

**An  
Bord  
Pleanála**

**Board Direction**

**BD-012915-23**

**ABP-314842-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/07/2023.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

The Board considered the totality of documentation received including correspondence from the appellant, including from the appellant's solicitors received by the Board on 5<sup>th</sup> December 2022.

Having regard to the provisions of the Fingal County Development Plan 2023-2029, including the 'RS' and 'HA' zoning objectives that apply to the site, the relevant provisions of the Howth Special Amenity Area Order 1999, the scale, form, design and location of the proposed dwelling, the specific characteristics of the site, including its topography and vegetation cover, and the pattern of development in the surrounding area, 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 of property in the vicinity, would not be detrimental to the character or amenities of the Howth Special Amenity Area, and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered the points noted by the appellants with regard to the relevant provisions of the Howth Special Amenity Order, 1999, and in particular schedule 3, part 1 and schedule 3, part 2.

The Board agreed with the Inspector's assessment that a dwelling of this size can be accommodated on the appeal site subject to a carefully considered architectural response. The Board agreed with the Inspector's conclusion that the proposed development does not impinge in any significant way on the character, integrity and distinctiveness of this highly sensitive area and does not detract from its scenic value, and that the proposal is responsive to and consistent with the established and emerging pattern of development in the surrounding area.

Furthermore the Board shares the views and agrees with the opinion of the Inspector and the planning authority that the proposed development would not materially affect the relevant provisions of the Howth Special Amenity Order, 1999 (SAAO), including density provisions, as documented in the report of the planning authority and assessed by the Inspector.

#### **PRELIMINARY EIA EXAMINATION**

The proposed development seeks planning consent for the demolition of the existing dwelling and the construction of a replacement dwelling which is positioned further north within the appeal site. The removal of waste will be managed in accordance with the submitted outline construction management plan. Localised construction impacts will be temporary. There are large detached dwellings to the east and west of the site, positioned closer to Carrickbrack Road, with a number of large detached dwellings located further to the east on the southern side of Thormanby Road. There are thus several examples of where built form integrated into this high value landscape exist. The proposed development is not exceptional in terms of nature, size and location, in the context of the existing dwellings in the locality, and would not affect any environmental sensitivities in the area. The existing house to be replaced is in a poor state. No designated architectural designation applies to the house (it is not a protected structure), nor to its environs. There is no real likelihood of significant cumulative effects with the proposed development. In this regard the Board shares the view of, and agrees with the determination of, both the planning

authority and the Inspector, that the need for environmental impact assessment can, therefore be excluded at preliminary examination and a screening determination is not required.

The proposed development does not have the potential to have effects on the environment the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility.

The proposed demolition and development would not, by virtue of its nature, size, scale and location represent a development for the purpose of Part 10 under Section 5 or fulfil criteria under Schedule 7 of the Planning and Development Regulations 2001 (as amended) requiring an EIAR.

### **Appropriate Assessment Screening**

The Board noted that the proposed development is not directly connected with nor necessary to the management of the Natura 2000 sites. It is noted that the southern portion of the site is located within the Howth Head SAC, but there are no works proposed within this portion of the site. The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned site, the information for the Screening Report for Appropriate Assessment submitted with the application, the Planning Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the Conservation Objectives of such sites, and that a Stage 2 Appropriate Assessment was not, therefore, required.



## Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application and appeal, as amended by the further plans and particulars received by the planning authority on the 29<sup>th</sup> day of August, 2022, and by the Board on 11<sup>th</sup> day of November 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.

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

2. The entire premises shall be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations, 2001 as amended.

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area.

3. All external finishes shall be as set out in the plans and particulars received by the planning authority on the 29<sup>th</sup> day of August, 2022, unless otherwise agreed in writing with the planning authority prior to commencement of development. Anti-glare glazing shall be used.

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

4. The proposed angular pop-up within the central roof profile serving the void area at first-floor level shall be omitted.

**Reason:** In the interest of the proper planning and sustainable development of the area.

5. The windows serving bathroom, W.C.'s, en-suites etc. and as otherwise indicated, including within the western elevation serving bedroom number 2

shall be fitted and permanently maintained with obscure glass. Use of film shall not be permitted.

**Reason:** In the interest of residential amenity and the proper planning and sustainable development of the area.

6. Prior to commencement of development, the developer shall undertake a comprehensive Analytical Record of the dwelling referred to as The End. A copy shall be lodged with the Conservation Office of the planning authority and with the Irish Architectural Archive. The recording of the building shall adhere to Recording Level 4 as set out in the Historic England publication 'Understanding Historic Buildings: A Guide to Good Recording Practice' (2016). The Comprehensive Analytical Record shall be an independent document that is a full written and visual record of the building. The written record shall include an analysis of all the documents and drawings related to the building within the Robinson Keeffe Devane archive. The visual record shall consist of measured survey drawings of the plans, sections and elevations along with a detailed photographic survey of the exterior and all internal spaces. Photographs shall include images of any surviving internal or external features specifically noted on Devane's original drawings. The record shall include an evaluation of the context and the contribution of the dwelling referred to as The End to Devane's body of work and 20th century Irish architecture in general. The input of a specialist in 20th century Irish architecture who has written in this area may be required.

**Reason:** In the interest of the proper planning and sustainable development of the area.

7. 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.

8. Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (formerly Irish Water) to provide

for a service connection(s) to the public water supply and / or wastewater collection network.

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

9. The developer shall ensure that the design and installation of the proposed wastewater treatment system complies with the EPA Code of Practice Domestic WasteWater Treatment Systems, Population Equivalent  $\leq 10$  (2021).

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

10. The construction of the proposed development shall be managed in accordance with a detailed site-specific final 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 all intended construction practice for the proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of proper planning and sustainable development of the area.

11. The developer shall ensure that:
  - (a) All necessary measures are taken to prevent the spillage or deposit of any materials, including clay, rubble, or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the developer's own expense.
  - (b) The developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of the planning authority or pay the planning authority the cost of making good any such damage upon issue of such a requirement by the planning authority.

**Reason:** To protect the amenities of the area.



12. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

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

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

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


15. (a) The developer shall comply with the recommendations of the submitted Tree Report and Arboricultural Method Statement.
- (b) A tree bond of €40,000 shall be lodged with the planning authority prior to the commencement of development and shall be held by the planning authority for a period of three years post construction which may be extended in the event of possible construction related defects.
- (c) Upon substantial completion of construction works, the submitted Landscape Plan shall be implemented within the first planting season. Any failures shall be replaced until such time that the plantings become established. The refunding of the tree bond shall be dependent on the planting of proposed trees as indicated.

**Reason:** In the interest of the proper planning and sustainable development of the area.

16. 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 the 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 the Board 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.

Board Member



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Mary Cregg

Date: 04/08/2023