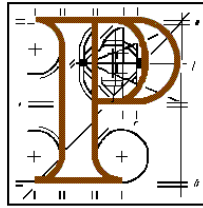


An Bord Pleanála



Inspector's Report

PL06F.246598

DEVELOPMENT:-

House with new vehicular access onto existing private laneway and all ancillary works.
Lands forming part of the rear garden of No. 32B Howth Road, Sutton, County Dublin.

PLANNING APPLICATION

Planning Authority: Fingal County Council
Planning Authority Reg. No: F15A/0414
Applicant: Ronan Murphy
Application Type: Permission
Planning Authority Decision: Grant

APPEAL

Appellant: Bassam Naser
Types of Appeal: 3rd Party -v- Grant
Observers: None
Date of Site Inspection: 9th August, 2016.

INSPECTOR: Paul Caprani

1.0 INTRODUCTION

PL06F.246598 relates to a third party appeal against the decision of Fingal County Council to issue notification to grant planning permission for a backland development of a single dwellinghouse to the rear of an existing dwelling facing onto the Howth Road outside the village of Sutton. The grounds of appeal raise many issues with regard to the suitability of the site to accommodate a two-storey dwellinghouse, impact on surrounding residential amenity and procedural concerns regarding the validity of the application.

2.0 SITE LOCATION AND DESCRIPTION

The subject site is located to the rear of a row of mature suburban dwellings facing onto the northern side of the Howth Road approximately 400 metres east of Sutton Cross and 3 kilometres west of Howth Village. The environment in which the site is located is characterised by mature suburban dwellings most of which date from the early to mid-20th century. The long elongated rear gardens which in some cases are in excess of 80 metres in length have led to the establishment of backland dwellings within the rear gardens. This backland type development is apparent and the lands to the immediate east of the subject site specifically at House Nos. 33, 36, 37 and 39 Howth Road.

The subject site is roughly rectangular in shape and is located to the rear of Nos. 32A and 32B Howth Road. The separation distance between the southern (front) boundary of the subject site and the rear of Nos. 32A and 32B ranges from between 36 and 40 metres in length. Access to the site is provided via an established laneway which provides access to Sutton Golf Links. The golf course runs to the rear of the existing dwellings fronting onto Howth Road and straddles the Dart railway line between Sutton and Howth. The access was open at the time of site inspection but is not generally used by the public to access the golf club. Rather it is used by groundskeepers to bring grass cutting machinery onto an off the course.

The subject site is approximately 47 metres in length and ranges in width from 19 metres to 15 metres. It accommodates a site area of 0.1651 hectares.

As the photographs attached indicate the site is surrounded by mature trees and is not readily visible from any vantage points in the vicinity with the exception of a small area along the south-western boundary of the site adjacent to the laneway.

3.0 PROPOSED DEVELOPMENT

The original application was received by the Planning Authority on 3rd September, 2015. On foot of an additional information request new drawings were submitted on 23rd December, 2015. Planning permission is sought for a two-storey flat roofed dwellinghouse with a gross floor area of 219 square metres. At ground floor level it is proposed to provide a sittingroom and kitchen area in the front portion of the building while a bedroom, water closet and living room is to be located to the rear of the building. The hallway and porch area which is located in the eastern elevation of the building link the two living areas. At first floor level it is proposed to provide three additional bedrooms and a bathroom. Two bedrooms are located above the rear of the dwellinghouse while a third bedroom is located to the front of the dwelling at first floor level. Bedroom No. 3 is located over the kitchen area and does not extend over the sittingroom and diningroom. The external elevation primarily comprises of selected brickwork with selected triple glazed windows and doors.

The dwelling is situated in the northern (rear) part of the site 8 metres from the northern boundary. A patio area is proposed to the front of the building together with a front garden and soakaway area. The dwellinghouse is located approximately 3 metres from the western boundary of the site.

4.0 PLANNING AUTHORITY'S DECISION

The planning application was lodged on 3rd September, 2015. It was accompanied by the following documentation.

- A planning statement prepared by Downey Planning. This document outlines the site location and description, the planning history associated with the site and detailed description of the proposed development and the planning policy context as it relates to the application.

- A letter from the Management Committee and Trustees of Sutton Golf Club to confirm the support for the proposed development.
- A letter from Fingal County Council Corporate Affairs Department which consents to the inclusion of the laneway which is in Council ownership for the purposes of the planning application to Fingal County Council.
- A Natura Impact Screening Report. It concludes that the proposed project will have no direct or measurable or indirect impacts on any Natura 2000 site in the vicinity.
- A Floor Risk Impact Assessment. It notes that the site is currently located in Floor Zone Type C and therefore has a low probability of experiencing a flood. The last recorded flood event occurred 250 metres from the site in February, 2002. As a result of the assessment it is concluded that the risk of flooding at this site and the risk of flooding as a result of the proposed development is minimal.
- Finally a short report from Lohan and Donnelly Consulting Engineers detailed the drainage arrangements associated with the site.

Planning Authority's Initial Assessment

A report from Irish Water states that there is no objection subject to conditions.

A report from the Water Services Department states that there is insufficient information with regard to surface water.

A letter of objection on behalf of the current appellant was submitted by O'Neill Town Planning Consultants the contents of which have been read and noted.

The initial planner's report notes that the proposed development is substantially in compliance with the County Development Plan and further notes that the principle of infill dwellings to the rear of existing dwellings has been well established along the Howth Road. Notwithstanding this the report concludes that additional information is required in respect of the following issues.

- Revised plans and drawings are required so that bedroom no. 3 is relocated in an easterly direction in order to reduce the bulk and depth of the two-storey element adjacent to the western boundary of the site.
- The applicant is required to submit additional information in relation to water service issues including calculations for the soakaway.
- The applicant is request to submit a complete tree survey including an arbiary cultural impact assessment. The addition information was requested on 28th October, 2015.

Additional Information Submission

Further information was submitted on 23rd December, 2015. With regard to the redesign of the house the applicant states that the location of the stairwell within the dwelling forms a significant design feature of the lobby area and for this reason the stairwell has remained in situ. Notwithstanding this bedroom no. 3 has been located in an easterly direction.

A separate report was submitted by Lohan and Donnelly Consulting Engineers in respect of surface water and soakaway calculations on site.

Finally in respect of the third issue raised a tree survey report was submitted containing a tree condition analysis and preliminary recommendations regarding same.

The planner's report prepared on foot of the additional information request considered Items 1 and 2 to be have successfully addressed. However clarification of additional information was requested in respect of the tree survey submitted. A further report was submitted which set out a tree protection strategy and also further details in respect of the boundary treatment.

A further report from the Parks Planning Section considered the tree report to be acceptable.

In its final report Fingal County Council considered the proposal to be in accordance with the proper planning and sustainable development of the area and considered that all issues in relation to the proposed

dwellinghouse have been successfully addressed and therefore issued notification to grant planning permission subject to 12 conditions.

5.0 PLANNING HISTORY

The planner's report makes reference to three planning applications relating to the subject site.

Under Reg. Ref. F15A/0156 an application for a two-storey mews dwellings on lands to the rear of No. 32B Howth Road was withdrawn on 9th June, 2015.

Under Reg. Ref. F98B/0275 planning permission was granted for alterations and on one two-storey extension at 32B Howth Road.

Under Reg. Ref. F97A/0103 outline planning permission was refused for a dormer bungalow to the rear of No. 32B Howth Road for four reasons relating to residential amenity, traffic, insufficient evidence of a right of way over the adjoining laneway and the proposal would be out of character with the pattern and nature of adjoining development.

6.0 GROUNDS OF APPEAL

A third party planning appeal was lodged on behalf of the resident of No. 31 Howth Road, the dwelling to the immediate west of Nos. 32A and 32B Howth Road. The grounds of appeal are summarised below. As a preliminary matter the grounds of appeal argue that the planning application is invalid and as such should be invalidated by An Bord Pleanála for the following reasons.

Question 10 of the planning application form incorrectly identifies the owner of the site.

It is stated that the site notice is incorrectly located as an additional notice should have been located on the boundary of the site in question and not only on the Howth Road entrance to the site.

The public notices should have explicitly referred to the fact that the site is located to the rear of Nos. 32A and 32B Howth Road and not just 32B Howth Road.

The drawings submitted do not fully comply with regulations on the grounds that no survey drawings showing contours of the site were submitted. While finished floor levels were included in the planning application there is no specific reference to OD Malin Head.

It is also argued that no proper drainage details including levels were given in the planning application.

No right of way over lands which are in the ownership of Fingal County Council have been submitted with the application nor was any documentation submitted from the local authority giving the applicant a right of way which would be required.

Concerns are expressed that the flood risk assessment was faulty and that given the events of climate change and the lack of proper information with regard to finished floor levels the appellant is not entirely satisfied that the proposed development will not give rise to flooding.

It is argued that the scale and two-storey design of the proposed development is totally inappropriate particularly as it is located contiguous to the main recreational area in the appellant's rear garden.

The proposed development will give rise to overshadowing and overlooking and will overbear the private open space to the rear of the appellant's dwelling.

Reference is made in the grounds of appeal to the planning history of similar type developments in the area. Reference is made to various grants of planning permission for backland developments in the vicinity of the subject site. It is noted that in the case of other sites in the vicinity planning permission was granted for single storey houses only and not two-storey houses.

Reference is also made to Reg. Ref. F97A/0103 where planning permission was refused for a dwellinghouse on the subject site.

It is suggested that the siting, location and design of the proposed residential unit is contrary to many of the policy statements contained in the Guidelines for Planning Authorities on Residential Density. The proposed development is clearly a piecemeal development which fails to respect the character and pattern of residential development in the area.

It is suggested that the proposed development is premature pending the preparation of a masterplan.

It is suggested that the proposed development is contrary to many of the policies and standards contained in the Fingal County Development Plan. Reference is specifically made to Objective RD10 which seeks to protect the amenity of adjoining neighbours and Section 9.3 of the said Plan which seeks to avoid abrupt transitions and scale and use in the boundary areas of adjoining land use zones.

It is also noted that the subject site is located in close proximity to a golf course and the site is on a trajectory for wayward golf balls being struck from a T-box barely 50 metres away.

It is stated that the appellant would have no objection to a modest size single storey house similar to those already granted and built. However the proposal because of its size, design and location will seriously impact on surrounding residential amenity and will be contrary to the proper planning and sustainable development of the area.

Finally the grounds of appeal suggest that planning permission should be refused for four separate reasons relating to design mass and height, undesirable precedent, proximity to a T-box of a busy golf course and issues regarding right of way to the property.

7.0 APPEAL RESPONSES

A response was received on behalf of the applicant by Downey Planning Consultants.

The response sets out the site location and description, planning history, a description of the development and the planning merits associated with the development. It is argued that the proposal has been through pre-planning consultations and the subject site complies with the zoning objectives in the Development Plan.

Section 5 of the response specifically deals with the issues raised in the third party appeal.

In terms of land ownership it is stated that Mr. Ronan Murphy is now the legal owner of the part of land to the rear garden of No. 32B Howth Road. Details of the Registry of Deeds are attached as Appendix 1.

With regard to the site notice it is stated that the site notice is clearly legible from the public road and is correctly identified in the site location map. There is no specific requirement to provide for multiple site notices. The public notices are fully in accordance with the regulations.

In terms of the site notice wording it is stated that the site notice clearly described the location and extent of the proposed development. The site notice clearly states that planning permission is sought "at lands forming part of the rear garden of No. 32B Howth Road".

Site levels as well as finished floor levels are clearly indicated in Drawing TL002.

With regard to drainage the drainage proposals was prepared by consulting engineers who were suitably qualified and experienced. It is also noted that the applicant will be required to apply to Irish Water for connection. The applicant has sufficient entitlement to include the Fingal County Council controlled laneway within its planning application. The applicant is fully aware that a full legal agreement will need to be reached with Fingal County Council regarding access arrangements.

With regard to the potential impact on residential amenity it is strongly refuted that the proposed development will have a significant adverse impact on the appellant's residential amenity. A shadow study submitted with the response clearly shows that the proposal will have no negative impact in terms of sun penetration giving the sheer size and length of the appellant's rear garden it cannot be reasonably argued that the proposal will take away from the ability of the appellant to enjoy their rear garden.

The proposed dwelling has been carefully designed to ensure that there be no overlooking into adjoining properties. The fact that the appellant may have infrequent social gatherings and meetings associated with the Palestinian community at the rear of the garden should not form the basis of any refusal for a dwelling on adjoining lands.

In terms of planning history and precedent it is stated that backland development is clearly established precedent in the area. While it is acknowledged that many of these dwellings are single storey the Board should note that these dwellings were located behind established houses which were also single storey. This is not the case in the current appeal before the Board.

Reference is also made to other decisions by Fingal County Council in the wider area where planning permission has been granted for larger multi-unit residential developments to the rear of existing dwellings.

While it is accepted that the current applicant is two-storey the response argues that in terms of height and the incorporation of a flat roof the subject development is of a similar height to that associated with a single storey pitched roof development. The applicant is therefore of the opinion that the proposed development is of an appropriate height, scale and design for the subject site.

Reference is also made to the guidelines on residential density and it is argued that the proposed development is fully in accordance with the provisions set out in these guidelines. The proposed development represents a net density of just 13 units per hectare and thus cannot be considered as overdevelopment of the site. Likewise in relation to the policies and provisions contained in the Development Plan the Board are asked to note that the proposed development is fully in accordance with the land use zoning objective. Furthermore there is no abrupt transition in scale as argued in the grounds of appeal.

In relation to the issue of stray golf balls it is suggested that the appellant's property is equally in danger of being hit by golf balls. Furthermore netting has been erected on the golf course to protect the houses in question. Furthermore it is noted that Sutton Golf Club have submitted a letter of support in respect of the application. In conclusion therefore the Board are requested to uphold the decision of the Planning Authority and grant planning permission for the proposed development.

Fingal County Council's Response to the Grounds of Appeal

The Planning Authority remains of the opinion that the proposal will not result in an unacceptable adverse impact on the residential amenity or the character of the area. It is recognised that the finished floor level and ridge height of the proposed development was raised on foot of an additional information request to deal with flood levels. However the overall bulk and depth of the proposed development is deemed to be acceptable. Overlooking to the patio area of No. 31 Howth Road is avoided as only one window in the western elevation is to be provided and this serves a stairwell window. The Chief Executive's order noted that correspondence has been received from the Property Section of Fingal County Council stating that they give their consent for the use of the laneway as a means of gaining access to the subject site.

The application was validated on lodgement of the applicant on 3rd September, 2015 following the Council's internal validation process. The application was assessed against the policies and objectives of the Development Plan and existing government policies and guidelines. The Planning Authority note that the overall height of the proposed dwelling is similar to that of a dormer bungalow. The Planning Authority have no further comments to make in respect of the application. In the event that the Planning Authority's decision is upheld it requests that Conditions Nos. 4 and 12 be included in the Board's determination.

8.0 DEVELOPMENT PLAN PROVISION

The site is governed by the policies and provisions contained in the Fingal County Development Plan 2011-2017. The subject site is zoned under the current Development Plan as RS.

‘To provide for residential development and protect and improve residential amenity.’

Objective RD01 seeks to ensure consolidated development in Fingal by facilitating residential development in existing urban areas.

In terms of housing density Objective RD15 will have regard to sustainable residential development in urban areas (2009) and its companion document the European Design Manual – A Best Practice Guide when determining densities. Objective RD16 seeks to encourage increased densities at appropriate locations while ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.

In terms of infill and backland sites the plan states that the development of underutilised infill and backland sites in existing residential area is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. The use of contemporary and innovated design solutions will be considered for infill and backland development.

Objective RD11 seeks to promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

9.0 PLANNING ASSESSMENT

I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I consider that the issues relevant to determining the application and appeal before the Board are as follows:

- Procedural Issues
- Impact on Amenity
- Suitability of Design
- Compliance with Development Plan Standards and Guidelines

Procedural Issues

The grounds of appeal raise a number of procedural issues which it is argued should invalidate the application. These issues are dealt with below.

With regard to the issue of ownership I note that Question 10 of the planning application form indicates that the applicant was at the time of lodging the application son of the landowner and the actual legal owner was the applicant's father Frank Murphy. It transpires that since the lodgement of the appeal the applicant has now become the de factor owner and Registry of Deeds reflecting this fact is attached to the applicant's response to the grounds of appeal. While there is a slight discrepancy in the various answers given to Question No. 10 on the planning application form it is clear to my mind that the lands in question are in family ownership and any slight confusion which may arise over whether or not the applicant is the actual landowner or son of the landowner should not in my view be fatal in terms of validating the planning application.

With regard to the finished floor levels the finished floor levels are clearly indicated on the drawings submitted. All finished floor levels are required to be referenced to Malin Head data and Malin Head data superseded Poolbeg data in 1970. I therefore see no reason why the drawings should specifically refer to the fact that the finished floor levels are referenced to Malin Head data.

With regard to the issue of site notices I am satisfied that the public site notice has been erected in accordance with the Planning Regulations. Article 19(1)(c) requires the site notice to be "securely erected or fixed in

a conspicuous position on or near the main entrance to the land or structure concerned from the public road, or where there is more than one entrance from the public roads, on or near all such entrances or on any other part of the land or structure adjoining the public road so as to be easily visible and legible by persons using the public road and shall not be obscured or concealed at any time”.

The applicant in this instance has securely erected a public notice on the only public road leading to the site. The public notices therefore being secure in accordance with the Regulations so as to be easily visible and legible by persons using the public road. It is not necessary or a legal requirement to attach the public notice on the boundary of the site in addition to the notice on the public road.

With regard to the development description the site notice clearly referred to “lands forming part of the rear garden of No. 32B Howth Road”. The rear garden in this instance extends to the rear of House 32A. However the lands in question form part of the rear garden of No. 32B in their entirety and do not form part of the lands or rear garden associated with 32A. As such the site description is correct, clear and unambiguous in stating that the site in question relates to the part of the rear garden associated with the existing dwellinghouse on Plot 32B.

With regard to drainage details the grounds of appeal suggest that no proper drainage details including levels were given in the planning application. I consider that the proposed drainage plans were clearly indicated in Drawings CO1 submitted with the original application with further details submitted by way of additional information on Drawing CO2. I further note that the Planning Authority were satisfied with the level of detail provided in respect of drainage in order to determine the planning application. I therefore do not consider that drainage details as submitted with the planning application are inadequate for the purposes of determining the proposal before the Board.

I would therefore concur with the Planning Authority that the level of detail submitted with the planning application is appropriate and that the information supplied is on the whole clear and unambiguous and is not of a sufficient nature to warrant an invalidation of the application as suggested in the grounds of appeal.

Impact on Amenity

The grounds of appeal argue that the proposed development will adversely impact on the appellant's amenity by reason of overlooking, overshadowing and overbearing. The grounds of appeal point out that the rear of the existing garden at No. 31 Howth Road is used for informal meetings and events. The Board will note from the photographs attached that the boundary of the subject site and adjoining site is heavily landscaped and screened. So much so that at the time of site inspection it was almost impossible to get views of the appellants site from public vantage points along the laneway or the golf course. This natural screening in my view will greatly assist in protecting the appellant's amenity. The mature trees along the common boundary of the site will ensure that overlooking is kept to a minimum. The potential for overlooking is also significantly reduced by the fact that no windows to habitable rooms are located on the western elevation of the proposed dwellings with the exception of a window which serves the stairwell. I am satisfied therefore that the proposed development will not give rise to any significant overlooking of the appellant's rear garden. It is also noted and stated in the applicant's response to the grounds of appeal that the appellant's garden is of a significant size and well landscaped. There is plenty of scope for the appellant to enjoy privacy without being impacted upon by the proposed dwelling. Furthermore the Board will note that due to the landscaping and the separation distance involved the proposed dwellings will in no way overlook the appellant's house which is located over 50 metres from the proposed dwelling.

In terms of overshadowing as already stated including the appellant's rear garden are well screened and landscaped at present and therefore would by extension experience significant levels of overshadowing.

Furthermore the response to the grounds of appeal includes a detailed shadow casting analysis. It concludes that the proposed development in garden 32B causes no change to overshadowing as defined by the BRE document "Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice" 2011. I can only conclude therefore that the proposed development will have a negligible impact on the appellant's garden in terms of overshadowing. Furthermore as in the case of overlooking the separation distance between the appellant's house and the proposed house will result in no impact whatsoever in terms of increased overshadowing.

With regard to the overbearing nature of the proposed development I do not consider that the building in question will have a significant adverse impact in terms of overbearing. The Board will bear in mind that the building itself is located in close proximity to the rear of the appellant's garden and is not in any close proximity to the appellant's dwelling. Furthermore as already mentioned the levels of mature vegetation and screening afforded to both sites will ensure that the building is appropriately hidden behind mature vegetation along the common boundary thereby reducing any potential overbearing impact. Finally in relation to overbearing the Board will note that only the rear portion of the building incorporates a two-storey element in close proximity to the common boundary. The front of the building is predominantly single storey with the exception of bedroom no. 3 which is stepped back from the western side of the site. This will also reduce the potential for the development having an overbearing nature on adjoining lands.

Arising from my assessment above, I am satisfied that the proposed development will have a negligible impact on the appellant's amenity. The proposed new dwellinghouse will have no impact whatsoever on the appellant's dwelling and will have little or no material impact on the amenity enjoyed by the appellant in the rear portion of his garden.

Suitability of Design

The grounds of appeal argue that the proposed building is inappropriate in terms of its overall design, height and scale. I have argued above that in terms of height and scale the proposed development will not have any adverse impact on the appellant's amenity. In terms of suitability of design the proposed building is sufficiently far set back from the public road and sufficiently well screened to ensure that views of the building are not readily discernible from vantage points along the public road. Likewise the northern and eastern boundaries of the site are sufficiently well screened to ensure that the house is not readily discernible from the golf course.

Finally in relation to design I refer the Board to the policies contained in the Development Plan namely RD11 which seeks to promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area. I consider the proposed development accords with this objective set out in the Plan.

Compliance with Development Plan and other Residential Guidelines

The grounds of appeal argue that the proposed development is contrary to many policy statements contained in the Development Plan. I am satisfied based on my analysis of the above that the proposed development in this instance provides a measure of protection which would not result in the development being incompatible with the character and pattern of development already in the area. While the grounds of appeal suggest that this is not the case I am satisfied that the proposed development complies with this general objective contained in the Fingal Development Plan. I am also satisfied that the proposed development complies with Objective RD10 in that the proposal does not adversely impact on the amenities of directly adjoining neighbours.

With reference to Section 9.3 of the Plan which seeks to ensure that abrupt transition of scales and use in boundary areas of adjoining land use zones does not occur, I do not consider that it can be reasonably argued that the construction of a single dwellinghouse adjacent to a golf course results in an adverse or abrupt transition in scale or use particularly have regard to the fact that the lands in question are zoned residential. I have stated above that the proposed development is unlikely to be visible from vantage points in the golf course having regard to the substantial screening afforded to the site particularly on its northern and eastern boundary.

With regard to the reference in the grounds of appeal to the Guidelines for Planning Authorities on Residential Densities again the appeal argues that the proposed development should be rejected on the grounds that the dwelling adversely impacts on the established character of the area in terms of density and architectural form. I have argued above that I do not consider this to be case. The proposed development is acceptable in terms of its overall design and will not adversely impact on surrounding amenity. As such I consider that the proposed development is suitable as a residential infill development and the design approach recognises and adheres to the need to protect the amenity of adjoining areas and general character of the area and as such fully complies with the overarching criteria set out in the above Guidelines in respect of infill development.

Other Issues

The grounds of appeal make reference to the planning history associated with the site and the surrounding area and highlights the fact that outline planning permission was refused for a similar type dormer bungalow development on the subject site under Reg. Ref. F97A/0103.

Fingal County Council refused outline planning permission in 1997 for the above application under the provisions of a different development plan and by extension different planning policy guidelines relating to residential infill development. I do not consider it appropriate that the Board would use a precedent decision which was made by Fingal County Council almost two decades ago as justification for refusal of planning permission in this instance. The current application should be evaluated on its merits and in accordance with current policies and guidance. I have argued above that the proposed development meets qualitative criteria in terms of design and impact on amenity and for this reason I consider that any historical decisions relating to the subject site to be irrelevant in determining the application before the Board.

With regard to the proximity of the dwelling to the T-box at Sutton Golf Course. I refer the Board to the photographs attached to my report which clearly indicates that netting has been erected in order to protect the dwellings which may lie within the trajectory of wayward golf balls. Further the extensive screening along the rear boundaries of the dwellings in question would also protect the dwellings from stray golf balls. In my opinion it would be totally inappropriate to refuse planning permission for this reason as suggested in the grounds of appeal.

Appropriate Assessment

I note that the planning application was accompanied by an AA Screening Report. I consider the conclusions reached in the report in question to be appropriate. I consider the report has correctly identified the Natura 2000 sites within a 15 kilometre radius and that the site is located outside all Natura 2000 habitats. The report has correctly identified in my opinion that the potential risk arising from the development is indirectly related to surface water run-off during the construction phases of the project. It is noted that surface water run-off will be collected and treated in accordance with the principles and specifications of Fingal County Council Water Services Department. Thus the project will have no direct or measurable indirect impacts on any Natura 2000 sites in the vicinity. It is reasonable to conclude on the

basis of the information contained on file which I consider adequate in order to issue a screening determination that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites in view of the site's conservation objectives and therefore a Stage 2 Appropriate Assessment and a submission of an EIS is not required.

10.0 CONCLUSIONS AND RECOMMENDATIONS

Arising from my assessment above I concur with the conclusions of the Planning Authority and would recommend that the Board reject the grounds of appeal on the basis that the proposed development is in accordance with the provisions of the Development Plan which seeks to accommodate and promote appropriate infill development in appropriately zoned sites and I consider in this instance that the proposed backland and infill development will in no way adversely impact on surrounding residential amenities. I therefore recommend that planning permission be granted for the development.

11.0 DECISION

Grant planning permission for the proposed development based on the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the residential zoning objective for the site and Objective RD10 which seeks to encourage and promote the development of underutilised infill and backland sites in existing residential areas subject to the character of the area being protected, it is considered that the proposed development, subject to conditions set out below would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be generally acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

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 drawings received by Fingal County Council on the 23rd day of December, 2015 and the 23rd day of March 2016, 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. 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.

3. All trees [and hedgerows] within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
 - (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
 - (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees [and hedgerows] shall be protected from damage during construction works. Within a period of [6] months following the substantial completion [occupation] of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interests of visual amenity.

4. All landscaping and boundary treatments shall be implemented and maintained in accordance with Drawing CAI-001 unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

5. **Externngen – Paul there is no Externngen in the Conditions**

6. All bathroom/en-suite windows and the stairwell window on the western elevation shall be fitted and permanently maintained with obscure glazing.

Reason: In the interest of residential amenity.

7. All requirements of Fingal County Council Transportation Planning Section shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety.

8. All necessary measures shall be undertaken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads and public roads during the course of the works.

Reason: To protect the amenities of the area.

9. Site development and building works shall be carried out between the hours of 0800 hours to 1900 hours Monday to Friday inclusive and between 0800 hours to 1400 hours on Saturdays and not at all on Sundays or Public Holidays. Deviations 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.

10. The developer shall pay to the planning authority a financial contribution of €17,208 (seventeen thousand two hundred and eight euro) 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. 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. The application of any indexation required by this condition 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.

Reason: It is a requirement of the Planning and Development Act 2000 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.

**Paul Caprani,
Senior Planning Inspector.**

August, 2016.

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