with sedum roof for additional pluviial storage, and permeable paving will be utilised – in accordance with SuDS requirements. The Municipal Services Department - Drainage Planning, expressed concern in relation to surface water storage, discharge calculations and capacity of green roofs. Drawings variously show green roofs on one or both blocks A & B. These matters would need to be addressed before permission could be granted for blocks A & B. The development would have

the advantage of providing for surface water attenuation from the existing Blackrock House apartments and parking area – where it is likely that none exists at present.

#### 7.4.4. Flooding

The Civil Engineering Infrastructure Report for Planning, submitted with the application, contains at section 3.0, a Site Flood Risk Assessment. The site is not subject to tidal flooding. There are no records of flood events at the site. The site is located within Flood Zone C – less than one-in-one-thousand-year likelihood of flooding. There are no watercourses either through or immediately adjacent to the site. The lowest level of development on the site is at 13.7m OD. The issue of flooding was not alluded to by the Drainage Planning Section of DL-RCC.

### 7.5. **Architectural Heritage**

- 7.5.1. The application is accompanied by an Architectural Heritage Impact Assessment. The central, three-storey-over-basement block, dates to 1774. It is finished in red brick, with slate roof behind a low parapet. Protruding chimneys are of brick. There is a granite string course all around the block between first and second floor level. A small part of the eastern wall is weather-slatted. The main block is flanked by two wings (east & west); high single-storey-over basement structures – added sometime before the first edition of the 6” Ordnance Survey maps of 1836. The wings have enormous shallow bows facing the garden front (north towards the sea). The wings are plastered and painted, only on the forecourt elevation and the western elevation of the west wing. They have shallow hipped slate roofs, which are visible from the ground – notwithstanding their being hidden behind low parapets on the entrance front side. The roof of the east wing has been altered, to provide for external access to the first-floor level of the main block. There are two external chimney breasts added to the east and west sides of the main block – presumably to provide flues for new fireplaces within the two wings. Only the eastern of these two external chimney breasts is shown on drawings submitted – although both are clearly visible from outside. There is a two-storey-over-basement annexe building connected to the east wing – at right angles to the entrance façade. The small linking structure is single-storey-over-basement. This annexe block is plastered and has a hipped, slated roof – with three-bay breakfront pediment. Only the elevation addressing the forecourt is

painted. It has two unusually large chimney stacks on its eastern (rear) elevation, addressing Maretimo Gardens East. It would appear from old maps that there was once a glasshouse leaning against these large chimney stacks. The annexe predates the 1836 OS map – but does not feature on the 1834 map for the Dublin to Kingstown Railway. So it may be that it was constructed in the intervening two years. A small portion of the link section with the east wing seems to have been removed, sometime before 1907.

- 7.5.2. The house was converted into 17 apartments sometime in the late 1930's or early 1940's. At this time too, Maretimo Gardens East was laid out within what was formerly the gardens of the house and the adjoining seaside villa to the west, called Maretimo. Prior to construction of Maretimo Gardens East, Blackrock House would have enjoyed fine view over Dublin Bay towards Howth. Such views are probably still available from the top floor of the central block, over the roofs of the houses in Maretimo Gardens East. The construction of the Dublin-Kingstown Railway in the 1840's, necessitated the construction of pedestrian accommodation bridges and tunnels – so that villas, such as this one, could retain their connection with bathing areas on the shore. An OS map of 1867, shows the annexe building in place. Blackrock Lodge, immediately to the west, is shown on the 1867 OS map, and would appear to be located within the curtilage of Blackrock House. The gate lodge building (now Fairhaven) also appears on this map of 1867. The 1907 OS 1:2500 map clearly shows Blackrock House, Fairhaven and Blackrock Lodge.
- 7.5.3. Two concrete pedestrian bridges were constructed across the basement area of the east wing and the annexe – to provide ground floor access to new apartments within the building. At the same time, an external metal staircase was erected to the first floor of the east wing, and a small access terrace inserted at roof level – to provide access to upper-level apartments. There is a simple railing on the south and west sides of the house, on the boundary of the basement area. On the garden front, the basement appears as a semi-basement, with ground levels excavated in front of the house to provide better light to basement windows. There was once a doorway in the main block of the house – which would have been connected to the garden by a bridging structure – but this is now removed, and the window reinstated. Externally, the basement level is entirely plastered. The exterior of the house is somewhat marred by ugly drainpipes. Some older sash windows remain *in situ*, and some later

Victorian/Edwardian sash replacements are evident. In other opes, newer casement windows replace original sashes. There is an elaborate Portland stone entrance to the main block of the house; set within a three-sided breakfront of two storeys. The windows within this breakfront are casement-type, with some stained-glass upper lights. The roof of the breakfront is flat. It was probably constructed in the late Victorian or Edwardian periods, to replace an original front door. The original granite front door surround may have been moved to the first floor – as the doorway is unusually elaborate for a first-floor doorway which would not have been seen.

- 7.5.4. The entrance from Newtown Avenue is a fine, granite ashlar wall with pillars and entrance gates – set within curved wings. There is a separate pedestrian gate in this wall. It would appear, from study of maps, that this entrance was created sometime between 1834 and 1867. It also appears from study of older maps that there was a matching second pedestrian gate in this wall – giving access to the gate lodge (now Fairhaven) in roughly the same place where the new vehicular access to Fairhaven has recently been created. There are attractive granite pillars leading from the forecourt of the house to what was once the stable yard to the rear of the gate lodge. The stable yard and gate lodge have been separated from the curtilage of Blackrock House – although timber gates still link the two properties.
- 7.5.5. The area in front of the house is entirely covered in tarmacadam for parking. There is a lawn area to the west of the entrance, with a mature horse chestnut tree. This garden area abuts Blackrock Lodge, with windows in that building directly abutting this garden area. There is pedestrian access from the courtyard of the house, onto Maretimo Gardens East – between the annexe and 30 Maretimo Gardens East. This access is gated. There is a second connection to Maretimo Gardens East through a doorway set in the boundary wall, to a laneway on the western boundary, next to 31 Maretimo Gardens East. The northern part of the site is laid out in lawn with three mature trees – one sycamore and two cherry. An observer has noted that there is no arborist's report with the application.
- 7.5.6. The interior of the house has been much altered over the years. The main house contains apartments 1-13, whilst the annexe contains apartments 14-17. Each apartment is described in turn in the Architectural Heritage Impact Assessment. Original timber window surrounds & shutters, and doorcases exist – some with older sash windows and doors inset. Some original ceiling plasterwork remains in the

form of cornice and frieze. There is some stained glass in the entrance breakfront. The staircase within the main block is of stone – although it has been removed at ground level – necessitating the construction of the external metal staircase to the roof level of the east wing – from whence access is gained to the upper two floors of the main block. Apartments 6 & 7 are located on the ground floor of the central block – and it would be expected that the finest of any internal detailing would be here – together with the ground floor of the flanking east and west wings – apartments 5, 8 & 9. There are no decorative fireplaces of note recorded – although Adam fireplaces had been earlier recorded within the house. Neither is there any report of any flooring of note – either of timber or stone. There is little internal decoration of note in the basement, apart from doors and windows – as would be expected in an area used only by servants. Some exposed cut granite and brickwork is evident in this part of the house. Similarly, the annex contains little of note by way of internal decoration.

7.5.7. The analysis section of the Architectural Heritage Impact Assessment draws some interesting conclusions, particularly in relation to the annex – part of which may pre-date the central block of the main house. A map prepared for the Dublin to Dunleary Railway (dated 1834), shows a building, about half the size of the current one, in the position of the annexe. The two-storey entrance porch and bay window was likely erected around 1900. The bay window at the west end of the west wing, was likely erected sometime in the late 1800's – and altered somewhat at a later date. There was once a large glasshouse lean-to at the rear of the annexe. No attempt is made at resolving the progression of sub-divisions within the house over time, and the increase in the number of apartments. There is no solution to the absence of a staircase at ground-floor level within the main block. It may have been a simpler affair; hidden away from the eyes of guests; behind a door, linked to the granite staircase still in use in the upper two floors, and extant, but unused, in the basement. I conclude, from old maps submitted, that Blackrock Lodge (to the west) once formed part of the curtilage of Blackrock House. This house would appear to have been constructed between 1834 and 1867.

7.5.8. Refurbishment works must have regard to fire-rating and emergency escape. Existing sash windows are to be repaired where possible. New windows will match existing windows in the vicinity. Where partition walls are to be removed, damaged

cornices (if they exist) will be repaired. New partition walls will not cause damage to cornices. All works to masonry walls will use hand-made bricks and lime-based mortars. Any work carried out will be reversible. Where internal doorways are to be blocked-up, a shallow niche will be left, to show that a doorway once existed in the location.

- 7.5.9. The final section of the Architectural Heritage Assessment Report goes through the refurbishment works that will be required – apartment-by-apartment. The Conservation Division of the Architect's Department of DL-RCC was concerned that it was not known which windows are to be retained, and what replacements will look like. For this reason, condition 4 was attached to the Notification of decision to grant permission. Apart from this matter, the refurbishment of Blackrock House could proceed, subject to conditions being attached in relation to supervision of works by a suitably-qualified conservation architect, and adherence to best conservation practice in relation to repair works. This requirement was reflected in condition 5. It was not possible for this Inspector to gain access to the interior of Blackrock House – other than the entrance porch, as apartments are occupied. Notwithstanding this, I would be satisfied that the report submitted with the application is suitably-detailed; and contains colour photographs of all rooms within each apartment, together with communal areas.
- 7.5.10. It is unfortunate that the mezzanine apartment, inserted into the east wing of the house, is to remain after refurbishment. This insertion of a mezzanine floor has had the unfortunate effect of radically altering two of the original long sash windows in the bow of the east wing and a further window in the eastern wall of the wing; to facilitate two floors in place of the original one. This has necessitated elongating the window opens up beyond the string course – although the original sill levels are retained. These windows are illustrated in Plates 13 & 14 of the Architectural Heritage Impact Assessment. It may be possible to insert windows more in keeping with the original high sashes, whilst disguising the inserted floor behind blind panes. This was not specifically itemised in relation to proposed works for apartments 8 & 9. Condition 4 of the Notification of decision to grant permission relates to window replacements; and the condition could be altered to reflect this requirement in relation to apartments 8 & 9. The basement staircase in apartment 12, which is not linked to the ground floor, is to be removed as part of the refurbishment works. This apartment is located



within the main block of the house. I would be concerned that this staircase is part of the original fabric of the building – where the ground floor staircase has already been lost. There are no photographs of this basement staircase – stated to be within a cupboard. The original staircase does exist at first and second floor level – and is stated to be of granite. It is likely that the basement staircase is also of granite. The staircase will be located within new apartment 18. This new unit has three bedrooms. The staircase could be retained, and the apartment turned into a two-bedroom unit.

## 7.6. Other Issues

### 7.6.1. Social & Affordable Housing

The development will comply with Part V of the Act; with 2 two-bedroom and 2 one-bedroom units being transferred to the Council. This was acceptable to the Housing Department of DL-RCC. However, in light of the grant of permission to solely refurbish Blackrock House, it may not be appropriate to attach a Part V compliance condition, as the residential floorspace is already in place – and refurbishment does not involve any extension to the floor area. Because the report of the Housing Department related to Blackrock House and blocks A & B, it was not clear to the planning officer whether the creation of 4 additional units within Blackrock House would require compliance with Part V. Out of caution, condition 7 was attached to the Notification of decision to grant permission. It is open to the applicant to apply for a certificate of exemption. A similarly-worded condition should be attached to any permission from the Board.

### 7.6.2. Waste

The Environment Section and the Environmental Health Office were concerned that no detailed proposals had been made for handling waste on site – either during construction or at the operational phase. The Construction Management Plan contains, at Appendix 2, a Construction and Demolition Waste Management Plan. This Plan refers to the development as the ‘fit out of existing vacant building for a gin distillery...’ This is clearly a mistake – and the figures presented in Table 4.2 for Predicted Waste Arisings would seem to relate to another site. It would be possible to attach a condition to any grant of permission, requiring the applicant to obtain,

prior to commencement of development, the written agreement of the planning authority to a submitted Construction Waste Management Plan – should the Board be minded to grant permission for blocks A and/or B. Condition 8 of the Notification of decision to grant permission referred, *inter alia*, to dirt being carried out onto the public road during the refurbishment phase.

At present, the apartments in Blackrock House are served by large wheelie bins which are stored just inside the entrance gates. The application ought to have included proposals for waste storage and handling for all apartments within the complex. Drawings indicate two locations – one each for blocks A & B; but no details are submitted. In the event that permission is granted for refurbishment of Blackrock House, a condition should be attached requiring submission, for the written agreement of the planning authority, of plans for a waste storage area to serve Blackrock House. It may be that the bin store to serve block A, was intended to serve Blackrock House apartments also.

#### 7.6.3. Construction Management

The application is accompanied by a Construction Management Plan. Vehicular entrance is stated to be from Maretimo Terrace (which I take to mean Newtown Avenue). Foundations for the new blocks will be by way of piling. A certain amount of excavation will be required for the basement of block A. The existing gateway (a Protected Structure) may not be wide enough for trucks and excavation machinery. Any temporary removal of the heavy iron gates would have to be undertaken with the approval of the planning authority. Dust suppression measures will be utilised, and dust monitors installed at boundaries – to limit maximum deposition to 350mg/sq.m/day.

#### 7.6.4. Archaeology

The application is accompanied by an Archaeology and Cultural Heritage Report. No ground opening was undertaken as part of the study. The site lies mostly within the area of archaeological potential associated with Recorded Monument 023-008, immediately to the south on Newtown Avenue – Castle of Monkstown or Castle Byrn – from 13<sup>th</sup> or 14<sup>th</sup> Century. It is clear, from maps submitted, that Castle Byrn was located on the site of Seapoint Manor to the south. If this was the actual site, then none of the current appeal site would be within the zone of archaeological potential.

However, the Sites & Monuments Record of the OPW, indicate the site of the castle further to the north – in which case almost the entire appeal site would fall within the zone of archaeological potential. Having regard to this, and out of an excess of caution, it is proposed that archaeological monitoring of excavation for the basement of block A, and ground opening works on the remainder of the site be undertaken. As permission for blocks A & B was refused by DL-RCC, no archaeological monitoring condition was attached to the Notification of decision to grant permission. If the Board is minded to grant permission for blocks A and/or B, then an archaeological monitoring condition should be attached.

#### 7.6.5. Development Contributions

Because the permission related only to the refurbishment of Blackrock House, a condition requiring payment of a development contribution was not required. If the Board is minded to grant permission for blocks A & B, then a condition should be attached requiring payment of a development contribution. In addition, the applicant offered to pay a further development contribution *in lieu* of on-site provision of public open space for the new apartments. As the permission granted excluded blocks A & B, it was not necessary to seek such a contribution.

Condition 9 required a cash bond or insurance company bond for completion of the development – particularly as it impacted on the public realm on Newtown Avenue and Maretimo Gardens East. A similar condition should be attached to any grant of permission from the Board.

#### 7.6.6. Management

It is proposed that a Management Company will be formed to take charge of the development. No part is to be taken-in-charge by the Council. This would be an extension of the *status quo*.

#### 7.6.7. Public Lighting

DL-RCC was concerned that no public lighting layout was submitted with the application. The existing development is not provided with public lighting. Having regard to the proposed new layout, a public lighting scheme should be submitted for parking areas, bicycle parking areas, bin stores and pathways through the site. It would be possible to attach a condition requiring submission of such a layout for the

written approval of the PA, prior to commencement of any development on site; should the Board be minded to grant permission for blocks A and/or B.

#### 7.6.8. Right-of-Way

It is claimed by observers that there is a right-of-way from Maretimo Gardens East through the site onto Newtown Avenue. This right-of-way is stated to be located adjacent to 31 Maretimo Gardens East. Whilst the path within the grounds of Blackrock House was reconfigured some years ago, the right-of-way does not follow that route. The right-of-way is more direct; and has not been shown on drawings submitted. It is claimed that block A would impact on the right-of-way. I note that block A drawings still provide for the doorway to the laneway immediately to the rear of the block. Existence of a public right-of-way through the site is a matter for the planning authority and/or the courts. It would not be possible for the Board to ascertain the existence of such. I note that there is pedestrian access to the site from Maretimo Gardens East – between 30 Maretimo Gardens East and the annexe. This is not referred to in drawings or in observer submissions to the Board. However, it was open on the day of site inspection – notwithstanding that it is gated.

#### 7.6.9. Metal Storage Containers

There were two metal storage containers on the site on the date of site inspection by this Inspector. It is not clear that permission exists for these containers – within the curtilage of a Protected Structure. It is not known what they are used for. Any grant of permission to issue from the Board should require their removal – prior to commencement of development of refurbishment.

#### 7.6.10. Hours of Construction

It would be appropriate to attach a condition requiring compliance with limited hours of construction, in terms of the refurbishment of Blackrock House.

### 8.0 **Recommendation**

I recommend that permission be granted for the refurbishment of Blackrock House; and refused for the erection of blocks A & B, for the reasons and considerations set out below and subject to the attached conditions.

## 9.0 Refusal of Permission

1. It is considered that the positioning and height of proposed blocks A & B on the site, would have an overbearing impact on the setting of Blackrock House (a Protected Structure), and would contravene Policy Objective HER8 of the current Development Plan for the area, in relation to development within the curtilage of such Protected Structures.
2. The proximity of block A to Blackrock Lodge, resulting in a serious diminution of daylight and sunlight levels to certain rooms within the adjoining building, would seriously injure the amenities of some residents of this adjacent apartment scheme, and would depreciate the value of property in the vicinity.
3. The proximity of block B to Blackrock House, would result in serious overlooking between opposing apartments, which would seriously injure the amenities of future residents of both buildings.
4. The communal open space area between Blackrock House and block B would be over-shadowed by Blackrock House, and its amenity value thereby lessened, to the detriment of future residents of the entire scheme. The proposed development would, therefore, be contrary to the proper planning and development of the area.
5. It is not known if there is capacity within the existing public watermain and sewerage network, to service additional apartments within blocks A & B. The proposed development would, therefore, be prejudicial to public health.
6. No details of bin storage area or secure and weatherproof bicycle storage facilities for future residents have been provided. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## 10.0 Grant of Permission

For refurbishment of Blackrock House and creation of four new apartments within it.

## 11.0 Reasons and Considerations

Having regard to the existing residential use of Blackrock House and the need to upgrade and refurbish the building to improve residential health and safety, it is considered that, subject to compliance with the attached conditions, the refurbishment of the building and the creation of an additional four apartments within it, would not impact negatively on the amenities of the area, would not be prejudicial to public health, would not constitute a traffic hazard and would be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. This permission relates solely to the refurbishment of Blackrock House and specifically excludes development of blocks A & B – which areas shall remain as communal open space for the use of residents of Blackrock House.

**Reason:** In the interest of clarity and having regard to the absence of private open space for any apartment within the proposed refurbished Blackrock House.

3. Prior to commencement of development, the developer shall submit, for the written agreement of the planning authority, additional/revised details and drawings for windows; clearly indicating which are to be retained and which replaced. The submission shall include details of replacement windows, and, in particular, shall make provision for new windows for apartments 8 &

9 in the east wing, to reflect the original fenestration before the mezzanine floor level was introduced.

**Reason:** In the interest of the conservation of this Protected Structure and the visual amenities of the area.

4. The original basement staircase, within apartment 12, shall remain in situ, although unused. Any alterations required to the layout of this apartment to facilitate retention of the staircase, shall be submitted for the written agreement of the planning authority, prior to commencement of development on the site.

**Reason:** To retain original fabric within this Protected Structure in the interest of the proper planning and sustainable development of the area.

5. All repair works to the Protected Structure shall be carried out in accordance with best conservation practice and the Department of Culture, Heritage and the Gaeltacht's 'Architectural Heritage Protection Guidelines for Planning Authorities', 2004 (revised 2011). All works to the Protected Structure are to be carried out under the professional supervision of an appropriately-qualified Conservation Architect/Surveyor or equivalent with specialised conservation expertise, who shall manage, monitor and implement the works on the site; and certify, upon completion, that the specified works have been carried out in accordance with best conservation practice.

**Reason:** To ensure adequate protection of retained and historic fabric, a

6. Site development and building works shall be carried out only between the hours of 0700-1800 Monday to Friday inclusive, between the hours of 0800-1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

7. Prior to commencement of development, the developer shall submit, for the written agreement of the planning authority, proposals for safe bicycle parking for residents and bin storage area for Blackrock House.

**Reason:** In the interest of traffic safety and residential amenity.

8. Prior to commencement of any development on site, the two blue metal storage containers in front of Blackrock House shall be removed permanently from the site.

**Reason:** In the interest of the visual amenities of this Protected Structure.

9. 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.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the provision and satisfactory completion of footpaths and drains, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory completion or maintenance of any works on Newtown Avenue or Maretimo Gardens East. The form and the 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 works on the public road, in the interest of traffic and pedestrian safety.

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**Michael Dillon,  
Planning Inspectorate**

**27<sup>th</sup> February 2023**