



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305272-19

---

<b>Development</b>	Demolition of house and outbuildings and construction of 5 houses
<b>Location</b>	Lindisfarne, 44D Thormanby Road, Howth, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F18A/0468
<b>Applicant(s)</b>	Orla Dunne
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	1. Hillwatch 2. Hilda Tierney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13 <sup>th</sup> December 2019, 26 <sup>th</sup> March 2020
<b>Inspector</b>	Niall Haverty

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.445ha, is located on the eastern side of Thormanby Road in Howth, Co. Dublin. The site is L-shaped, and currently accommodates a detached single storey house and its associated gardens and open space. To the rear (east) of this house, the site turns to the north and runs to the rear of a number of existing detached houses.
- 1.2. This part of Howth is characterised by relatively low density residential development, comprising mostly detached houses on large sites, with more recent infill developments to the rear of some houses. I note in this regard that infill houses have been developed to the rear of the houses to the north and south of the appeal site.
- 1.3. The typology of the housing stock in the area is widely varied, ranging from traditional bungalows to two storey contemporary houses, some of which have flat roofs. I note that a relatively recent residential development of large detached houses of uniform design is located on the opposite side of Thormanby Road.
- 1.4. The site slopes upwards from west to east, with a level difference of c. 10m across the site. Ground levels continue to rise to the east of the site, before falling towards the cliffs. To the east of the appeal site is an area of coniferous plantation, beyond which are areas of gorse and amenity pathways at various levels.

## 2.0 Proposed Development

- 2.1. The proposed development, as originally proposed, was described in the statutory notices as follows:
  - (i) Demolition of existing dwelling house and outbuilding;
  - (ii) Construction of two detached two storey flat roofed houses and three split level one and a half storey houses with pitched roofs;
  - (iii) Revised entrance and roadway, car parking spaces, boundary treatment, landscaping, on-site surface water attenuation and drainage.
- 2.2. The notice also states that the proposed development is a variation of the development granted planning permission under Reg. Ref. F08A/1319, ABP Ref.

PL06F.233970. The Board should note that this earlier permission was not implemented and has expired.

- 2.3. The Board should also note that the design of the proposed houses was altered on foot of a request for further information, and that all 5 No. proposed houses are now two storey flat roof structures with single storey projections.
- 2.4. An access road is proposed along the southern boundary of the site, turning to the north at the rear of the L-shaped site. Two of the proposed houses (Nos. 1 and 2) are located on the northern side of this access road, aligned with the existing houses on the adjoining site to the north. A further three proposed houses (Nos. 3 – 5) are located to the east of the proposed access road, at the rear of the site.
- 2.5. Proposed house Nos. 3, 4 and 5 are identical, while house Nos. 1 and 2 differ somewhat in layout and design. Notwithstanding this, the proposed finishes are relatively consistent across the 5 No. proposed houses, with all five having render and cedar cladding elevational treatments with green roofs, while house Nos. 3, 4 and 5 also feature brickwork elements. Boundary hedge planting and landscaping within the proposed gardens is also proposed.
- 2.6. The application, as supplemented by the further information submitted, included, *inter alia*, 3-D views of the development, a Planning Report, Drainage Report and landscaping layout.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. Fingal County Council decided to grant permission. The following summarised conditions are noted:
  - **C4:** First floor terrace areas serving dwelling Nos. 1 and 2 shall not exceed 3m in depth.
  - **C5:** No flat roof shall be used as a balcony, save for the terrace on the west elevation.
  - **C6:** Development under Classes 1 or 3 of Part 1, Schedule 2 of the PDR shall not be carried out without a prior grant of permission.

- **C9:** Contribution of €25,708 in lieu of public open space.
- **C11:** Tree bond of €10,000.
- **C12:** Landscaping plan to be implemented in first planting season following completion of construction works.
- **C15:** Requirements for access road, footpaths etc.
- **C19:** Bond requirement.
- **C20:** Development contributions.

### 3.2. Planning Authority Reports

3.2.1. The Planning Officer's reports can be summarised as follows:

- The proposal is acceptable in principle within the RS zoning objective.
- Site is in close proximity to an Annex I habitat and a Fingal Rare Flora Site.
- Given the location of the site and its proximity to sensitive landscapes, it is imperative that any new dwellings should have due regard to their setting and be subordinate to the landscape.
- The principle of development on the site is established, due to previous grant of planning permission.
- Proposed development accords with development plan standards and provides a good quality of internal amenity for future residents.
- Separation distance of house No. 2 from the existing dwelling to the north is 2.6m, which is in excess of the requirement under Objective DMS29.
- The first floor terrace is orientated in a manner which does not give rise to significant overlooking of the rear private amenity space associated with neighbouring dwellings.
- Separation distances will mitigate against overlooking.
- Proposed development will not have a negative impact on the current levels of residential amenity enjoyed by neighbouring properties.
- Contribution required in lieu of public open space.

- Access road should be a shared surface, rather than segregated.
- Turning head is sufficient for bin trucks to turn and sightlines are acceptable.
- Having regard to the separation distances to the subject site from the designated sites, it is considered that the proposed development would not give rise to any significant adverse direct, indirect or secondary impacts on the integrity of an nearby Natura 2000 sites. The Planning Authority accepts the conclusions of the applicant's AA Screening Report.
- There is precedent on the site for a similar type of development and there is further precedent at 'Majuba Hill' to the north and 'Limara' to the south for backland development.
- The Visual Impact Assessment submitted is not adequate as it has not been prepared by a suitably qualified landscape architect.
- Neighbouring dwellings are not visible from the HA zoned lands. Limara has a ridge height greater than that proposed, and it is not visible from the HA lands. Therefore it is considered that the proposed dwellings will not be visible.
- The revised designs take into consideration the Planning Officer's concerns, and the massing and height has been reduced.
- The revisions to house No. 3 provide an adequate separation distance from the eastern boundary of the site.
- Revised landscaping proposals are acceptable, subject to conditions.
- €10,000 tree bond is appropriate given location of site within the SAAO buffer zone.
- Contribution in lieu of public open space is required.
- Surface water management and attenuation proposals are acceptable.
- Reduction in size of terraces on house Nos. 1 and 2 is acceptable. Condition required to prevent use of flat roofs for terrace/roof garden.
- Water main layout is acceptable.

- Having regard to the precedent on site and the reduction in scale and massing of the proposed dwellings it is considered that the proposed development will not give rise to a negative visual impact upon the HA lands.

### 3.3. Other Technical Reports

3.3.1. **Transportation Planning:** No objection, subject to conditions.

3.3.2. **Parks Division:** No objection, subject to conditions.

3.3.3. **Water Services:** No objection, subject to conditions.

### 3.4. Prescribed Bodies

3.4.1. **Irish Water:** No objection, subject to conditions.

### 3.5. Third Party Observations

3.5.1. 3 No. observations were made, with a further 2 No. following the submission of the response to the request for further information. The issues raised were generally as per the appeals, as well as the following:

- Overbearing and overshadowing impact of house No. 2 and lack of shadow study.
- Revised proposal following RFI results in higher level windows and a greater volume of building envelope at a higher level.
- Cedar cladding has questionable record in Irish climate.
- Loss of existing hedge and uncertainty regarding replacement planting.

## 4.0 Planning History

### 4.1. Appeal Site

4.1.1. **PL06F.233970 (Reg. Ref. F08A/1319):** Permission granted in 2009 for 3 No. detached single storey dwelling houses to the rear of Lindisfarne with new access road, connection to drainage system, landscaping, solar panels, boundary walls and fences and all other associated works. Permission had been sought for 4 No.

houses, but one was omitted by condition. The duration of this permission was subsequently extended by three years, but it was not implemented and has now expired.

- 4.1.2. **PL06F.233968 (Reg. Ref. F08A/1320):** Permission granted in 2009 for partial demolition of existing dwellinghouse and construction of new single storey extensions to front and rear of existing dwelling with external terraces, internal alterations and all associated works (which will facilitate access to proposed development site to side and rear of existing dwelling). New detached garage to rear with new entrance from proposed new access road. The duration of this permission was subsequently extended, but it has now expired.

## 4.2. Surrounding Area

- 4.2.1. **F18A/0094:** Permission granted in 2018 for 2 No. detached two storey dwellings to the rear of an existing dwelling known as 'Carna'. The 'Carna' site is located a short distance to the north of the appeal site, and abuts the northern 'leg' of the L-shaped appeal site.

## 5.0 Policy Context

### 5.1. Fingal Development Plan 2017-2023

- 5.1.1. The appeal site and the adjacent houses along Thormanby Road are zoned 'RS' ("to provide for residential development and to protect and improve residential amenity"). The appeal site is also located within the Buffer Zone of the Howth Special Amenity Area Order.
- 5.1.2. The lands immediately to the east and north of the appeal site are zoned 'HA' ("to protect and improve high amenity areas") and are located within the Howth SAAO proper. The Howth cliff paths are located to the east of the appeal site and there is a mapped objective to preserve views along the paths.
- 5.1.3. The 'Green Infrastructure Map 2' indicates that the appeal site is in close proximity to an Annex 1 Habitat and a Fingal Rare Flora Site.
- 5.1.4. The following objectives are noted:

- **NH44:** Protect and enhance the character, heritage and amenities of the Howth and the Liffey Valley Special Amenity Areas in accordance with the relevant Orders.
- **NH51:** Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.
- **HOWTH 1:** Ensure that development respects the special historic and architectural character of the area.
- **HOWTH 4:** Protect and manage the Special Amenity Area, having regard to the associated management plan and objectives for the buffer zone.
- **PM44:** Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.
- **PM45:** Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.
- **DMS24:** Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3.
- **DMS28:** A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy.
- **DMS29:** Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units.
- **DMS39:** New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.
- **DMS87:** Relates to minimum open space provision for dwelling houses.
- **DMS57, DMS57A, DMS57B:** relate to public open space provision, while **DMS58** relates to financial contributions in lieu of open space provision.

5.1.5. Objective 1.3 of the SAAO is to protect the special amenity area and to ensure that its resources are used in an effective and sustainable manner.

5.1.6. This is supported by Policy 1.3.1, which states that:

5.1.7. The Council will designate a Buffer Zone for the special amenity area in the County Development Plan. In considering planning applications within the buffer it will be Council policy:

- In respect of natural beauty, to preserve prospects of the Special Amenity Area and to preserve open views from the Special Amenity Area,
- In respect of special recreational value, a) to preserve existing rights of way leading to the special amenity area, and, where appropriate, to create additional rights of way, b) to allow development which utilises the recreational, tourism and educational potential of the special amenity area, provided that such development does not have a significant negative visual impact and that it conforms with the zoning objectives and other development standards of the development plan.
- In respect of nature conservation, to protect existing natural and semi-natural habitats and, where appropriate, to encourage the creation of new semi-natural habitats in order to enhance the habitat diversity of the peninsula.

5.1.8. Objective 2.1 is to preserve views from public footpaths and roads. This is supported by Policy 2.1.1 which states that the Council will preserve views from the network of footpaths and roads shown on Map B. Applications for planning permission must take into account the visual impact of proposals on views from these paths and roads. Applicants must state whether there would be an impact and describe and illustrate the impact. Where there would be an impact an application for planning permission must be accompanied by a cross-sectional drawing at a suitable scale showing the proposed development and the affected path or road. The Council will not permit development which it considers would have a significant negative effect on a view from a footpath or road.

## 5.2. Natural Heritage Designations

- 5.2.1. The appeal site is located c. 100m to the west of the Howth Head SAC boundary (Site Code 000202), c. 340m west of the Howth Head Coast SPA (Site Code 004113) and c. 680m west of the Rockabill to Dalkey Island SAC (Site Code 003000). It is also c. 100m west of Howth Head pNHA.

## 5.3. EIA Screening

- 5.3.1. Having regard to the infill nature and limited scale of the proposed development on a serviced and residentially zoned suburban site, and noting the separation distances from the environmentally sensitive areas of Howth Head and the topography of the site and surrounding area, which prevents any hydrological connection to these sensitive areas, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. Two third party appeals were received from Hillwatch and McCauley & Associates Architects on behalf of Hilda Tierney, respectively. The issues raised in the appeals can be summarised as follows:

#### 6.1.2. Hillwatch

- The proposal is within the Howth SAAO Buffer Zone, in close proximity to the Upper Cliff Path. The density and design in such a sensitive location would set an undesirable precedent and should be rejected.
- It is unacceptable to levy a financial contribution in lieu of open space. This has never happened in the Buffer Zone and is a very serious development.
- The rigid urban nature of the design and the density is an overdevelopment of the site and out of character with the surrounding scattered individual houses.

- It is contrary to Development Plan objectives in relation to backlands development. It introduces a new road, ending in a cul de sac, but opening the possibility of further development in neighbouring fields and further encroachment on the SAAO.

### 6.1.3. **Hilda Tierney**

- The appellant is the owner/occupier of 'Majuba Hill', the dwelling abutting the appeal site at its northern and western boundaries.
- The appeal is mainly focussed on house Nos. 2, 3, 4 and 5, whose sites and access abut the appellant's property. House No. 2 is of most concern, because of its unacceptable design in such close proximity to Majuba Hill.
- A parapetted flat roof is inappropriate in the context of the site and is arguably in conflict with Objective DMS39 of the Development Plan.
- Two storey element of House No. 2 will grossly overbear and overshadow the appellant's property on account of its cuboid mass.
- The Planning Authority does not appear to have taken account of the appellant's submission on the further information submitted.
- The architectural drawings submitted by the applicant contain numerous and significant errors, discrepancies and inconsistencies regarding levels, dimensions, etc. The layout of House No. 2 on the drawings submitted by other specialists all differ from each other. Knowledge of the absence of accurate drawings should preclude considerations of the application.
- The appellant's agents, as architects involved in the domestic residential sector, are at a loss to understand the rationale behind the design of House No. 2. The ratio of living accommodation to bedroom accommodation is 40:60, when it would usually be 60:40.
- The ground floor features a proliferation of overly large bedrooms and bathrooms, with a relatively small open plan area at the upper floor for the size of the house.
- There is no view available from the first floor except possibly from the terrace. Given the Irish climate this may be of limited use.

- The design is so unsustainable as it stands and unlikely to be built as proposed, that it should be a planning consideration and one of the reasons for refusal.
- The equation of a pitched roof ridge line and a flat roof parapet height is not a valid means of comparison in terms of massing. This view is supported by the exempted development provisions of the Regulations, where a 1m difference is allowed between a pitched roof and flat roof.
- A sheer wall will present onto and project in front of Majuba Hill. The inclusion of a high level window “to break up the mass of the blank windowless wall” seems gratuitous in the circumstances. If it were a pitched roof it wouldn’t be a problem.
- The original Planning Officer’s report took little or no account of the issues raised, save for a reduction in the terrace depth of house No. 2. The subsequent report states that no objections/submissions were received following the submission of additional information, which is not the case.
- It is noted that the Planning Officer did not consider the VIA submitted to be adequate to help in the assessment as it was not prepared by a suitably qualified landscape specialist. It seems strange that adherence to the original RFI request was not sought under CFI.
- Precedent referred to by Planning Officer is not comparable.
- Planning Officer’s report perpetuates the mistaken view related to ridge and parapet heights. Appellant is at a loss to understand statement that there is now similarity between the dwellings in the immediate vicinity. One would have thought that some diversity would be welcome in this sensitive area.
- The revision of the design of House Nos. 3, 4 and 5 is a seriously backward step. The flat roof will make the buildings appear higher, windows will be higher, light pollution will be greater and overlooking will be greater.
- The extent of discrepancies in House No. 2 would appear to warrant further detailed scrutiny of the balance of the proposed development.

- The principle of development of this backland site is accepted, but not in the format and design proposed. House No. 2 should be refused permission and there is a strong case for sending House Nos. 3, 4 and 5 back to the drawing board.
- The application is defective in many respects and the site would benefit from a more considered contextual design approach.

6.1.4. The appeal was accompanied by a copy of the appellant's earlier submissions to the Planning Authority and an annotated copy of a number of the application drawings.

## 6.2. Applicant Response

6.2.1. A response to the 2 No. third party appeals was submitted on behalf of the applicant by O'Neill Town Planning. It can be summarised as follows:

- The Board has previously granted permission for a similar scale of development on the site (PL06F.233970).
- The proposed development is a variation of this previous permission, and in many ways an improvement on the way the site interfaces with adjoining residences and the SAAO area.
- Proposed development is compliant with development management standards, policies and objectives set out in the Development Plan and relevant Planning Guidelines.
- Proposed low density is mindful of the character and pattern of development and the location of the site in the SAAO Buffer Zone.
- Proposed development complies with principle for development in the area and objectives relating to landscape character.
- Proposed development would not be visible from any protected views or prospects.
- Proposed development satisfies the very stringent objectives and policies of the SAAO.
- There will be no direct or indirect impact on any Natura 2000 site. An AA Screening Statement was submitted with the application.

- The development will not be subject to flood risk.
- The Board is asked to consider the appropriateness of condition 9 (contribution in lieu of public open space). It should not be required given the amount of private open space, the proximity to large tracts of public open space and precedent on an adjoining site.
- Proposed development has full cognisance of adjoining neighbours and has put in place measures to protect their amenity.
- The proposed cul-de-sac road design makes it impossible to access the SAAO lands without demolishing one of the proposed houses.
- There will be no impact on the cliff walk and the proposed development will not be visible from the cliff walk or from any of the protected views and prospects.
- A modern approach has been taken, and there are many examples on the Howth peninsula of contemporary replacement dwellings with cuboid flat roofs and parapets.
- The appellant's house is also an infill house constructed in a rear garden.
- The emerging pattern of development should be noted by the grant of permission for two large two storey houses in the rear of Carna (Reg. Ref. F18A/0094).
- No detailed shadow analysis was undertaken by the appellant to show compliance or otherwise with the BRE or other guidelines. No mention was made of the trees displayed on the appellant's plan in support of their recent planning application (Reg. Ref. F18B/0162<sup>1</sup>).
- Marking downloaded or photocopied drawings and scaling from same is an inaccurate way of demonstrating the appellant's point. If there are minor discrepancies on the drawings they in no way affect the scheme as a whole nor do they change the size, shape, design or access to proposed House No. 2.

---

<sup>1</sup> I note that this planning register reference number relates to a site in Malahide, not Howth.

- Concentrating on parapet levels seems futile as there are privacy screens and balustrades above this level. It is a mistake to use the roof plan to try to show some discrepancy at ground level.
- There is adequate car parking space. If a lower ground level embankment were to change to a retaining wall or a mixture of both, this would have no impact on Majuba Hill.
- The distance between the proposed House No. 2 and Majuba Hill is compliant with Development Plan standards. The proposed house is set back 1.5m from the boundary to give a more generous separation distance.
- The layout of House No. 2 is a response to the sloping site and the need to comply with Building Regulations requirements for disability access.
- The applicant does not agree with the appellant's comments regarding the revised design of House Nos. 3 – 5. There is a unity of design which ties them closer to Houses 1 and 2, and a reduction in size.
- Separation distances and boundary planting will mitigate overlooking and light pollution between House Nos. 3 – 5 and appellant's house.
- Proposed access is more than suitable for the traffic that will be generated. It will be capable of serving all emergency traffic and sightlines are adequate.

### 6.3. **Planning Authority Response**

6.3.1. The Planning Authority's response can be summarised as follows:

- The proposed development will not detract from adjoining residential amenity, subject to compliance with the conditions.
- The Board is asked to uphold the decision of the Planning Authority.
- The Board is asked to include conditions 9, 11, 19 and 20, should their decision be upheld.

### 6.4. **Observations**

6.4.1. None.

## 6.5. Further Responses

6.5.1. None.

## 7.0 Assessment

7.1. I consider that the key planning issues arising are as follows:

- Principle of proposed development.
- Design and layout.
- Residential amenity.
- Impact on Howth Special Amenity Area.
- Other issues.
- Appropriate Assessment.

## 7.2. Principle of Proposed Development

7.2.1. The proposed development comprises residential infill development on a site which is zoned 'RS', "to provide for residential development and to protect and improve residential amenity". The proposed development is therefore considered to be acceptable in principle. I note in this regard that the Board previously granted permission for the development of 3 No. houses to the rear of the existing house on the appeal site in 2009 (PL06F.233970 refers). That permission was not, however, implemented and has now expired.

7.2.2. Notwithstanding the residential zoning of the appeal site, it is located adjacent to lands which are zoned 'HA', "to protect and improve high amenity areas". It also forms part of the Buffer Zone associated with the Howth Special Amenity Area. The appeal site is clearly, therefore, a sensitive site which requires a properly considered design approach.

## 7.3. Design and Layout

7.3.1. The existing houses along this portion of Thormanby Road are generally aligned north west/south east, with a staggering of building lines from north to south. The

building plots are long, and numerous infill houses have been built in the rear gardens of houses, including those immediately north and south of the appeal site.

- 7.3.2. The appeal site is L-shaped, with a significant change in level (c. 10m) from west to east. The proposed development, as amended following the request for further information, comprises the demolition of the existing house, and the construction of two houses (Nos. 1 and 2) aligned with existing houses to the north, and three houses (Nos. 3, 4 and 5) on the wider undeveloped area to the rear of the site. All five proposed houses would be served by an L-shaped access road.
- 7.3.3. I note that the layout of proposed House Nos. 3, 4 and 5 is similar to that previously granted permission by the Board to the rear of the existing house on the appeal site, although the design of the houses differs considerably.
- 7.3.4. I consider the proposed layout, with the alignment of House Nos. 1 and 2 with the existing houses to the north, and the placement of three houses at the rear of the site to be an appropriate design response to the site context. I also note that the revised design, following the request for further information, results in a reduction in the amount of excavation of the site, while reducing the overall height of proposed House Nos. 3, 4 and 5, both of which are more appropriate for the sloping nature of the site. It should be noted that the parapet height of proposed House Nos. 3, 4 and 5 is slightly lower than that previously permitted by the Board.
- 7.3.5. The appellants contend that the design of the proposed development is inappropriate, that the flat roof design exacerbates the height of the development and that it is of a rigid urban design that comprises overdevelopment of the site.
- 7.3.6. The proposed houses are contemporary in design, with flat roofs, and a mix of render, cedar cladding and brickwork elements. I consider the applicant's contemporary design approach to be acceptable, noting that there is no defining housing typology in the immediate area. There are numerous example of contemporary architecture in the vicinity, including flat roofed houses, and I note the presence of a development of relatively uniform two storey houses at Thormanby Hill to the west of the appeal site.
- 7.3.7. While Objective DMS39 of the Development Plan states that infill development shall respect the height and massing of existing residential units, I note that Objective PM45 is to promote the use of contemporary and innovative design solutions,

subject to the design respecting the character of the area. In this instance, the parapet height of proposed House Nos. 1 and 2 will match the ridge height of the existing houses to the north. While I agree with the appellant that the flat roofed parapet approach will increase the extent of wall area facing their property, I consider that the separation distances are adequate to avoid any undue level of overshadowing or overbearing impacts. This is addressed in more detail in Section 7.4 below.

- 7.3.8. With regard to quantitative standards, the 5 No. proposed houses would provide a good level of residential amenity to future occupants and I note that they would exceed the minimum standards set out in the Development Plan and thereby be compliant with Objective DMS24. The provision of private open space would also be compliant with the Development Plan requirements. No public open space is proposed and I have addressed this issue in Section 7.6 below.
- 7.3.9. With regard to the internal layout of proposed House No. 2, one of the appellants queries the provision of living accommodation at first floor level and contends that the ratio of bedroom accommodation to living accommodation is excessive and that the house will be untenable/unsustainable. I note that, as a result of the sloping site, House No. 2 will have its main entrance at first floor level, on the eastern elevation. As such, I consider the proposed 'flipped' arrangement of living and sleeping accommodation to be acceptable. The proposed house is also sizable, at 235 sq m, of which 85 sq m is at first floor level. This extent of living accommodation is more than adequate with reference to Development Plan requirements.
- 7.3.10. The same appellant also contends that the drawings submitted by the applicant contain numerous errors and inconsistencies and has marked-up and annotated a number of the applicant's drawings in support of their position. The applicant's agent, in response, contends that marking and scaling downloaded/photocopied drawings is inaccurate and goes on to state that if there are minor discrepancies on the drawings, they in no way affect the scheme as a whole nor do they change the size, shape, design or access to proposed House No. 2.
- 7.3.11. Having reviewed the drawings associated with the application, I would concur with the appellant that there are some discrepancies and inconsistencies between drawings. However, many of the issues identified are relatively minor, such as

incorrect housing layout indicated on drainage and tree survey drawings. I consider that the drawings and associated documentation before the Board are sufficient for the purposes of assessing the proposed development.

7.3.12. In conclusion, I consider the design and layout of the proposed development to be acceptable.

#### **7.4. Residential Amenity**

7.4.1. The proposed development comprises an infill/backlands type development within an established residential area, and as such the potential impact on residential amenity needs to be considered. I note, in this regard, that the appeal submitted on behalf of Ms Tierney, the owner/occupier of 'Majuba Hill' (a dwelling located to the north of the appeal site) states that her appeal is primarily in relation to House Nos. 2, 3, 4 and 5.

7.4.2. Having regard to the location, layout and orientation of the proposed development and existing houses in the vicinity, I do not consider that there will be any significant overshadowing or loss of sunlight/daylight as a result of the proposed development. As noted above, the two storey elements of proposed house Nos. 1 and 2 are generally aligned with the existing houses to the north, albeit with projecting single storey elements. While their position to the south of the existing houses would have the potential to result in some overshadowing/loss of light, I note that their parapet height will generally match the ridge height of the existing houses and that they will be separated by c. 5.7m in the case of House No. 1 (which includes the access road within the adjacent site) and c. 2.5m in the case of House No. 2. The appellant contends that there are errors on the drawings submitted, and that proposed House No. 2 will be closer to Majuba Hill than indicated. The applicant, in response, contends that proposed house No. 2 will be set back by 1.5m from the northern boundary. I note that Objective DMS29 of the Development Plan requires a separation distance of at least 2.3m between side walls of detached houses. Therefore, regardless of which party's dimensions are accepted, the proposed development would be consistent with the Development Plan requirement. I consider this separation distance to be adequate within this suburban setting, noting that the principal elevations of both the existing and proposed houses face east and west, not north and south. Having regard to the appellant's contention regarding

inaccuracies in the drawings, I consider it appropriate that a 1.5m separation distance between proposed house No. 2 and the northern boundary of the site be included as a condition, in the interests of clarity.

- 7.4.3. With regard to proposed House Nos. 3, 4 and 5, I note that the two storey elements of all three houses would have a separation distance in excess of c. 27m from the closest existing house, which is the appellant's dwelling (Majuba Hill). Having regard to these considerations, I do not consider that any significant or undue level of overshadowing is likely to occur. Due to the site context, I do not consider that any other dwellings have the potential to experience any level of overshadowing or loss of sunlight.
- 7.4.4. With regard to overlooking, I again note that House Nos. 1 and 2 are generally aligned with the existing houses to the north. The only north-facing windows at ground floor level of these two proposed houses serve bathrooms and a utility room (and a bedroom in the case of House No. 2), while at first floor level, there is only a high level ribbon window with a cill level 1.9m above finished floor level. While both House Nos. 1 and 2 feature a terrace area on the western elevation at first floor level, I note that the depth of this terrace was reduced to 3m on foot of the request for further information, and that a proposed 1.9m high privacy screen would be located along the northern and part of the western edges of the terraces. As a result of these design measures, I am satisfied that no undue overlooking will arise from these proposed dwellings. With regard to proposed House Nos. 3, 4 and 5, as noted above, these would have a separation distance in excess of 27m from the closest existing house which is in excess of the 22m requirement under Objective DMS28 of the Development Plan. As such, I do not consider that any undue level of overlooking of existing houses will arise.
- 7.4.5. With regard to the potential for overlooking between the proposed houses, I note that the opposing two storey elements of House Nos. 1, 2 and 3 are all separated by distances in excess of 22m, while the opposing two storey elements of House Nos. 3, 4, 5 only have one window at first floor level, on the southern elevation. This window serves a landing and overlooks the associated private open space of each dwelling, with no windows at first floor level on the opposing northern elevation.

7.4.6. In conclusion, and subject to suitable conditions, I do not consider that the proposed development would have an unacceptable impact on residential amenities, and I do not recommend that planning permission be refused on this basis.

## 7.5. Impact on Howth Special Amenity Area

7.5.1. As noted above, the appeal site is located in the area designated as a Buffer Zone for the Howth Special Amenity Area Order. One of the appellants contends that the density and design of the proposed development in such a sensitive location would set an undesirable precedent and that permission should therefore be refused.

7.5.2. Objective 1.3 of the SAAO is to protect the Special Amenity Area and to ensure that its resources are used in an effective and sustainable manner. This is supported by Policy 1.3.1 which states, *inter alia*, that in considering planning applications within the Buffer Zone it will be Council policy in respect of natural beauty, to preserve prospects of the Special Amenity Area and to preserve open views from the Special Amenity Area. Objective 2.1 is to preserve views from public footpaths and roads. This is supported by Policy 2.1.1 which states that the Council will preserve views from the designated network of footpaths and roads.

7.5.3. While the appeal site is located within the Buffer Zone of the Special Amenity Area, I note that it is not visible from the cliff paths within the SAA proper, due to the topography in the area, which continues to rise to the east of the appeal site, before dropping towards the cliffs, where the upper and lower cliff paths are located.

7.5.4. While I would share the Planning Authority's reservations regarding the adequacy of the Visual Impact Assessment that was submitted in response to the request for further information, I have inspected both the site and its surroundings, as well as views towards the site from the upper cliff path, which is within the SAA proper, and from which views are to be protected. As a result of the aforementioned topography of the area, the relative levels of the proposed houses and the cliff path, and the heights of the proposed houses, I am satisfied that the proposed development will not be readily visible from the upper cliff path (and by extension from the lower cliff path), and that there will therefore be no impact on views or prospects to, from or within the SAAO area.

- 7.5.5. Notwithstanding this lack of visibility, I consider that the proposed houses are sensitively designed having regard to their proximity to the Howth SAAO and are of an appropriate design and layout for this residentially zoned infill site. While the proposed development, as modified following the request for further information, is of contemporary design, with flat roofs etc. I note that Thormanby Road and the surrounding area features a very varied housing typology of varying densities, with numerous examples of backland/infill development, including the sites immediately to the north and south of the appeal site. I also note that the proposed development includes a comprehensive landscaping plan featuring a range of native species, as well as a tree protection plan for existing planting. These measures will serve to soften the impact of the proposed development and bed it within the site, and I recommend that suitable conditions be included to ensure the implementation of landscaping measures in a timely manner.
- 7.5.6. In light of these considerations, I am of the opinion that the proposed development will successfully integrate with the existing pattern of development in the area and I do not consider that it will set an undesirable precedent for further development in the Buffer Zone. I conclude, therefore, that the proposed development will not be detrimental to the character or amenities of the Howth Special Amenity Area Order.

## 7.6. Other Issues

### 7.6.1. Contribution in Lieu of Public Open Space

- 7.6.2. One of the appellants (Hillwatch) questions the imposition of Condition 9 which requires a contribution of €25,708 in lieu of open space and contends that this is inappropriate in the SAAO Buffer Zone. The applicant's agent, in responding to the appeals, also questions the imposition of this condition, and contends that it is not required given the extent of private open space proposed and the proximity to large tracts of public open space. I note, however, that the applicant has not submitted an appeal against this condition. I also note that the Planning Authority has requested that the Board include Condition 9, should their decision be upheld.
- 7.6.3. The Planning Authority considered that the proposed development gave rise to a requirement for 438 sq m of public open space, but considered that a contribution in

lieu of this was acceptable, in accordance with Objective DMS58 of the Development Plan.

- 7.6.4. Having regard to the size of the site, its backlands/infill nature of the proposed development, the reasonably generous level of private open space provision and the proximity to large tracts of public open space, I would concur with the Planning Authority's assessment, and I do not consider that the provision of a small quantum of on-site public open space is critical to residential amenity in this instance.
- 7.6.5. The Fingal Development Plan makes clear provision for the imposition of a financial contribution in lieu of open space provision in smaller developments where the open space generated by the development would be so small as not to be viable. While the applicant notes the proximity of the appeal site to large tracts of public open space, I consider it reasonable and appropriate for a financial contribution to be applied in lieu of the on-site provision of public open space.
- 7.6.6. I note that Objective DMS58 refers to financial contributions in lieu of open space provision in "smaller developments of less than three units", while Objective PM53 simply refers to contributions in lieu of open space provision in "smaller developments". As such, I consider that Objective PM53 would be more applicable to the proposed development.
- 7.6.7. Should the Board be minded to grant permission, therefore, I recommend that a condition similar to the Planning Authority's condition 9 be included, albeit with reference to the relevant provisions of the Development Plan.
- 7.6.8. **Possibility of Further Development**
- 7.6.9. One of the appellants (Hillwatch) contends that the proposed development will open the possibility of further development in neighbouring fields and further encroachment on the SAAO. I note that the lands to the north and east of the appeal site are zoned 'High Amenity', and that the proposed roadway serving the proposed development ends in a turning head, short of the northern site boundary. As such, I do not consider that the proposed development would be likely to open up adjoining lands for development.
- 7.6.10. **Bond (Condition 19)**

7.6.11. The Planning Authority has requested that the Board include a number of financial conditions, should their decision be upheld. One of these Conditions, Condition 19, relates to the payment of a bond to ensure satisfactory completion and maintenance of the development until it is taken in charge. As the applicant stated in response to the Planning Authority's request for further information that it was not intended that the development would be taken in charge, I do not consider that Condition 19 is necessary, should the Board be minded to grant permission.

## 7.7. Appropriate Assessment

7.7.1. The appeal site is located c. 100m to the west of the Howth Head SAC boundary (Site Code 000202), c. 340m west of the Howth Head Coast SPA (Site Code 004113) and c. 680m west of the Rockabill to Dalkey Island SAC (Site Code 003000).

7.7.2. The qualifying interests and conservation objectives of these Natura 2000 sites are as follows:

<b>Natura 2000 Site</b>	<b>Qualifying Interests</b>	<b>Conservation Objectives</b>
Howth Head SAC (000202)	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]  European dry heaths [4030]	To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts/European dry heaths in Howth Head SAC.
Howth Head Coast SPA (004113)	Kittiwake ( <i>Rissa tridactyla</i> ) [A188]	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA
Rockabill to Dalkey Island SAC (003000)	Reefs [1170]  <i>Phocoena phocoena</i> (Harbour Porpoise) [1351]	To maintain the favourable conservation condition of Reefs/Harbour porpoise in Rockabill to Dalkey Island SAC

- 7.7.5. Section 1.3 of the Planning Report prepared by O'Neill Town Planning, which accompanied the planning application, is stated to be a Screening Statement for Appropriate Assessment. I note that the separation distances set out in Table 2 of that report are incorrect, as it erroneously states that Howth Head SAC and Howth Head Coast SPA are located 1.6km and 1.4km from the appeal site, respectively.
- 7.7.6. The Screening Statement states that the main potential risk from the proposed development to any Natura 2000 sites is considered to be indirectly related to surface water runoff and construction phase impacts. The Screening Statement concludes that there is not likely to be significant adverse effects arising from the proposed development with reference to Natura 2000 sites, either alone or in combination with other plans. I note that the Planning Authority accepted the conclusions of the applicant's AA Screening Statement.
- 7.7.7. The appeal site is located within a serviced and residentially zoned area, with existing residential development to the north, west and east and forestry plantation to the east. The proposed development comprises residential development and I note that it is proposed to connect to the public water supply network and the public foul drainage system. The proposed surface water drainage design includes SUDs measures such as permeable paving and attenuation storage, with discharge at greenfield runoff rates to the public surface water system. Having regard to this, I consider that the only potential for effects on Natura 2000 sites arises during the construction phase.
- 7.7.8. While the appeal site is located in relatively close proximity to the designated sites listed above, I note that the topography of the area is such that ground levels increase from west to east, from Thormanby Road to a point to the east of the appeal site, beyond which ground level falls back towards the Howth sea cliffs. As a result, were any spillages of fuels or pollutants to occur during construction, the direction of flow would be away from the designated sites, and as such there is no likelihood of any such pollutant run-off affecting the sea cliffs or heathland areas, or entering the sea and thereby affecting reefs or harbour porpoises.
- 7.7.9. With regard to Kittiwakes, a protected sea bird species that visits the sea cliffs in this area for nesting and breeding, I also note that the appeal site is within an existing residential area, c. 350m away from the nearest sea cliffs, with public pathways

located in between. When considered together with the topography of the area, it is not likely that the proposed development would have a direct or indirect effect on the nesting and/or breeding of Kittiwakes.

7.7.10. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Howth Head SAC (Site Code 000202), Howth Head Coast SPA (Site Code 004113), Rockabill to Dalkey Island SAC (Site Code 003000), or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.7.11. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects on the projects on any European Sites.

## **8.0 Recommendation**

8.1. I recommend that planning permission should be granted, subject to conditions as set out below.

## **9.0 Reasons and Considerations**

9.1. Having regard to the provisions of the Fingal Development Plan 2017-2023, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or property in the vicinity, would not be detrimental to the character or amenities of the Howth Special Amenity Area, would be acceptable in terms of traffic impact and would be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further

plans and particulars submitted on the 11<sup>th</sup> day of July, 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. A minimum separation distance of 1.5m shall be provided between the northern elevation of proposed house No. 2 and the northern boundary of the site.

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

3. No flat roof above ground level shall be used as a balcony at any time, save for the proposed terrace area located on the west elevation of proposed house Nos. 1 and 2.

**Reason:** In the interests of residential amenity.

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

**Reason:** In the interest of visual amenity.

5. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.

**Reason:** In the interest of residential amenity.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including construction traffic routing and management, construction parking, materials storage, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

7. Site development and building works shall be carried only out between the hours of 0700 and 1800 from Mondays to Fridays inclusive, between 0800 and 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.

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

8. The landscaping scheme which was submitted to the planning authority on the 11<sup>th</sup> day of July, 2019 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which 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.

**Reason:** In the interest of residential and visual amenity.

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

**Reason:** In the interest of public health.

10. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

11. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

12. Proposals for a name and numbering scheme and associated signage for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of urban legibility.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

14. The developer shall pay to the planning authority a financial contribution in lieu of the public open space shortfall that arises based on the provisions of Objectives DMS57 and Objective PM52 of the Development Plan and in accordance with Objective PM53 and the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to

commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

---

Niall Haverty  
Senior Planning Inspector  
10<sup>th</sup> June 2020