



An
Bord
Pleanála

Inspector's Report ABP-315001-22

Development

Demolition of 2 houses. Construction of an apartment block consisting of 31 apartments and all associated site works. A Natura Impact Statement (NIS) has been submitted with this application.

Location

353 & 363 Blackhorse Avenue, Dublin 7, which is bound by Blackhorse Avenue to the south & Villa Park to the west

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

3792/22

Applicant(s)

Lark Finance Ltd.

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

John Reilly

Observer(s)

None

Date of Site Inspection

19 February 2024

Inspector

Gillian Kane

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1.0 Site Location and Description

- 1.1.1. I note the site location and description from the previous ABP-308308-20 report and concur with the description, which remains relevant to the site as of the date of my site inspection.
- 1.1.2. The appeal site is stated to measure 0.35ha and is located at the junction of Blackhorse Avenue (R806 regional road) and Villa Park Road opposite the Cabra Gate and Lodge entrance to Phoenix Park, on the north side of Dublin city. It currently accommodates two vacant detached houses and their associated outbuildings, situated amongst overgrown vegetation and mature trees. The boundaries of the site comprise walls of varying heights supplemented by railings and mature hedgerows along Blackhorse Avenue. It is served by a pedestrian gate onto Blackhorse Avenue, as well as gated-vehicular entrances onto the junction of Blackhorse Avenue and Villa Park Road and also onto the laneway along the northern boundary.
- 1.1.3. The surrounding area is primarily characterised by housing on the northeast side of Blackhorse Avenue and the expansive Phoenix Park on the southwest side of Blackhorse Avenue. Bounding the site to the north is no.2 Villa Park Road and a single-lane access road to a builder's yard, including various single-storey structures adjoining the northeast corner of the site. Housing in the area is primarily semi-detached and terraced two-storey houses with front gardens opening onto the road network. Surveyed ground levels on site indicate approximately a 2m drop from the northwest corner to the southeast corner.

2.0 Proposed Development

- 2.1. On the 22nd April 2022, planning permission was sought for the demolition of two dwellings (no.s 353 and 363 Blackhorse Avenue) and the construction of a four-storey apartment block of 31 no. apartments. Details provided in the application form include:
- Total site area: 3,515sq.m.
 - Total new floor area: 2,865sq.m.
 - Area of demolition: 426sq.m.
 - Proposed plot ratio: 0.82, proposed site coverage 0.29

2.1.1. In addition to the required plans and particulars, the application was accompanied by the following:

- AA screening report
- Architectural Design statement
- Building Lifecycle Report
- Housing Quality Assessment
- Drainage Works Report
- Archaeological Statement
- Landscape Design Rationale
- Architectural Heritage Impact Assessment
- Preliminary Construction Waste Management Plan
- Outline Construction Traffic Management Plan
- Parking Management Plan
- Residential Travel Plan
- Traffic Statement
- Road Safety Audit
- Flood Risk Assessment
- Noise Impact Statement
- Bat Assessment
- Public Lighting Design
- Arborist Report
- Tree Survey & Drawings
- Sunlight, Daylight & Shadow Assessment
- Verified Photomontages
- Landscape & Visual Impact Assessment
- EIA Screening Report
- Planning Statement

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 6th October 2022, the Planning Authority issued a notification of their intention to GRANT permission subject to 14 no. standard conditions. Conditions of note include:

5. The development hereby approved for retention shall be amended in the following ways: (a) The depth of the planting bed along the northern boundary of the land shall be increased to a minimum of 2m.

Reason: In the interest of visual amenity and protecting residential amenities

3.2. Planning Authority Reports

- 3.2.1. **EHO:** In the absence of detailed mechanical plant drawings and amended acoustics report, refusal is recommended. If permission is granted, 3 no. conditions recommended.
- 3.2.2. **Engineering Dept- Drainage Division:** No objection subject to standard conditions.
- 3.2.3. **Archaeology:** Site is partially within Zone of Archaeological Constraint for the recorded monument DU018-021 (well site) which is subject to statutory protection under section 12 of the National Monuments Act. Also partially within the Zone of Archaeological interest in the Dublin City Development Plan. Recommendation that a condition requiring Archaeological Assessment include test excavation and a detailed impact statement. Conditions recommended.
- 3.2.4. **Parks:** Applicant has submitted a bat survey indicating no bat roosts. Tree felling licence does not apply to urban areas. Parks services request clarification on viewpoint 3 tree retention, tree survey and proposed layout, and biodiversity enhancement measures.
- 3.2.5. **Transportation:** Nine conditions recommended if permission is granted.
- 3.2.6. **Conservation Officer:** Site is located just outside the Phoenix Park Conservation Area and directly across from two Protected Structures: Cabra Gate Lodge and Cabra Gate. Conservation Officer does not support the demolition of no. 363 Blackhorse Avenue as it positively contributes to surrounding historic context and together with Cabra gate Lodge forms an attractive entrance to the Phoenix Park, a historic designed landscape of National if not International Significance. The AHIA shows an intact building that retains historic joinery, fireplaces, plaster work and

decorative plaster features, floor boards, doors, windows etc. The wholesale demolition of historic buildings must be justified in light of embodied energy, sustainability and development plan. Would prefer that the applicant retains, repairs and redesigns. Applicants strategy is unsympathetic and not supported by the CO. Impact of 4-storey building does not take account of the surrounding area. Scale, height and volume are inappropriate. Visual impact is overbearing. New building line would cause serious negative impact. Recommend refusal.

- 3.2.7. **Planning Report:** Notes the report of the Conservation Officer but notes that structure is not protected and not listed on NIAH. Site is zoned for residential development. Proposed development complies with City Development Plan and Building Height Guidelines. Design and visual impact acceptable. Density, plot ratio and site coverage are acceptable. Development generally complies with residential quality standards, shortfall of internal space is less than 1sq.m. in 5 no. apartments. Notes report of Parks department re. trees and recommends that further information be requested. No public open space so contribution in lieu required. Set back and separation distances are sufficient to prevent overlooking and overbearing impact, with the exception of no. 2&4 Villa Park Road. Some impacts on sunlight noted but considered acceptable. Sufficient distance from Áras an Uachtaráin to avoid security risk. Updated Acoustic Report required. Further Information request recommended.

3.3. **Prescribed Bodies**

- 3.3.1. **DAU of the DoH LG&H:** of the view that the proposed development has the potential to disturb the roosting habitat of a population of bat species listed under Annex I of the EU Habitats Directive, and to disturb nesting birds protected under s22 of the Wildlife Act 1976. This potential impact would be caused by the removal of mature trees in close proximity to the Phoenix Park, indicating the potential presence of protected resting places of bat species and nesting birds. To mitigate potential impact, following conditions should be attached to a grant: bat survey, tree felling licence with removal of mature trees not to take place between March 1 and August 31.

3.4. Third Party Observations

3.4.1. A large number of submissions objected to the proposed development. The issues raised can be summarised as:

- Out of character with area, inappropriate height, scale and design,
- Excessive density
- Impact on residential and visual amenities of local community
- Traffic
- Tree protection
- Architectural heritage
- Impact on bats and other wildlife
- Security risk to Aras,
- Flooding, insufficient capacity in infrastructure
- Previous planning history
- Noise and light pollution, overshadowing and overlooking, loss of privacy

4.0 Further Information

4.1.1. On the 17th June 2022, the Planning Authority requested the Applicant to address three matters of further information.

4.1.2. On the 6th September 2022, the applicant responded to the Further Information request with details of measures in place to mitigate potential overlooking, amended viewpoint image and a supplementary Noise Impact Assessment Report.

4.2. Reports on File following submission of Further Information

4.2.1. **Parks, Biodiversity & Landscape Services:** applicant has confirmed that tree felling will occur outside the breeding season. There will be a significant negative visual impact from tree loss. Proposed development is visually intrusive and dominant. High loss of local greening, habitat and screening. Three conditions recommended.

4.2.2. **EHO:** Conditions recommended.

4.2.3. **Planning Report:** Proposed mesh screening is acceptable a 2m wide planting bed should be conditioned along the northern boundary. Concerns of Parks department are noted but response to item no. 2 regarding viewpoint 3 is considered acceptable.

Supplementary Noise report is acceptable. Recommendation to grant subject to conditions.

5.0 Planning History

- 5.1.1. **ABP-308308-20:** Planning permission was granted for a development of a four-storey apartment block of 31 no. apartments.

6.0 Policy Context

6.1. Project Ireland 2040: National Planning Framework

- 6.1.1. National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas.

Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

- 6.1.2. Of relevance to the subject application are the following:

- **National Policy Objective 2a:** A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs
- **National Policy Objective 5:** Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.

National Policy Objective 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

- **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- **National Policy Objective 35:** Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-base regeneration and increased building heights.

- **National Policy Objective 27:** seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- **National Policy Objective 33:** seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

6.2. Sustainable Residential Development & Compact Settlement Guidelines 2024

- 6.2.1. The guidelines expand on the higher-level policies of the National Planning Framework (NPF) in relation to the creation of settlements that are compact, attractive, liveable and well designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlement.
- 6.2.2. In accordance with the provisions of Section 34 of the Act when making a decision in relation to an application that includes a residential element or other elements covered by these guidelines, the planning authority is required to have regard to the policies and objectives of the Guidelines and to apply the specific planning policy requirements (SPPRs).
- 6.2.3. Of relevance to the subject application are the following:
- Residential densities of 50-250dhp for city-urban neighbourhoods in Dublin and Cork with typical density range for low rise apartments – c.100-150 dph,
 - **SPPR1** – separation distances
 - **SPPR2** - Apartments and duplex units shall be required to meet the private and semi-private open space requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023 (and any subsequent updates). All residential developments are required to make provision for a reasonable quantum of public open space.
 - **SPPR3:** In city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be

minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.

- **SPPR4:** It is a specific planning policy requirement of these Guidelines that all new housing schemes (including mixed-use schemes that include housing) include safe and secure cycle storage facilities to meet the needs of residents and visitors. The following requirements for cycle parking and storage are recommended: (i) Quantity – in the case of residential units that do not have ground level open space or have smaller terraces, a general minimum standard of 1 cycle storage space per bedroom should be applied. Visitor cycle parking should also be provided. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement/ enlargement, etc. It will be important to make provision for a mix of bicycle parking types including larger/heavier cargo and electric bikes and for individual lockers. (ii) Design – cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint or, where not feasible, within an adjacent or adjoining purpose-built structure of permanent construction. Cycle parking areas shall be designed so that cyclists feel safe. It is best practice that either secure cycle cage/compound or preferably locker facilities are provided.

6.3. The Urban Development and Building Height Guidelines for Planning Authorities 2018.

- 6.3.1. These Guidelines set out national policy considerations in relation to building height in order to guide planning authorities in developing local planning policy and in determining planning applications. These Guidelines reinforce the national policy objectives of the NPF relating to compact growth and set a framework for a performance-based approach to the consideration of building height.

6.4. Design Manual for Urban Roads and Streets

- 6.4.1. The Design Manual for Urban Roads and Streets (DMURS) was published in 2013 (updated 2019) by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government. It sets out design guidance for new and existing urban roads and streets in Ireland, incorporating good planning and design practice. Department of Transport Circular RW 6/2013 states that the DMURS is mandatory when providing new or modifying existing urban roads and streets within the 60 km/h urban speed limit zone, except for motorways and in exceptional circumstances, on certain urban roads and streets where the written consent of the relevant approving authority has been obtained. This manual puts well-designed streets at the heart of sustainable communities. DMURS places a strong focus on the needs of pedestrians, cyclists and public transport and on improving the safety of streets and enhancing placemaking. Section 4.4 of these Guidelines sets out further detail in relation to the design guidance and standards set out in DMURS.

6.5. Sustainable Urban Housing: Design Standards for New Apartments

- 6.5.1. The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.

6.6. Dublin City Development Plan 2022-2028

- 6.6.1. The application was assessed by Dublin City Council under the 2016-2022 Development Plan. The 2022-2028 City Development Plan was adopted by the City Council at a Special Council Meeting on 2nd November 2022 and came into effect on the 14th December 2022.

- 6.6.2. In the 2022-2028 plan the subject site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2022-28, with a stated objective 'to protect, provide and improve residential amenities'.
- 6.6.3. Cabra Gate Lodge and Cabra Gate directly opposite the site, to the southwest, are included within the record of protected structures attached to the Development Plan under the grouped reference 6772. Phoenix Park is identified as a Conservation Area. The south-eastern half of the site is within a zone of archaeological constraints for the recorded monument ref. DU018-021, which is identified as a former well site, while the zone of archaeological constraints for Phoenix Park (ref. DU018-007) follows the park boundary wall to the southwest of the site.
- 6.6.4. Policies of relevance to the proposed development include:
- **QHSN2:** To have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2020), 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009), Housing Options for our Aging Population 2019, the Design Manual for Quality Housing (2022), the Design Manual for Urban Roads and Streets (DMURS) (2019), the Urban Development and Building Height Guidelines for Planning Authorities (2018) and the Affordable Housing Act 2021 including Part 2 Section 6 with regard to community land trusts and/or other appropriate mechanisms in the provision of dwellings.
 - **QHSN6 Urban Consolidation** To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.
 - **QHSN11 15-Minute City** To promote the realisation of the 15-minute city which provides for liveable, sustainable urban neighbourhoods and villages throughout the city that deliver healthy placemaking, high quality housing and well designed, intergenerational and accessible, safe and inclusive public

spaces served by local services, amenities, sports facilities and sustainable modes of public and accessible transport where feasible.

- **QHSN36 High Quality Apartment Development** To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood.

6.6.5. Development management standards applicable to the proposed development are set out in Chapter 15 and Appendix 3 of the Development Plan.

6.7. Environmental Impact Assessment

6.7.1. The applicant has submitted an EIA Screening report. The report notes that the development is a class of development that is outlined in part 1 and Part 2 of schedule 5 of the Regulations, but does not meet or exceed the relevant threshold. The report states that therefore, an EIA is not mandatory.

6.7.2. The report invites the Planning Authority to carry out a preliminary examination and then consider whether or not there is a real likelihood of significant effects on the environment. The report states that in the event that it is determined following the preliminary examination that there is significant and realistic doubt in regard to the likelihood of significant effects, schedule 7A information is provided.

6.7.3. The applicant has provided details of

- the characteristics of the proposed development,
- the location of the proposed development and
- characteristics of potential impacts

6.7.4. The report provides details of the characteristics of the proposed development. In relation to the potential cumulative impacts with other developments, the applicant has provided details of the planning history of the subject, site and surrounding area, the use of natural resources, including land, soil, water and biodiversity, the production of waste, pollution and nuisance nuisances and the risk of accidents and disasters having regard to substances or technologies.

6.7.5. Under the criteria location of the proposed development, the screening report provides details of the site description and land use, the relative abundance, quality

and regenerative capacity of natural zone in the area, the absorption capacity of the natural environment, type and characteristics of potential impacts, magnitude and spatial extent of potential impacts, trans-frontier impacts, magnitude and complexity of potential impacts, probability of potential impacts, duration, frequency, and reversibility of potential impacts.

6.7.6. The topics considered and assessed in the EIA screening report are: population, human health, biodiversity, land / soil/ water/ air/ climate, material assets / cultural heritage / landscape and finally the interaction between factors. The conclusion of the report is that the proposed development does not exceed any of the thresholds outlined in the Planning and Development Regulations 2001, as amended, that would trigger a mandatory requirement to prepare an EIAR. The report submits that a sub threshold EIAR is not required for the proposed residential development for the following reasons.

- The proposal falls below the threshold of Schedule 5
- The site makes optimum use of a suburban greenfield land resource suitably zoned for development and in close proximity to existing residential development.
- The AA screening and NIS outline that adverse effects on the integrity of the European sites from the proposed development, either on its own or in combination, can be excluded with mitigation measures being employed. Mitigation measures were not taken into account at screening stage of AA.
- The development will be connected to public services such as water, foul and storm sewers.
- The proposed development is on land suitable for residential development. (Flood zone C). The proposed Drainage and Flood Risk Strategy is in compliance with SuDS guidelines and development will not result in any off-site flooding.
- Standard construction practises can be employed to mitigate any risk of adverse impacts during the construction phase arising from noise, dust or pollution. Post construction, there are minimal effects on the environment.
- No identified impact in this screening exercise, cumulatively or individually is considered likely to cause significant effects on the environment.

- The proposed development is not likely to have significant effects on the environment and a full environmental impact assessment report is not required to be prepared as part of the planning application.

Screening

- 6.7.7. The site is comprised of two existing buildings to be demolished and is largely surrounded by residential developments. Residential use is already established in this area and is supported under the zoning objective. The introduction of additional residential development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development will not increase the risk of flooding within the site. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The development is served by municipal drainage and water supply. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance.
- 6.7.8. As part of the application documentation, a bat assessment was submitted identifying bat activity of very low levels on site (between 2019 and 2021), with no bats entering or exiting the buildings on site, no swarming activity and four species of bats commuting through the gardens. A badger assessment was undertaken in November 2022 which showed a sett 75m from the site with clear badger foraging and commuting on nearby lands. Both species will experience short-term impacts during construction. These impacts are not considered to be significant.
- 6.7.9. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. Having regard to the Schedule 7A information, I have examined the sub-criteria and all submissions, and I have considered all information that accompanied the application and appeal. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report.
- 6.7.10. Having regard to the nature, scale, and location of the proposed development, and the environmental sensitivity of the geographical area, I do not consider that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of

which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances and having regard to the criteria in Schedule 7 of the Regulations, I conclude that the proposed sub-threshold development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. John Reilly on behalf of Villa Park and Blackhorse Avenue Community have submitted an appeal against the decision of the Planning Authority to grant permission. The appellants strongly object to the proposed development, as its vast size will severely damage the surrounding properties amenity space.
- 7.1.2. The grounds of the appeal can be summarised as follows:

Traffic

- Villa Park Road is a single lane system due to parked cars on both sides. All properties close to the entrance will be affected due to the acute turn, limited distance to the junction and subsequent traffic build up.
- This was not addressed in the Pinnacle Risk Assessment. Image included.
- No hazard assessment was carried out. The impact on existing properties: access and egress to and from driveways, cars parked across from the entrance will cause traffic build up.
- The impact of the access road was not addressed. This will have a negative effect due to additional traffic hazard.
- Security risk from exposed boundaries. Direct line of site through existing windows on south elevation.
- Additional volume of cars, bikes, pedestrians will cause a security risk. This is recognised in the architects design statement “windows which overlook the car park have been included to maximise passive surveillance”.

- Through road will bring additional fumes, noise and light pollution with no mitigation and no assessment.
- The access road and car spaces will require additional lighting, with no lighting plan submitted.
- The angles of the access road / entrance will be acute and narrow due to the short distance to the junction. Views will be obscured.
- There are four junctions within close proximity of the proposed access road. A decision regarding a pedestrian crossing at the Blackhorse Avenue / Villa Park Road junction is pending. This was requested by the Navan Road Community Council due to hazards.
- The proposed development will significantly increase traffic at an area that is already a bottleneck. The proposed development will lead to safety issues for school children and other pedestrians.
- The junction is currently problematic due to the blind side effect from the short radius turn at the Phoenix Park Cabra Gate entrance. The risk will be elevated with the proposed development.
- Traffic on the Villa Park Road network is due to increase with the Dublin Bus Route corridor coming into effect.
- The short distance from the junction to the proposed entrance will cause a traffic build-up and congestion on Blackhorse Avenue. The Junction Capacity Analysis used in the applicant's traffic assessment used favourable statistics which does not reflect real data.
- A site survey carried out in peak times during the working week, taking account of seasonal impacts should be carried out. The applicant's risk assessment is weak, needs further clarification on proposed mitigation measures and some focus on the use of roads / pathways at the development.
- Car spaces are c.2m from the access road. The manoeuvring of cars close to the cars parked on Villa Park Road has not been addressed or mitigated.
- No mention if double yellow lines will be implemented.
- The planting proposed in the development will reduce sightlines.

- No auto-track drawings have been submitted for the junction access to the development site, only the development access junction into the development.
- The numbers used in the applicants traffic report do not stack up. The number of trips is based on favourable conditions rather than worst-case scenario. An independent analysis is required.

Habitats Directive

- The City Council and the applicant have neglected the requirements of the EU Habitats Directive and the 1976 Wildlife Act.
- There have been several bat sightings and swarming activity, contrary to the applicant's report. The inadequate survey was mentioned by the OPW in the previous application 4237/19.
- Several sightings of badgers and setts within the development site. Independent surveys are required.

Car Management

- The car management strategy does not provide one space per dwelling, additional parking for visitors and disability spaces.
- The strategy does not meet the requirements of Dublin City Council as per section 16.38.9 of the development plan.
- This will result in over-spill parking on the neighbouring roads, further increasing traffic hazard. Photo included.
- The car management strategy refers to an equivalency of 36 spaces which is not explained. The proposed leasing plan will encourage residents to park elsewhere, adding further to congestion.
- The proposed strategy is not sustainable.
- The less than 1m gap between the car spaces and the surrounding properties will impact residential amenity.

Density

- Appellants object to the proposed density and the required infrastructure that negatively impacts the surrounding area. It does not conform to the 2016 development plan, chapter 16.2.1.1.
- With over 35% of one-bed units, this is excessive and does not meet the 25-30% maximum stated in section 16.10.1. There are no three-bed units. 15% is required by section 16.10.1.
- The requirement for housing should not be at the expense of the existing neighbourhood. The proposed development is out of character.
- The development appears to be focussed on the rental market. There is a large demand for family housing in the area. The subject site should be developed for two-storey housing.
- Permission was refused (3757/05 and 2136/07) for a similarly high-density scheme at Martin Close.

Height

- The relocation of the development 3.4m back from Blackhorse Avenue and further away from the Cabra Gates, results in the development being closer to the surrounding properties. This increases the over-bearing nature of the building.
- The relocation will not reduce the overbearing impact at Cabra Gate / Pheonix Park entrance.
- This will have a detrimental effect on the area, a popular visitor landmark.
- The four-storey development (13.2m height) will have an overbearing impact on the 2.98m high 351 Blackhorse Avenue.
- The distance between the proposed development and no. 2 Villa Park Road is just over 10m. There will be a significant overbearing impact – a factor of 1.3. this increases the overshadowing. The planning report recommended a separation distance of 15m (4237/19).
- The location of windows / garden terraces means there is a direct line of sight to the neighbouring living areas – no.s 1 and 2 Villa Park Road, no.s 351 and 349

Blackhorse Avenue. These properties will be directly overlooked as shown on the applicants images.

- The proposed access along the northern boundary directly overlooks the living areas of no.s 2 & 4 Villa Park Road. This was addressed by the planner in the previous report 4582/19
- Images highlight the overlooking impact of the proposed development.
- The proposed tree planting along the boundary with no.s 2 and 4 Villa Park Road will further increase overshadowing. The daylight sunlight assessment is not adequate. This was raised by the planner in the 2019 report.
- The proposed planting will take years to mature and will not provide screening in winter. It will overhang into the adjoining properties.

Roof Terraces

- The mitigation proposed for the garden terraces on the 4th level does not address the concerns of the Planning Authority.
- Amenity space should be provided at grounds level, including a playground. Terraces at the 4th level will have a direct line of sight into neighbouring properties.

Other

- Architecture: The design of the proposed block is out of character with the surrounding area.
- Security: The proposed development is a security risk to Áras an Uachtaráin and surrounding properties. This was not addressed by the Planning Authority.
- Play Area: 1m from the surrounding boundary will increase noise levels
- Underground Stream: Local knowledge about an underground stream at 351 Blackhorse Avenue should be investigated to avoid poor drainage.
- Retention of Gate Lodge: The architectural heritage of the site has been neglected. A condition on the 4237/19 permission required the retention of the historic lodge and associated boundaries.

- Inconsistency in Planners Report: Concerns raised in previous planning reports about excessive height and density are not ameliorated by moving the apartment block 3.4m from Blackhorse Avenue in the current application.
- The zoning objective to protect has been overlooked.
- 19 no. names and addresses of those who wish to be associated with the appeal.

7.2. Applicant Response

7.2.1. An agent for the applicant has responded to the third-party appeal. The applicant states that the proposed development deviates only minorly from the permitted development. The merits of development have been established, with no fundamental differences that warrant a different decision to be made. The appellants references to previous planning reports are not relevant as they have been superseded by the newer application. If the Board do not consider the application to be vexatious, they are requested to uphold the decision of the Planning Authority to grant permission. Details of the proposed development, the site location and context, the merits of the proposed development and compliance with planning policy

7.2.2. The grounds of the response can be summarised as follows:

Traffic

- In granting permission for the previous development, the Boards inspector found that no traffic hazard would arise. There are no grounds for reaching a different decision given that the development is fundamentally the same.
- The proposed development has been subject to a detailed Traffic and Transport Assessment and a Stage 1 Road Safety Audit. The distance from the junction to the entrance has been taken into account. Low speed routes and low volumes mean site visibility is achieved and in accordance with DMURS.
- Screening will be provided as per the submission of the Landscape Architects.
- There is no through-road proposed, only a private road.
- There is no direct line of sight from the road to the appellants property.

- Condition no. 19 refers to public lighting. The applicant is happy to comply should the Board attach similar.
- Traffic survey was undertaken in accordance with best practice. The assessment confirmed that there would be no material impact on the operation of all junctions modelled.

Fume, Noise & Light Pollution

- Given the residential location along a main arterial route, there will be no change in terms of artificial light, noise or fumes.

Risk Assessment

- Discrepancies in the original Traffic Assessment were clarified at Further Information stage.
- The RSA was carried out by an independent company.
- All concerns raised by the Planning Authority were addressed at Further Information stage.

Lighting

- A public lighting design report and plans were submitted with the application

Habitats Directive

- No details of the alleged neglect of the Habitats Directive have been submitted.
- The application was accompanied by a Bat Assessment, AA Report, NIS, Landscape and Visual Impact Assessment, Noise Assessment, Archaeological Assessment and an Architectural Heritage Impact Assessment. A further Bat Assessment was undertaken for this response.

Bat Assessment

- Two surveys have shown that bat activity is low, with 3 species recorded in August 2019 and a fourth in October 2021. All bats commuted through the garden, with low level feeding within the garden. No activity in the buildings or swarming was recorded.
- The site adjoins the Phoenix Park, with a wide variety of bat species, feeding grounds and roosting habitats.

- There is no evidence of roost loss. There will be some foraging grounds loss but this will not be material given the proximity to the Phoenix Park
- The Board is welcome to attach a condition requiring re-assessment prior to demolition.

Badger Assessment

- Survey found no badger setts on site and therefore there is no impact.

Car Parking

- The subject proposal complies with the development plan maximum of 1 no. space per unit.
- A reduction in car spaces is appropriate, given the location and proximity to public transport.
- Additional car parking encourages greater private car journeys.
- The proposed car parking will be separated from 2 Villa Park Road by tree planting.
- Appendix 4 of the submission by Consulting Engineers.

Density, Location & Height

- Architects Design Response submitted.
- Subject site is zoned. Proposed development complies with the minimum density of 50dph of the Sustainable Residential Development Guidelines, the Urban Design Manual Best Practice Guide, the Building Heights Guidelines and the 2016-2022 development plan.
- There are no material changes between the 2016 and the 2022 development plan.
- The proposed development complies with policy QHSN10 of the 2022-2028 development plan.
- The appellant's suggest of two-storey suburban housing would under utilise the site and lead to urban sprawl.

- The refusals referred to by the appellant are from 2007 and 2009 and so predate current policy. The Boards decision PL29N.300456 is a more appropriate comparison.
- The Board have already accepted the density of the proposed scheme, in the extant permission.
- The mix of 1 and 2 bed units complies with the Apartment Guidelines and the 2022 Development Plan.
- There is no justification to provide housing, due to the sufficiency of such housing in the area. The Housing Need Assessment in the 2022 plan demonstrates the need for 1 and 2 bedroom units.
- The proposed density of 88dph is consistent with the 60-120 dph in the 'outer suburbs' classification of the 2022 development plan.

Plot Ratio & Site Coverage

- Proposed development is within the standards for plot ratio and site coverage, providing quantitative evidence that the development is at an appropriate scale of the area.

Height

- The overall height of 13.2m is not considered a tall building. The development appropriately modulates in height from the surrounding two-storeys, being primarily 3-storey with a 4-storey centre.
- The development meets all of the 'Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale' in Table 3, Appendix 3 of the 2022 plan.
- The height of the proposed development complies with the Urban Development and Building Height Guidelines and is supported by SPPR1 and SPPR 2.

Impact on Cabra Gate

- The Landscape and Visual Impact Assessment found that the impact of the proposed building would not be negative.

- The Architectural Heritage Impact Assessment found that there would be no adverse architectural heritage impact from the proposed demolition and that there would be no physical impact on the heritage of Cabra Gate or Gate Lodge.
- Both the Planning Authority and the Board found this acceptable.
- The Architectural response to the appeal finds that the height of the proposed development is acceptable, with no overshadowing impacts. Additional planting along the northern boundary will provide meaningful screening.
- Overlooking into adjoining properties will be mitigated by separation distances, blank gables, an expanded metal mesh screening, opaque glazing on the northern elevation and tree planting. This was addressed by the Planning Authority.
- The Planning Authority and the Board correctly assessed that there would be no adverse impact on daylight and sunlight.
- The proposed roof terraces provide high quality amenity space whilst protecting the amenity of surrounding dwellings. They are set back from the building edge and designed with raised screens to prevent overlooking. However, should the Board seek their omission, the applicant will comply.
- The architectural design of the proposed building responds to the wider area, with a subdued architectural treatment along Blackhorse Avenue. Increased density and visual interest animate urban areas.

Security

- The design takes account of the Aras to the south. Drone Imagery confirms there will be no view of the Aras and therefore no security risk. The tree cover and 420m separation distance are such that there are no security considerations.

Other

- The proposed play area is not for public, only resident use.
- The proposed small play area will create less noise than individual gardens.
- No evidence of an underground stream.

- 363 Blackhorse Avenue is not a gate lodge, is not a Protected Structure, is not listed on the NIAH. The demolition of the buildings onsite was found to have no architectural heritage impact. This was recognised by the Planning Authority and the Board.
- The alleged inconsistencies in the planning report do not refer to the current application and are not relevant.

7.2.3. The response was accompanied by the following:

Engineering Technical Note

- TTIA was carried out, showing capacity for all scenarios up to the design year 2038. TTIA was carried out according to best practice and the principles of the DMURS.
- RSA was carried out by an independent company.
- Required sight lines and safe stopping distances are in compliance with DMURS.
- The transport statement carried out a worst-case scenario assessment and found that the development will have minimal impact.
- Auto-track details submitted with the application.
- Car parking provision complies with national and local policy.

Architectural Justification and Design Details

- Relocation of the building, it's heights, scale and density were accepted by the Planning Authority and the Board in the previous application.
- The proposed building is largely three-storey with a four-storey centre, responding to the established built environment.
- The Daylight, Sunlight and Overshadowing Study found the proposed development to be generally compliant with BRE Guidelines.
- Overlooking has been addressed by the previous application and found to be acceptable by the Planning Authority and the Board.
- No overlooking from roof terraces will arise.

- The design of the proposed development responds to the architectural style of the wider area.
- No security risk will arise.

Badger Assessment

- No badger setts on site, no evidence of badger activity.
- One excavated rat burrow on site.
- One sett 75m from the site with evidence of a foraging and commuting route.
- No loss of badger breeding, minor impact to foraging.
- Access to badgers will be available through the site by means of the boundary treatment.

Daylight, Sunlight and Overshadowing

- The trees proposed along the northern boundary are not a dense belt and will be of a deciduous nature.

7.3. Planning Authority Response

- 7.3.1. The Planning Authority request that the Board uphold their decision to grant and that conditions requiring the payment of a S48 development contribution, a bond, a contribution in lieu of public open space and a social housing condition be attached.

7.4. Observations

- 7.4.1. None on file.

7.5. Further Responses

- 7.5.1. The third-party appellants responded to the first party submission, the details of which can be summarised as follows:
- As the proposed development has not materially changed from that previously granted, references to the previous planning number are still relevant.
 - There is a lack of transparency about the Engineering Roads Report regarding DMURS compliance.

- The board is invited to visit the site at 3.30pm on a weekday. This will demonstrate that the volume of traffic is greater than the traffic report.
- The volume of traffic used in the Traffic report is questioned as being too conservative.
- No mention of new access road removing on-street parking spaces.
- The local residents are better placed to comment on wildlife. Badgers are spotted on a daily basis.
- No information on the Badger survey conditions was presented.
- The residents are concerned that local street parking will be taken up by the development.
- The strong local opposition to the proposed development shows that there has been insufficient regard to the protection of residential amenity. No part of the development has a 15m separation distance.
- There are too many one-bedroom units.
- The fourth-storey element of the proposal is the largest part. The Board is requested to omit the 4th floor.
- The 2019 assessment of the proposed development raised significant concerns about scale and design. These concerns are still valid.
- Local residents also carried out a drone survey. The trees are bare, showing a direct line of sight and overlooking of the Aras.
- The proposed ground floor play area will become a meeting area.
- The Board is requested to seek Further Information about the underground stream.
- The City Archaeological Report in 2019 required the retention of the lodge building and its boundaries. This has been neglected by the Planning Authority and the Board.
- Changes made to the development have been made in favour of pushing the development through.

- The applicant is requested to clarify if the development of Build To Rent.
- The Board is requested to refuse permission.

8.0 Assessment

- 8.1.1. As noted above, permission was granted by the Board in 2021 (ABP-308308-20) for a development of 31 no. apartments in a four-storey block. Permission had been sought for two semi-detached houses, however following a request for further information, the pair of semi-detached houses were omitted from the proposed development, the building was setback further from Blackhorse Avenue and the proposed children's play area was repositioned to the rear of the site.
- 8.1.2. The applicant has submitted that as the proposed development involves only minor deviations from that permitted in 2021 and that the principle of the development has been robustly assessed and accepted.
- 8.1.3. The development as permitted by the Board under ABP-308308-20 provided for 11 no. one-bed units, 20 no. two-bed units in a part three, part four-storey building with a maximum height of 13.2m. 25 no. car parking spaces and 68 no. cycle spaces were permitted. The development as currently proposed comprises 11 no. one-bed units, 20 no. two-bed units in a part three, part four-storey building with a maximum height of 13.2m. 56 no. cycle spaces and 25 no. car parking spaces.
- 8.1.4. When before the Board in 2021, the Inspector considered the substantive issues to be: Site Clearance, Zoning & Density, Layout, Height, Scale, Design & Amenities, Apartment Standards, Impact on Residential Amenities, Access, Parking & Traffic, Drainage and Other Matters. In their Order granting permission, the Board stated:

“Having regard to the land-use zoning objectives for the site, as set out in the Dublin City Development Plan 2016-2022, to the nature, height, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this urban location, would be acceptable in terms of layout, height, scale and design, would provide a suitable level of amenity for future residents, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would be served by adequate parking

and environmental services, would not endanger the health and safety of persons using neighbouring buildings, and would comply with the provisions of the development plan, the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018, and the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March 2018. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.”

8.1.5. One could argue that the development as currently proposed has already been accepted by the Board as being acceptable. However, given that a change in development plan has occurred since the previous application and that a third-party has appealed the current decision of the Planning Authority, it is considered reasonable to fully assess the matters raised in the third-party appeal. Therefore, I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Density, Building Height, and Impact on Residential Amenity
- Architectural Heritage
- Traffic and Car Parking
- Appropriate Assessment

8.2. Principle of Development

8.2.1. The subject site is zoned for residential development. Notwithstanding that the operative development plan was adopted after the assessment of the proposal by the Planning Authority, the zoning and the zoning objective of the site remain the same. Given proximity of the site to the city centre, retail and employment centre, and many public transport options, the current use is not an efficient use of zoned serviced land. Subject to other planning considerations, the development of the site

for residential development is appropriate and in keeping with the zoning objective for the site.

8.3. Density, Building Height and Impact on Residential Amenity

- 8.3.1. The proposed development has a density of 88dph, a plot ratio of 0.82 and a site coverage of 29%. All of which are within the recommended standards of the 2022 - 2028 City Development Plan. All of which were accepted by the Board in the previously permitted development. The Sustainable and Compact Settlements Guidelines for Planning Authorities 2024 recommend a density range of 50dph-200dph (net) for City-Urban Neighbourhoods, such as the subject site.
- 8.3.2. The Appellant suggests a better use for the site would be two-storey housing, in line with the pattern of development in the area. The development of the site for two-storey dwellings would under-utilise this zoned and serviced site, within close proximity of a number of public transport routes and would be an inefficient use of the site. I note and I concur with the finding of the Inspector in ABP-308308-20 that “the National Planning Framework for Ireland has as one of its central tenets a requirement to build at more sustainable densities particularly on sites such as this within existing urban areas, where services and facilities already exist”.
- 8.3.3. In terms of height, the appellant submits that at a height of 13.2m the proposed development is inappropriate. In response, the applicant states that the building is part 3, part 4, storey, rising in height from the adjoining two-storey properties to a high point in the centre of the development. The location of the subject site at the junction of Blackhorse Avenue and Villa Park Road facilitates the development of a higher, newer form of development that stands apart from the surrounding pattern of two-storey semi-detached dwellings. The extent of site frontage on to Blackhorse Avenue and the orientation of the proposed block towards the Park, results in development that will not read as a continuation of either Villa Park Road or Blackhorse Avenue. I am satisfied that the modular approach to height is such that the proposed development will not compete with the surrounding two storey dwellings.
- 8.3.4. In terms of the proposed height and its impact on the residential amenity of the surrounding dwellings, I note that the Board were satisfied that “the proposed development would be acceptable in terms of layout, height, scale and design,

would provide a suitable level of amenity for future residents, would not seriously injure the amenities of the area or of property in the vicinity”. I am satisfied that the applicant has demonstrated that the proposed development would not adversely affect the residential amenity of the adjoining dwellings in terms of overshadowing or loss of daylight or sunlight. I am satisfied that there is no reason to deviate from the decision of the Board on the previous application, the circumstances being the same.

8.4. Architectural Heritage

- 8.4.1. The demolition of the structures on site, has been accepted by the Planning Authority and the Board under ABP-308308-20. An Architectural Heritage Impact Assessment was submitted with the application. This report notes the lack of protection on the subject structures, they not being Protected Structures, listed on the NIAH or within an ACA.
- 8.4.2. I note the report of the Conservation Officer who recommends the retention of the primary structure on site, noting its intrinsic architectural interest. I also note the request of the Appellant for the retention of the dwelling and the associated boundaries. Whilst the loss of the dwelling which has not insignificant charm is regrettable, the bigger picture of providing 31 no. residential units must be considered. In addition, the structure on site has further deteriorated since the Board permitted its demolition.

8.5. Traffic and Car Parking.

- 8.5.1. I note the submission of the Traffic and Transport Assessment and a Road Safety Audit with the application.
- 8.5.2. Section 5.3.4 of the Compact Settlement Guidelines 2024 states that in areas where car-parking levels are reduced studies show that people are more likely to walk, cycle, or choose public transport for daily travel and that car parking ratios should be reduced at all urban locations, and should be minimised, substantially reduced or wholly eliminated at locations that have good access to urban services and to public transport. To that end, SPPR3 of the of the Guidelines provides “ (i) In city centres and urban neighbourhoods of the five cities... car parking should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking

provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 space per dwelling.

- 8.5.3. I note section 4.0 of appendix 5 and Map J of the Dublin City Council 2022 development plan which places the subject site in Zone 2. Similarly to the compact settlement guidelines, this requires a maximum of 1 car parking space per dwelling.
- 8.5.4. The subject development proposes 25 no. surface level car parking spaces, two of which are for mobility impaired drivers. The appellant states that the number of car parking spaces will force residents to park on-street, thereby removing parking available to residents and creating a traffic hazard. The provision of double yellow lines outside almost the entirety of the subject site will remove the possibility of on-street car parking obstructing views or creating a traffic hazard. Those residents buying or renting a unit within the block will be aware of the provision of parking spaces on site and will make a decision based on that availability.
- 8.5.5. I note the acceptance of 25 no. spaces for 31 no. residential units by the Board in the previous planning application and that no changes have occurred in the interim. I concur with the finding of the Inspector in that report that “the proposed development would not result in traffic hazard or significant additional traffic or parking congestion in the area, and it would feature an appropriate provision of car and cycle parking”.

8.6. Other

- 8.6.1. I am satisfied that there is no security risk to Áras an Uachtarán.
- 8.6.2. I am satisfied that no flooding issues will arise from an underground stream that the Appellant submits runs at 351 Blackhorse Avenue.
- 8.6.3. I am satisfied that that no overlooking of adjoining residential properties will occur. I am satisfied that no adverse impact on the sunlight or daylight available to existing dwellings will arise from the proposed development.
- 8.6.4. I am satisfied that the proposed ground level playground, which will be available to residents only will not injure the residential amenities of adjoining properties. The noise that would arise from the use of the playgrounds would be no greater than that arising from a two-storey dwelling on site.

- 8.6.5. I note that all of these issues were addressed and accepted as appropriate by the Board in granting permission under ABP-308308-20. There have been no changes in the proposed development that would warrant a reversal of that decision.

8.7. Appropriate Assessment

- 8.7.1. The applicant has submitted a Screening Report for AA and a Natura Impact Statement. The report states that the site is within 2km of the catchment of the River Liffey, with the main Liffey channel just less than 2km to the south and that the River Tolka is 1.6km to the north. The drainage of the area to the River Liffey (which flows into the Dublin Bay Conservation zone) is such that the possibility for impacts is limited to the series of sites associated with the Dublin Bay complex, namely the North Dublin Bay SAC (00206), the South Dublin Bay SAC (00210), the South Dublin Bay & River Tolka Estuary (04024) and the North Bull Island SPA (04006).
- 8.7.2. The AA screening report concluded that a hydrological pathway exists between the subject site and the four European sites and that in the absence of mitigation the potential for effects on the conservation objectives of these four sites cannot be excluded beyond reasonable scientific doubt. Therefore a Stage 2 AA is required.

Compliance with Article 6(3) of the Habitats Directive

- 8.7.3. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- 8.7.4. The applicant has submitted a Screening Report for Appropriate Assessment and a Natura Impact Assessment. The Report provides a description of the proposed development, identifies and provides a brief description of European Sites, an

assessment of the potential impacts arising from the development and an assessment of potential in-combination effects.

- 8.7.5. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

Stage 1 AA Screening

- 8.7.6. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.
- 8.7.7. Details of qualifying interests and special conservation interests for neighbouring European Sites are as follows:

Site Name & Code	Qualifying Interest / Special Conservation Interest	Distance
South Dublin Bay and River Tolka Estuary SPA [004024]	Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046] Oystercatcher <i>Haematopus ostralegus</i> [A130] Ringed plover <i>Charadrius hiaticula</i> [A137] Grey plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143] Sanderling <i>Calidris alba</i> [A149] Dunlin <i>Calidris alpina</i> [A149] Bar-tailed godwit <i>Limosa lapponica</i> [A157] Redshank <i>Tringa totanus</i> [A162] Black-headed gull <i>Chroicocephalus ridibundus</i> [A179]	5.7km

	<p>Roseate tern [A193]</p> <p>Arctic tern [A194]</p> <p>Wetland and waterbirds [A999]</p>	
<p>South Dublin Bay SAC [000210]</p>	<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>	7.4km
<p>North Bull Island SPA [004006]</p>	<p>Light-bellied brent goose [A046]</p> <p>Shelduck <i>Tadorna</i> [A048]</p> <p>Teal <i>Anas crecca</i> [A054]</p> <p>Pintail <i>Anas acuta</i> [A054]</p> <p>Shoveler <i>Anas clypeata</i> [A056]</p> <p>Oystercatcher [A130]</p> <p>Golden plover <i>Pluvialis apricaria</i> [A140]</p> <p>Grey plover [A141]</p> <p>Knot [A143]</p> <p>Sanderling [A144]</p> <p>Dunlin [A149]</p> <p>Black-tailed godwit <i>Limosa</i> [A156]</p> <p>Bar-tailed godwit [A157]</p> <p>Curlew <i>Numenius arquata</i> [A160]</p> <p>Redshank [A162]</p> <p>Turnstone <i>Arenaria totanus</i> [A169]</p> <p>Black-headed gull [A179]</p> <p>Wetland and waterbirds [A999]</p>	8.8km
<p>North Dublin Bay SAC [000206]</p>	<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>Atlantic salt meadows [1330]</p> <p>Mediterranean salt meadows [1410]</p> <p>Embryonic shifting dunes [2110]</p>	8.8km

	Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalwort <i>Petalophyllum ralfsii</i> [1395]	
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8.8. Receiving Environment

- 8.8.1. The subject site contains two former houses, associated outbuildings and hard-surfaced areas, as well as overgrown vegetation and a variety of trees and shrubs. Habitats identified on site as part of the applicant's AA Screening Report include buildings and artificial surfaces, amenity grassland and ornamental/non-native shrubs. The appeal site is within the catchment of the River Liffey, which is located approximately 2km to the south of the site. Surface water bodies have not been identified on the site. Within third-party submissions to the application, reference was made to underground water features possibly running through the site, but no substantive evidence of same was provided or was available.

8.9. Test of Likely Significant Effects

- 8.9.1. The project is not directly connected to or necessary to the management of any European site. The proposed development is examined in relation to any possible interaction with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.
- 8.9.2. Taking account of the characteristics of the proposed development in terms of its location and the scale of works both during construction and operational phases, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- impacts on water quality, for example via release of suspended solids, concrete run-off, accidental spills or leaks,
 - loss or disturbance of habitat/species, for example, use of the appeal site by qualifying species.

8.10. Potential Effects

- 8.10.1. The site is currently occupied by two vacant houses and contains no substantive features of ecological significance. Based on the source-pathway-receptor model, the nearest downstream pathway to designated sites from the appeal site is the River Liffey, flowing in an easterly direction into Dublin Bay.
- 8.10.2. Surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system after passing through an attenuation tank and a flow-control hydrobrake. All foul water from the proposed development would be discharged via the public system to the Ringsend Waste Water Treatment Plant (WWTP). Permission has been granted (ABP-301798-18) for works that would increase the capacity of the plant from a population equivalent of 1.9 million to 2.4 million.
- 8.10.3. Having regard to the above, the urban context and the residential nature of the proposed development, I consider that the only potential pathways between the appeal site (source) and the European sites (receptors) would relate to drainage during construction and operation. Due to the nature of the application site and the proposed development, there is no direct pathway to a European site, however there is a potential indirect pathway to coastal SACs and SPAs via surface and foul drainage networks and Ringsend WWTP.
- 8.10.4. With the exception of the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206), I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on these European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the appeal site. The conservation objectives for the four above named coastal sites largely relate to water-dependent habitats and species, as listed in section 8.7.7 above, including coastal and inter-tidal habitats and migratory wintering birds.
- 8.10.5. There is theoretically an indirect hydrological pathway between the application site and the four named coastal sites via the public drainage system and the Ringsend WWTP, where wastewater from the proposed development would be treated. I am

satisfied that the distances are such that any pollutants post treatment from the Ringsend WWTP would be minimal and would be diluted and dispersed and, therefore, there is no likelihood that pollutants arising from the proposed development, either during construction or operation, could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives.

In-combination Impacts

- 8.10.6. Given my assessment above and findings of no significant effects from the proposed development, I am satisfied that likely significant in-combination impacts would not arise.

Screening Determination

- 8.11. It is evident from the information before the Board that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or an European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.
- 8.12. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.

8.13. I note the applicant submitted a Natura Impact Statement (NIS). In deciding to prepare and submit a NIS the applicant submits that the precautionary principle was being applied. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (004006) and South Dublin Bay and River Tolka Estuary SPA (004024) or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

9.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions:

10.0 Reasons and Considerations

10.1.1. Having regard to the land-use zoning objectives for the site, as set out in the Dublin City Development Plan 2022-2028, to the nature, height, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this urban location, would be acceptable in terms of layout, height, scale and design, would provide a suitable level of amenity for future residents, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would be served by adequate parking and environmental services, would not endanger the health and safety of persons using neighbouring buildings, and would comply with the provisions of the development plan, the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018, and the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March 2018, the Sustainable Residential Development and Compact Settlement

Guidelines 2024. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 9th day of September 2022, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. A panel of the proposed finishes shall be placed on site to enable the planning authority to adjudicate on the proposals.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally-constituted management company. A management scheme providing adequate measures for the future maintenance of roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
4.	<p>The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:</p>

	<p>(a) the footpath along the site boundaries with Blackhorse Avenue and Villa Park Road shall be a minimum of two metres in width,</p> <p>(b) a separation rail or similar shall be provided from the access to the children's play area along the pedestrian route bordering the parking area</p> <p>(c) no car parking spaces shall be sold separately or let independently of the proposed development,</p> <p>(d) The developer shall undertake to implement the measures outlined in the Mobility Management Plan and to ensure that future occupants of the proposed development comply with this strategy. A Mobility Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans. The Mobility Management Plan shall also, aside from the on-site car club facility, identify car club spaces outside of the development and in the vicinity of the site.</p> <p>(e) A Parking Management Plan shall be prepared and submitted for the written agreement of the planning authority prior to the occupation of the proposed development. This plan shall indicate how spaces will be assigned and segregated by use, and how use of the car parking will be continually managed. Car parking shall not be assigned to individual residential units and car parking spaces shall be permanently allocated to the proposed development use and shall not be sold, rented or otherwise sub-let or leased to other parties. A minimum of one number car parking space within the development shall be permanently allocated to car club use.</p> <p>(f) the roads and traffic arrangements serving the site, including footpath connections and signage, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense,</p> <p>(g) the roads layout at the vehicular entrance, parking areas, footpaths, kerbs, car parking bay sizes, and road access to the development</p>
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	<p>shall comply with the requirements of the Design Manual for Urban Roads and Streets and with any requirements of the planning authority for such road works,</p> <p>(h) the materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works, and</p> <p>(i) a minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points. Ducting shall be provided for all remaining car parking spaces, to facilitate the installation of electric vehicle charging points/stations at a later date. Such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.</p> <p>Reason: In the interests of traffic safety and of sustainable transportation.</p>
5.	<p>The landscaping scheme submitted to the Planning Authority, shall be carried out within the first planting season following substantial completion of the external construction works.</p> <p>All planting shall be adequately protected from damage until established. Any plants that die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
6.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning</p>

	<p>authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment.</p> <p>Reason: In the interest of public health and to ensure a satisfactory standard of development.</p>
7.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
8.	<p>Prior to commencement of the development, the developer shall enter into water and wastewater connection agreements with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
9.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a satisfactory standard of development.</p>
10.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p>

	<p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
11.	<p>Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
12.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.</p>
13.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste</p>

	<p>Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, which shall be carried out in full, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of the environment and sustainable waste management.</p>
14.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia, details and location of the proposed construction compound(s), details of intended construction practice for the development, including noise and dust management measures, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, details of arrangements for routes for construction traffic, parking during the construction phase and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
15.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
16.	<p>Prior to commencement of the development, the applicant or other person with an interest in the land to which the application relates shall enter into</p>

	<p>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.</p> <p>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.</p>
17.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development,</p>
18.	<p>The developer shall pay to the planning authority a financial contribution in lieu of all or part of the public open space requirement, given that the subject site cannot fulfil the requirements for public open space provision as per section 15.8.7. of the Dublin City Development Plan 2022-2028, in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended.</p> <p>The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be</p>

	<p>subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
19.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
20.	<p>The developer shall pay to the planning authority a financial contribution in lieu of public open space in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the</p>

	<p>planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Gillian Kane
Senior Planning Inspector

28 February 2024