



An  
Bord  
Pleanála

## Inspector's Report ABP319210-24

<b>Development</b>	Change of use from commercial unit to 4 no. 1-bed apartments over two floors with new hall door, communal courtyard and ancillary facilities.
<b>Location</b>	9 Upper Prince Edward Terrace, Carysfort Avenue, Blackrock, Co. Dublin..
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D23A/0777.
<b>Applicant(s)</b>	Ciaran Irwin.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Ciaran Irwin.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	22/10/24.



**Inspector**

Anthony Abbott King.



## **1.0 Site Location and Description**

- 1.1. The applicant site is located to the east of Carysfort Avenue at the rear of No. 9 Upper Prince Edward Terrace. The site frontage onto a rear laneway known as Brookfield Terrace accessed from Carysfort Avenue..
- 1.2. Carysfort Avenue links Blackrock Village with Stillorgan. It is characterised by mixed use development. The predominant land use along Carysfort between Blackrock Village and the access to Brookfield Terrace is residential.
- 1.3. The access to Brookfield Terrace is to the south of the bookend gable of No. 9 Upper Prince Edward Terrace. The service lane has a dog leg configuration. The subject site is a corner site with dual frontage onto Brookfield Terrace located in the right angle of the laneway.
- 1.4. The site is wedge shaped and accommodates a warehouse type building. The building is set back from Brookfield Terrace on the short east frontage and is tight with the lane on the longer south frontage. The longer south frontage elevates onto Brookfield Terrace proximate to the access with Carysfort Avenue.
- 1.5. Brookfield Terrace is characterised by commercial and residential land use.
- 1.6. There is a roller shutter entrance to the existing building located at ground level on the short east elevation. The south elevation has a ground floor door opening and limited fenestration.
- 1.7. A two-storey building abuts to the west forming with the subject building an independent two-storey block located between Brookfield Terrace and the rear curtilage of no. No. 9 Upper Prince Edward Terrace.
- 1.8. The site area is given as 0.0213 hectares.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises a change of use from a commercial unit to 4 number one bed apartments over two floors with new hall door, communal courtyard and ancillary facilities.



### 3.0 Planning Authority Decision

#### 3.1. Decision

Refuse permission for the following reasons:

- (1) *The subject site is located within the catchment of the Carysfort Maretimeo River, and within an area designed and identified as Flood Zone 'A', as set out Appendix 15 'Strategic Flood Risk Assessment', of the Dun Laoghaire-Rathdown County Development Plan 2022-2028. The subject application proposes a 'Highly Vulnerable' form of development, on lands which are zoned as Flood Zone 'A' which is contrary to Section 5.2 of the said Appendix. The proposed change of use would not therefore accord with the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 regarding flood risk management, specifically Section 12.10.1 Flood Risk Management, and Appendix 15: Strategic Flood Risk Assessment, specifically Section 5.2.2 and Section 6.2.13. The proposed development would, therefore, be contrary to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, and contrary to the proper planning and sustainable development of the area.*
- (2) *The subject site is located on lands with a zoning objective 'E', which is 'To provide for economic development and employment' and under which residential development, whilst not permitted in principle, is open to consideration, provided that the proposed residential use is in accordance Policy Objective E15 of the current County Development Plan – Securing Employment Growth. Having regard to the location of the site surrounding by land with a zoning Objective 'E' and to the information submitted in support of the application, it is considered that to permit the proposed change of use to residential would erode the primary land use objective at this location of providing for economic development and employment. Accordingly to permit the proposed development would be contrary to the zoning objective of the subject site and Policy Objective E15. The proposed development would thereby be contrary to the provisions of the Dun Laoghaire-Rathdown County*



*Development Plan 2022-2028 and contrary to the proper planning and sustainable development of the area.*

*(3) Having regard to the absence of any private open space to serve the proposed apartments, together with the poor layout of the communal terrace relative to the proposed apartments and the absence of any receiving footpath provision on the street adjacent to the development entrance, it is considered that the proposed development would result in a substandard level of amenities for future residents and would be contrary to the proper planning and sustainable development of this area.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The decision of the CEO of Dun Laoghaire-Rathdown County Council reflects in principle the recommendation of the planning case officer.

#### **3.2.2. Other Technical Reports**

The Drainage Planning section of the planning authority recommends refusal of planning permission substantively on the grounds of flood risk (location within Flood Zone A & Zone B) noting that the proposed residential use is a more vulnerable use than the existing commercial use of the building.

### **4.0 Planning History**

The following planning history is relevant:

Under Register Reference D21A/0059 retention permission was granted for change of use of part of the ground floor (43 sqm.) from light industrial to retail use (specialist pet boutique) and retention of the infill of previous first floor level void as an extension of the light industrial use.

#### Adjoining premises

Under Register Reference D24A/0001 planning permission was granted for the change of use of Brookfield House from offices to training centre.



## 5.0 Policy and Context

### 5.1. Development Plan

The Dun Laoghaire-Rathdown County Development Plan 2022-2028 is the relevant local planning policy document:

- Chapter 13 (Land Use zoning objectives) Table 13.1.1 (Development Plan Zoning Objectives) and Map 2 (Booterstown / Blackrock / Stillorgan) are relevant. The zoning objective for the subject development site is “E”: *To provide for economic development and employment.*

Residential is a ‘Open for Consideration’ land use in accordance with Objective E15 (Securing Employment Growth).

- Chapter 6 (Enterprise & Employment) Objective E15 states:

*It is a policy objective to ensure that employment zoned land facilitates its primary objective which is to provide for economic development and employment. The Council will apply a restrictive approach to residential development on employment zoned lands.*

Section 6.4.2.14 (Securing Employment Growth) is relevant and *inter alia* states: *The Core Strategy of this Plan concludes that there is a sufficient supply of zoned land for primarily residential purposes to meet allocated future population growth and to provide for the projected demand for housing over the Plan period. The Employment Strategy concludes there is a sufficient quantum of employment zoned lands available to facilitate continued economic development and employment growth in the County over the Plan period, however, it is highlighted that the extent of the employment landbank in DLR is quite low in comparison to adjoining Counties in the Dublin MASP area and it is therefore necessary to protect such lands for employment uses.*

- Chapter 2 (Core Strategy), Policy Objective CS11 – Compact Growth - is relevant and states:



*It is a Policy Objective to deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary.  
(Consistent with RPO 3.2 of the RSES).*

It is noted that Figure 2.9 (Core Strategy Map) defines the boundary of Dublin City and Suburbs. The development site is within that boundary.

- Chapter 4 (Neighbourhood-People, Homes and Place), Policy Objective PHP18 (Residential Density) is relevant and states:
  - *Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.*
  - *Encourage higher residential densities providing that proposals provide for high quality design and ensure a balance between the protection of the existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.*
- Chapter 12 (Development Standards) Section 12.3.7 (Additional Accommodation in Existing Built-Up Areas) is relevant.

Section 12.3.5.5 (Minimum Apartment Floor Areas), Table 12.4 (Minimum Floor Area Standards) is relevant and *inter alia* states:

Minimum Overall Floor Areas	
Studio	37 sq. m.
One bedroom	45 sq. m.
Two bedroom (3 persons)	63 sq. m.
Two bedroom (4 persons)	73 sq. m.
Three bedrooms	90 sq. m.

Section 12.8.3.3 (Open Space) is relevant and *inter alia* states:

*Private amenity space for apartments shall accord with the requirements set out in Table 12.11.*



Type/No. of bedrooms	Minimum square metres
Studio	4 sq. m.
One	5 sq. m.
Two (3 persons)	6 sq. m.
Two (4 persons)	7 sq. m.
Three	9 sq. m.
Four +	12 sq. m.

Section 12.8.5.4 (Roof Gardens) is relevant and *inter alia* states:

*Consideration of the use of roof gardens as communal open space shall be on a case by case basis and will not normally be acceptable on a site where there is scope to provide communal open space at grade, as roof gardens do not provide the same standard of amenity particularly to young children..... While recognising that the primary form of communal open space should be provided at grade..... there may be certain instances such as on smaller town centre infill schemes where there is only scope for a roof garden.....*

Section 12.10.1 (Flood Risk Management) is relevant and states:

*Applications shall adhere to the policies and objectives set out in Appendix 15 Strategic Flood Risk Assessment and Section 10.7 Flood Risk while having regard to 'the 'Planning System and Flood Risk Management' Guidelines for Planning Authorities' DEHLG (2009) and DECLG Circular PL2/2014.*

The subject site is within Flood Zone A (Flood Zone Map 2)

### **National Policy and Guidelines**

- The National Planning Framework (NPF) (Project Ireland 2040) (Government of Ireland 2018);
- The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly (EMRA) (June 2019).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (July 2023).
- The Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024).



The Sustainable Residential Development & Compact Settlement Guidelines define an apartment as a self-contained residential unit that forms part of a multi-unit building with horizontal divisions(s) between it and at least one other unit that is an apartment or other non-residential use. Access to individual apartments is generally via grouped access or communal areas. However, ground floor units may have direct 'own door' access from public or semi-public areas.

## **5.2. EIA Screening**

- 5.3. The proposed development is a change of use application. It is not within a class where EIA would apply.

## **6.0 The Appeal**

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

The grounds of appeal, prepared by Paul O'Toole Architects on behalf of the appellant, are summarised below:

#### *Flooding*

- The finished floor level adjacent properties is 420mm lower than the existing ground floor level of the subject property. The adjacent property was granted planning permission under appeal in 2011 (PL06D.238580). The planning authority at the time of assessment did not cite flood risk as a reason for refusal.
- The appellant argues that proposed development should be acceptable under Section 5.2 (Development in Flood Zone A or B) or Section 5.2.1 (Minor Development) of Appendix 15 of the development plan, which *inter alia* states that most changes of use of existing buildings are unlikely to raise significant flooding issues unless they obstruct important flow paths, introduce a significant additional number of people into a flood risk areas or entail the storage of hazardous substances.
- The subject property (18.90m) is approximately 260mm above the cover level of the nearest manhole (18.64m). The appellant constructed the subject premises in 1993. The owner has not observed flooding to date.



### *Zoning*

- It is claimed that a relatively minor quantum of residential units would not unduly detract from the commercial activities or opportunities supported by the economic development and employment Objective “E” zoning.
- Policy Objective E15 (Securing Employment Growth) will apply a restrictive approach to residential development in employment zoned lands. However, this restriction should not exclude minor residential development.
- The appellant will rent the residential units to employees who work locally.

### *Private Open Space*

- The appeal statement acknowledges that the provision of open space is not optimum. The appellant has submitted a revised open space proposal utilising the existing flat roof of the building as a roof garden, which is not overlooked or would not overlook.
- The appellant has submitted revised drawings including improved access at the hall door of the proposed apartments creating a double splayed and recessed entry point.

## **6.2. Applicant Response**

N/A

## **6.3. Planning Authority Response**

The planning authority refer the Board to the previous Planner’s Report. The grounds of appeal do not raise any new matters.

## **6.4. Observations**

None



## 7.0 Assessment

- 7.1. The following assessment covers the points made in the appeal submission, the reasons for refusal and encapsulates my overall consideration of the application. It is noted there are no new substantive matters for consideration.
- 7.2. The applicant proposed to retain and alter the existing building on site (175 sqm.) and to change the use of the building from commercial (part retail / part light industrial) to residential use. The change of use would facilitate 4 number one-bedroom apartments. There would be significant elevation changes including additional fenestration. The site area is given as 0.0213 hectares. I consider that the proposal represents an example of intensification of use of a small infill site.
- 7.3. The planning authority refused permission for 3 reasons. The first reason for refusal relates to the proposed use and the designation of the site as Flood Zone 'A'. The planning authority considered that the proposed highly vulnerable residential use located within the Carysfort Maretimo River catchment, within an area designed and identified as Flood Zone 'A', would *inter alia* be contrary to Section 5.2 of Appendix 15 (Strategic Flood Risk Assessment) of the development plan.
- 7.4. The second reason for refusal relates to the principle of residential development on an inappropriate zoned site. The development was refused on the grounds of the "E" (economic development & employment) zoning objective. The planning authority considered that to permit the proposed change of use to residential would be inconsistent with the zoning objective and Policy Objective E15, which restricts residential development on employment zoned lands, as the proposal would erode the primary economic development and employment land use objective.
- 7.5. The third reason for refusal relates to a deficiency in open space provision for the proposed residential units. The planning authority considered that the absence of any private open space to serve the proposed apartments, together with the poor layout of the communal terrace relative to the proposed apartments, and the absence of any receiving footpath provision on the street adjacent to the development entrance was a ground for refusal.
- 7.6. The appellant's architect has prepared revised drawings. The revised proposal for the information of the Board *inter alia* includes an amenity roof garden and an indent



of the main street entrance to the apartment building. I consider that the proposed roof garden given its physicality, including roof access and enclosing balustrade, and potential to overlook is a material change from the development advertised. I respectfully notify the Board of same. The following assessment, therefore, relates to the proposed development submitted to the planning authority, as advertised in the public notices.

7.7. The relevant planning matters arising are interrogated in my assessment under the following main headings below:

- Zoning / principle of development
- Compact growth / urban consolidation
- The Sustainable Residential Development and Compact Settlement Guidelines (2024)
- Apartment standards
- Open space
- Parking
- Flood Risk

*Zoning / principle of development*

7.8. The site is zoned Objective "E" in the Dun Laoghaire-Rathdown County Development Plan 2022-2028, which seeks to provide for economic development and employment. Residential development is an open for consideration use and may be permitted on a case by case basis where the proposed development is compatible with the overall policies and objectives for the zone.

7.9. Objective of the E15 Dun Laoghaire-Rathdown County Development Plan 2022-2028 seeks to ensure that employment zoned land facilitates its primary objective which is to provide for economic development and employment. Therefore, the planning authority applies a restrictive approach to residential development on employment zoned lands. The appellant argues that a relatively minor quantum of residential development as proposed would not unduly detract from the commercial activities or opportunities supported by the economic development and employment Objective "E" zoning.



- 7.10. I note that the subject site is within an established urban area where piped services are available. It comprises a ware-house type building located to the rear of no. 9 Upper Prince Edward Terrace. The service lane to the rear of Prince Edward Terrace is known as Brookfield Terrace.
- 7.11. The subject building is set back from the commercial streetscape on the west side of Brookfield Terrace. It forms part of a two-storey flat roof independent terrace block elevating south onto the service lane off Carysfort Avenue comprising the subject warehouse type structure and Brook Lodge a residential unit abutting to the west.
- 7.12. I note the site context of the proposed development comprises a building that bookends the economic development zone and is set back from the commercial streetscape on Brookfield Terrace. The east terrace of Brookfield Terrace opposite is a residential streetscape. The west terrace of Brookfield Terrace abutting the subject site is a commercial streetscape. However, I note that the west terrace commercial streetscape is replaced by a residential mews type streetscape on the north of Brookfield Terrace.
- 7.13. The mixed use nature of the immediate vicinity is reflected in the area zoning, which comprises both economic development and employment zoning with the juxtaposition of residential zoning notionally reflecting site specific land uses.
- 7.14. I acknowledge the prohibition in the development plan restricting the erosion of economic development and employment lands by the encroachment of residential development given the requirement of the planning authority to support enterprise and employment and by reason of the scarcity of such lands within the County. It is acknowledged that economic development and employment land use is in competition with residential development.
- 7.15. I note the location of the development site at the end of the commercial streetscape on the west side of Brookfield Terrace and the set back of the subject building form the streetscape. I also note the mixed-use nature of Brookfield Terrace in terms of residential and commercial uses and the juxtaposition of economic development and residential zoning. Finally, I note the configuration of the subject building on site forming an independent terrace with the abutting residential property at Brook Lodge both aligned with the northern boundary of the access lane from Carysfort Avenue to Brookfield Terrace.



- 7.16. I do not consider that to permit the proposed change to residential use of the subject site would erode the primary land use objective of the economic development and employment zone. I consider that the proposed development would be consistent with the zoning “E” objective, where residential use is an open for consideration use, and would be consistent with Policy Objective E15 given the configuration of the building on site and the limited residential use proposed.

*Compact growth / urban consolidation*

- 7.17. The National Planning Framework (NPF 2018) and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region (EMRA) (2019) encourage and support the densification of existing urban / suburban areas and, as such, promote the use of performance based criteria in the assessment of developments to achieve well designed and high quality outcomes. The strategic objective of compact development is supported in principle by densification of urban / suburban sites in particular lands accessible by walking, cycling and public transport. The proposed infill development site is within walking distance of Blackrock DART station and is accessible to frequent public transport.
- 7.18. Figure 2.9 (Core Strategy Map) of the Dun Laoghaire-Rathdown Development Plan 2022-2028 defines the boundary of “Dublin City and Suburbs”(Urban). The development site is located within the indicative boundary line defining the city and suburbs. Chapter 2 (Core Strategy), Policy Objective CS11 – Compact Growth – is to deliver 100% of all new homes, that pertain to “Dublin City and Suburbs”, within or contiguous to its geographic boundary. The proposed development would provide an additional 4 residential units within “Dublin City and suburbs.

*The Sustainable Residential Development and Compact Settlement Guidelines*

- 7.19. The Sustainable Residential Development and Compact Settlement Guidelines expand on higher-level policies of the National Planning Framework, setting policy and guidance that include development standards for housing. Section 1.32 (Compact Growth) of the Guidelines supports more intensive use of existing buildings and properties, including the re-use of existing buildings that are vacant and more intensive use of previously developed land and infill sites, in addition to the development of sites in locations served by existing facilities and public transport.



- 7.20. In the instance of the assessment of the proposed apartment development the related Section 28 Guidelines, Sustainable Urban Housing: Design Standards for New Apartments (Guidelines for Planning Authorities 2023), in combination with the Sustainable Residential Development and Compact Settlement Guidelines (2024) is relevant.

*Apartment standards*

- 7.21. The proposed development is not accompanied by a housing quality assessment, which is only mandatory for residential schemes greater than 10 units. The planning case officer assessed on balance that the proposed apartment units would provide a reasonable level of residential amenity internally. However, the proposed units would be deficient in terms of open space provision.
- 7.22. The Dun Laoghaire-Rathdown Development Plan 2022-2028 provides minimum floor area standards for apartments. These standards align with Appendix 1 (floor area standards for apartments) of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023. The minimum development plan floor area for a one-bedroom apartment is 45 sqm. The proposed units would have a floor area of 47 sqm.
- 7.23. The floor to ceiling height of the proposed units is not optimal at 2438mm. Section 3.22 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines stipulates that a floor to ceiling height of 2.7m is desirable. However, consideration must be given to design restrictions dictated by the volume of the existing building on site and the compact growth objective for the re-use of existing buildings.
- 7.24. I would concur with the planning case officer that the proposed units would on balance provide an acceptable level of residential amenity in terms of internal floor area, storage and general configuration. I note that the fenestration of the proposed units is predominantly south facing maximising solar gain and daylighting.

*Open Space*

- 7.25. SSPR 2 (minimum private open space standards) of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities *inter alia* requires apartments and duplex units to meet the private and semi-private open



space standards set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023.

- 7.26. Section 3.53 (private amenity space) of the New Apartment Guidelines (2023) require that private amenity space shall be provided in the form of gardens or patios / terraces for ground floor apartments and balconies at upper levels. Section 3.36 provides that balconies should adjoin and have a functional relationship with the main living areas of the apartment. In certain circumstances, glass-screened 'winter gardens' may be provided in lieu of balconies.
- 7.27. Table 12.11 of the Dun Laoghaire-Rathdown Development Plan 2022-2028 provides amenity space standards for apartments. These standards align with Appendix 1 (private amenity space standards for apartments) of the New Apartment Guidelines (2023). The development plan requires 5 sqm. of amenity space for a one-bedroom apartment. The proposed development does not provide dedicated amenity space for any of the 4 proposed apartment units.
- 7.28. Appendix 1 of the New Apartment Guidelines (2023) requires 5 sqm. of amenity communal space for one-bedroom apartments. The proposed development as submitted to the planning authority includes a communal open space in the setback between the east elevation of the apartment building and Brookfield Terrace. This pocket communal area would be a residual space sandwiched between the apartment building and a bin & cycle storage area / car parking space.
- 7.29. There would be no direct access to the communal space from the apartment building rather access would be facilitated by an opening in the boundary with the service lane. There is no footpath at present along the service line and the apartment entrance and access to the pocket communal area would be tight to the lane edge. I note that the appellant has provided revised drawings showing the indent of the main entrance of the apartment building in order to provide a micro ante-space between the service laneway edge and the apartment entrance door.
- 7.30. I do not consider that the indent of the entrance addresses communal open space access concerns. Furthermore, I consider that the proposed development as submitted to the planning authority would be deficient in terms of the quantity and quality of dedicated amenity space and communal open space.

#### *Parking*



- 7.31. Section 4.20 of Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023 requires the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.
- 7.32. I consider that the location of the proposed apartment development can be characterised as an accessible urban location. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (10 minute peak hour frequency) bus services.
- 7.33. Section 4.29 provides that for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, car parking provision may be relaxed on a case-by-case basis, in part or whole, subject to overall design quality and location.
- 7.34. It is considered that the location of the proposed development would merit a relaxation in car parking provision. However, the design quality of the proposed apartment building, notwithstanding the change of use nature of the subject application, is deficient in particular in the provision of dedicated open space for the proposed apartment units.

#### *Flood Risk*

- 7.35. The proposed development is within the Carysfort Maretimo River catchment. Flood Map 2 of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 designates the subject site within Flood Zone 'A'. The Drainage Planning section of the planning authority recommends a refusal of planning permission on the grounds that the proposed residential use (analogous with dwelling house) would be a highly vulnerable development located in Flood Zone 'A & B'.
- 7.36. The appellant claims that the proposed development should be acceptable under Section 5.2 (Development in Flood Zone 'A or B') and Section 5.2.1 (Minor Development) of Appendix 15 (Strategic Flood Risk Assessment) of the Dun Laoghaire-Rathdown County Development Plan 2022-2028. The appeal notes that the appellant constructed the subject premises in 1993. The owner has not observed flooding to date.



- 7.37. Appendix 15, Section 5.2 (Development in Flood Zone 'A & B') provides guidance for development within areas that have a high risk of flooding. Section 5.2.1 (Minor Development) provides that applications for minor development, such as small extensions to houses or the rebuilding of houses, and most changes of use of existing buildings and or extensions and additions to existing commercial and industrial enterprises, are unlikely to raise significant flooding issues.
- 7.38. However, the change of use representing minor development as provided for in Section 5.2 is restricted to uses that do not increase the level of vulnerability of development and would not introduce significant numbers of people into the risk area.
- 7.39. I consider that the change of use from commercial use to residential use, comprising 4 apartments - including 2 ground floor apartments - would constitute the introduction of a highly vulnerable land use within Flood Zone 'A'. Furthermore, the apartment building has the potential to introduce 8 people into the risk zone.
- 7.40. Section 5.22 states that it is not appropriate for new, highly vulnerable, development including dwelling house (analogous with a change of use to an apartment building given the location of apartments at grade), to be located in Flood Zones A or B other than in those areas deemed to have passed the development plan justification test, as provided for in Section 6 of Appendix 15. Instead, a less vulnerable or water compatible use should be considered.
- 7.41. It is considered that a less vulnerable or water compatible use may be a more appropriate change of use than the subject development for change of use from commercial premises to 4 apartments.

#### *Conclusion*

- 7.42. I consider that the proposed change of use from commercial to residential would not erode the primary land use economic development and employment zoning objective at this location. I conclude that the proposed development would be consistent with the zoning "E" objective, where residential use is an open for consideration use, and would be consistent with Policy Objective E15 given the configuration of the building on site and the limited residential use proposed. However, I consider that the proposed development as submitted to the planning authority would be deficient in



terms of the quantity and quality of dedicated amenity space and communal open space.

- 7.43. Finally, I conclude that a less vulnerable or water compatible use may be a more appropriate change of use than the subject development for change of use from commercial premises to 4 apartments given the Flood Zone 'A' designation of the site located within the Carysfort Maretimo River catchment.

**7.44. Appropriate Assessment Screening**

The proposed development comprises an intensification of use of an existing building in an established urban area.

Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS.

**8.0 Recommendation**

- 8.1. I recommend refusal of planning permission for the reasons and considerations set out below:

**9.0 Reasons and Considerations**

Having regard to the grounds of appeal, the reasons for refusal, the "E" zoning objective, which provides for economic development and employment where residential is an open for consideration use, the policy framework of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 and the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (Guidelines for Planning Authorities 2023), it is considered that the proposed development would be inconsistent with Appendix 15 (Strategic Flood Risk Assessment) of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, Section 12.8.3.3 (Open Space) of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (Guidelines for Planning Authorities 2023) and, as such, would be inconsistent with the proper planning and sustainable development of the area.



## 10.0 Refusal

1.	<p>The subject site is located within the catchment of the Carysfort Maretimeo River, and within an area designed and identified as Flood Zone 'A', as set out in Appendix 15 'Strategic Flood Risk Assessment', of the Dun Laoghaire-Rathdown County Development Plan 2022-2028. The subject application proposes a 'Highly Vulnerable' form of development, on lands which are zoned as Flood Zone 'A' which is contrary to Section 5.2 of Appendix 15. The proposed change of use would not therefore accord with the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028 regarding flood risk management, specifically Section 12.10.1 Flood Risk Management, and Appendix 15: Strategic Flood Risk Assessment, specifically Section 5.2.2 and Section 6.2.13. The proposed development would, therefore, be contrary to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, and contrary to the proper planning and sustainable development of the area.</p>
2.	<p>Having regard to the absence of any private open space to serve the proposed apartments, together with the poor layout of the communal terrace relative to the proposed apartments and the absence of any receiving footpath provision on the street adjacent to the development entrance, it is considered that the proposed development would result in a substandard level of amenities for future residents and would be contrary to the proper planning and sustainable development of this area</p>



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.

A handwritten signature in black ink, appearing to read 'A. Abbott King', written over a horizontal line.

Anthony Abbott King  
Planning Inspector

24 October 2024