



An  
Bord  
Pleanála

## Inspector's Report PL06F.246849

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<b>Development</b>	Demolition of house and construction of 31 houses and all ancillary site works.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F15A/0551
<b>Applicant(s)</b>	William O'Brien
<b>Type of Appeal</b>	Third
<b>Planning Authority Decision</b>	Grant
<b>Appellant(s)</b>	<ol style="list-style-type: none"><li>1. David Fletcher</li><li>2. H. Higgins &amp; Others</li></ol>
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Declan Deeney</li></ol>
<b>Date of Site Inspection</b>	4 <sup>th</sup> October 2016
<b>Inspector</b>	Una Crosse

## 1.0 **Site Location and Description**

The site has a stated area of 0.98 hectares and comprises the grounds of a large detached dwelling known as Glaslinn which is an attractive two storey dwelling with a number of extensions. In addition, there is an area of ground east of and adjacent to same which is separated from the house and its curtilage by a hedge. The grounds of the house are well tended and include a very large front garden divided by a straight avenue up to the house from the entrance onto the public road. The rear of the house comprises a garden area. There is a large amount of trees dispersed around the house including apple trees and ornamental trees of differing type and size. There is a fall in level at the front of the site between the house and the entrance with a row of trees marking same. The area of ground to the east of the site separated from the main site by a hedge is overgrown with parts towards the front of the site inaccessible. The site is adjoined by a number of road fronting dwellings and the Links residential development to the east, by Baltra Hall residential development to the south and a number of large road fronting properties to the east. To the north beyond the Portrane Road there is a credit union and a number of schools and other community facilities.

## 2.0 **Proposed Development**

- 2.1. The proposal provides for the demolition of the house on the site and the construction of 31 houses comprising 7 two-beds which are 2 storeys, 10 three-beds which are 2 storeys and 10 four-beds which are 2.5 storeys. Vehicular access is proposed from the Portrane Road with pedestrian and cycle access proposed via the Links and Baltra Hall residential developments.
- 2.2. The development was supported by a planning report, Appropriate Assessment screening report, Condition Report for Glaslinn, Tree Survey, Schedule of

Landscape Works, Maintenance and Management and Engineering Planning Report.

- 2.3. In response to further information additional details in respect of the water supply and foul drainage, a taking in charge drawing were submitted. Public lighting and surface water drainage details were enclosed as were drawings relating to the internal road layout. In relation to pedestrian connections, a proposal for a 'kissing gate' arrangement was included with a low wall and railing providing greater visibility.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Permission was granted subject to 20 conditions which included the following:

C6 – houses 18 & 30 shall have a minimum of 60 sq.m of private open space to the rear and revised design to bin collection area to north east of the public open space;

C11 – pedestrian access points to be provided as per locations detailed on Drawing 14.151.FID02 and Drawing 14.151.FID03 submitted on 17 May 2016 and shall include cyclist movement and provided prior to occupation of dwellings;

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

The report of the area planner can be summarised as follows:

- 3.2.1. The assessment considers residential use on TC zoned lands appropriate given character of surrounding lands. Proposal is stated to be generally in accordance with the Draft Donabate LAP. The density is considered below the range expected in a town centre but to increase density apartments would be required which may not be appropriate given character of the area with the layout considered acceptable. The layout is considered acceptable with the open space adequately overlooked. The mix of heights and external finishes proposed add visual interest. The separation distances are adequate with 3-storey units, 2-storey to the rear with the

overshadowing concerns addressed by way of rear garden depths. Glaslinn House not on the RPS and while of local interest does not warrant retention. Proposed units considered to be of a very high quality. Noted that some of two bed units provided with between 51 sq.m and 56 sq.m private open space. It is stated that improved permeability has been identified as important in improving pedestrian connectivity with improved access for the benefit of residents in the Links and Baltra Hall.

3.2.2. Further Information was requested in relation to the following matters: internal road layout, revised water supply layout, details relating to foul sewer, surface water drainage, full landscaping details in respect of location of surface water drainage, public lighting.

3.2.3. In response to the further information it was noted that there was lack of clarity in the internal road network cross sections but can be addressed by condition. The boundary treatment between the Portrane Road and Road B lacks detail but can be conditioned. The proposal for pedestrian access to adjoining estates is acceptable. Revised water supply layout is considered acceptable as is the response to the foul drainage issues and the public lighting. The further details required in relation to surface water can be conditioned with the report concluding that the open space area requires some modification which can be conditioned. Noted that it should be possible to increase the garden sizes of Units 18 & 30 to 60 sq.m.

### 3.3. **Other Technical Reports**

**Irish Water** – Further Information required. No objection following submission of FI.  
**Housing Procurement** – confirm proposal as set out in response to section 16 of application form is acceptable. Refers to letter from Housing Section but letter not on file.

**Parks Planning Section** – verbal report referenced in Planners report with FI requested on landscape plan and location of proposed surface water drainage system.

**Water Services** – Further information including revised drainage design complying with the principle of SuDS. Clarification of further information sought in respect of revisions to the design of the detention basin or alternative SuDS measures.

**Transportation** – Further information – internal road layout, taking in charge drawing, traffic calming, access to neighbouring residential roads. States visibility splays of 2.4m x 49m shown which accords with DMURS and requires removal of all trees along the site frontage with the proposed 2m footpath welcomes but not clear what happens to the open ditch. No objection following FI subject to conditions;

**Heritage Officer** – no adverse impacts foreseen given location of the site in Donabate town centre.

### 3.4. **Third Party Observations**

Issues raised included in grounds of appeal below.

### 4.0 **Planning History**

No planning history on the site.

### 5.0 **Planning Policy**

#### 5.1. **Fingal County Development Plan 2011-2017**

The site has two zonings in the Fingal County Development Plan 2011-2017. Part of the site is zoned RS the objective of which is to provide for residential development and protect and improve residential amenity. The other part of the site closest to the town centre and which accommodates the existing house is zoned 'TC' the objective of which is to protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.

Objective UD01 – detailed design appraisal.

Objective OS02 & OS02A – public open space

Objectives OS38 & OS39 – private open space in houses

Objective T04 – securing the development of a network of safe cycle routes and footpaths.

## 5.2. **Donabate Local Area Plan 2006-2012**

The site accommodating Glaslinn is within the defined town centre with the area of ground to the east defined as existing residential. This plan is currently being reviewed.

## 5.3. **Donabate Urban Centre Strategy 2010**

The site is located within Area 7, the vision for which is to allow for the mixed use redevelopment of these lands with positive new frontage development onto the Portrane Road which protecting adjoining residential amenities and a designation of up to 70 units per hectare.

## 6.0 **Natural Heritage Designations**

The matter of Appropriate Assessment is addressed separately in Section 8.7 below.

## 7.0 **The Appeal**

### 7.1. **Third Party Grounds of Appeal**

The grounds of appeal can be summarised as follows:

- Portrane Road (R126) over-burdened, narrow, without footpaths or pedestrian crossings and no verge on application side;
- Sightlines at entrance insufficient and relaxed 2.4m setback inadequate with part of McDonough holding required with entrance close to major junction;
- Local Authority cannot CPO lands for a future private speculative need;
- No comment by Fingal on the lack of safety at the access onto a narrow dangerous road;

- Proposal premature pending progress of proposed by-pass of Donabate;
- Proposal is an intensive backland development;
- Proposal contrary to TC zoning objective with no justification for approval;
- Applicant not the sole owner of the site with consent of joint owner not provided;
- No demonstration of title to area stated as Registry of Deeds with insufficient legal interest provided which is required to make a valid application;
- No legal interest in areas proposed for pedestrian access or lands to west of site, part of McDonough holding, which applicant cannot include in the application;
- Disparity in the boundaries between the site and Baltra Hall;
- Inadequate display of public notices at proposed pedestrian access points;
- Proposed pedestrian gates into The Links and Baltra Hall cannot be imposed as public or private rights of way with taking in charge not same as ownership and private boundary property strips not in the Council's ownership;
- Significant opposition to pedestrian access into adjoining estates impacting privacy, lead to anti-social behaviour and impact parking spaces and planting with no community agreement or consultation;
- Proposed pedestrian 'kissing gates' prominent feature requiring significant clearance of trees opening up estates and impacting special identity with link between The Links and Fairways done by common consent;
- Design and layout cramped, open space deficient in quality and extent, inappropriately high density proposed, three-storey houses too high;
- Sites 1-7 required for road widening and too close to boundary;
- Units 1, 16, 17, 20, 24 and 31 give rise to overlooking and overshadowing of adjoining dwelling with inadequate separation distances;
- Demolition of existing house on site not justified and inadequate provision for retention of trees on site which was a reason for refusal on PL06F.206624;
- Too many matters remain to be sorted by condition with no third party input with plot boundaries changed by condition 6(a) which would involve material change in layout;

- Inability to access part of site undermines ability to provide full assessment with building in ruins and townland boundary forming notable embankment;

## 7.2. **Planning Authority Response**

- Road and pedestrian access acceptable with site within a 50kph zone with traffic calming;
- Reference to Section 34(13) of PDA with entitlement to carry out development assumed in good faith;
- Provision of improved pedestrian links between residential areas set out in Objective T04 with proposal in accordance with same;
- Quality of overall development acceptable with a mix of house types and design.
- Public and private open space acceptable and comments regarding use of open space for SuDS is noted with condition 3 addressing same;
- Request conditions 19 & 20 included in any permission which may be granted;

## 7.3. **Observation**

- Owner of two of seven houses in Baltra Hall including private roadway and landscaped garden at road hammerhead object to access through the wall at the hammerhead;
- Private and fully insured cul-de-sac, amenity of which would be diminished if boundary wall opened for the proposed pedestrian access;

## 7.4. **First Party Response to Third Party Appeals**

- Josephine & William L. O'Brien deceased parents of the applicant with the land willed to him;
- No development proposed on McDonough holding with area of the drain, hedge and trees fronting the Portrane Road shown for purpose of showing sightlines with no structure restricting sightlines;
- Applicant requested to identify linkages to the Links and Baltra Hall;



- Drawing 14.151.ABP03 within the appeal shows development only within the site boundary and proposed linkages subject to opening of existing boundary walls by Fingal County Council and request Board accept amended drawing;
- Accepted that access provisions in the area controlled by the planning process and the Council with reference to a condition attached to Ref. F02A/1557 at Fairways where applicant required to agree a link between existing and proposed road and footway;
- Such linkages more prevalent in recent applications where Council's are seeking to promote better pedestrian linkages and permeability;
- Should the Board consider otherwise, link can be removed;
- Noted that NTA document 'Permeability Best Practice Guide' notes that increased permeability can lead to less anti-social behaviour;
- Passive surveillance increased by increased use by pedestrians and cyclist;
- Trees to be retained at link to Baltra Hall making impact on privacy negligible;
- The Links and Baltra Hall are already linked at their shared southern boundary;
- The Links has been taken in charge and or are subject to conditions that require access and links to be agreed on lands to be taken in charge;
- Use of 2.4m 'X' distance appropriate for a stop junction in an urban area with no restriction on the visibility splay;
- Design and layout of the scheme acceptable and complies with standards including separation of dwellings;
- Council has discretion to address balance of open space provision by way of a financial contribution with 10% of site area proposed;
- Density below what is accepted within town centres and height of houses acceptable within Urban Centre Strategy adding visual interest;
- Existing house on site not a protected structure with no requirement for justification of its demolition;
- Thorough tree survey undertaken on the site with quality of trees moderate with none of exceptional quality with planting plan proposed;

#### 7.5. **Third Party Responses to Third Party Appeals**

- Whole purpose of the planning process is right of third parties to make submissions with 3/4 of conditions requiring private approval by submission;
- Shortfall of open space not questioned;
- Proposed housing on the western half of site is material contravention;
- Baltra Hall cul-de-sac is in private ownership and not taken in charge;
- Consider adequate legal title in light of Frescati case very important consideration;

#### **7.6. Third Party Responses to First Party Response to Appeals**

- Need for any more surveillance of site perimeter direct consequence of opening up the throughway which should be avoided by protecting trees which is an expressed aim of the Council in the Plan;
- Balance required between retention of residential amenity and enhancement of local circulation with residents deciding in favour of retention of amenity with no consultation as per NTA's permeability guidelines;
- Proper allocation of public open space expected with quality and quantity inadequate falling far short;
- Only one of three public site notices were provided;
- Description of a house as 2.5 storeys questioned and should be described as 3-storey;
- No path along this side of the road to connect a new path into with residents forced across the carriageway generating a traffic hazard;
- Ref. PL06F.223924 found relying on goodwill of hostile neighbour to achieve adequate sightlines is not acceptable;
- Claims to have achieved adequate sightlines are untrue and unfounded;
- No justification for claims on Mr. McDonoughs front grassed layby, 1m strip at end of the Links cul-de-sac not taken in charge and c.15m of Baltra Hall in private ownership and not taken in charge;
- Mr. McDonough has not given consent to use his lands for vehicular sightlines and is an appellant;

- If applicant is beneficiary of the estate of deceased parents, application should have been in name of the estate with insufficient legal interest demonstrated;

#### 7.7. **Observer Response to First Party Response to Appeals**

- Own private roadway freehold known as Baltra Hall, two houses and private garden at end of cul-de-sac and object to proposal to break through the wall;
- Letter from Fingal County Council stating road in Batra Hall would never be taken in charge;

#### 7.8. **PA Response to First Party Response to Appeals**

- No further comment

### 8.0 **Assessment**

I consider the key issues in determining this appeal are as follows:

- Principle of Proposal
- Legal Interest
- Access
- Pedestrian Access to Adjoining Estates
- Design and Open Space
- Impact on Residential Amenity
- Appropriate Assessment

#### 8.1. **Principle of Proposal**

- 8.1.1. The site has two zonings, with part of the site zoned for residential use and the other zoned for town centre use. Clearly the proposal for housing on residential zoned lands is acceptable in principle. In respect of the town centre zoning, I would note that housing is an acceptable use within this zone and furthermore, given the context of the site, surrounded by residential uses, the residential use proposed is arguably a

more appropriate use on the site than introducing commercial uses. In my opinion, the principle of the proposal on both zonings pertaining on the site is acceptable.

8.1.2.

8.1.3. In relation to the proposal to demolish the existing house, while the existing house has an attractive aspect, the building is not protected nor is it included in any proposed list for protection. The site at c.1 hectare is valuable zoned and serviced land within close proximity of the town centre and the rail station. Therefore, the use of the site for 31 houses rather than one is a more sustainable use of the land in principle. Therefore, I consider that the proposal to demolish the house is acceptable.

## 8.2. **Legal Interest**

8.2.1. There are two issues in my opinion with legal interest, firstly the matter of the site itself and secondly the matter of the sightlines to the west of the proposed access which I deal with separately in the next section. In relation to the legal interest of the applicant to make the application, I consider that the applicant has provided sufficient legal interest to make the application and would refer the Board to Section 34(13) of the Planning and Development Act 2000, as amended which states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.

## 8.3. **Access**

8.3.1. The appellants concerns primarily relate to the visibility splays proposed for the new access. Currently the site is accessed from an entrance onto the Portrane Road located approximately 10 metres from the western site boundary. The proposed development provides for a new access directly adjacent to the western boundary of

the site. I do not consider that there is any reasonable argument to suggest that the proposed 2.4m 'X' distance at this new junction is not suitable. The site is located within an urban context and I would consider that the proposed 2.4m 'X' distance is appropriate. In terms of the visibility splay to the west which the appellant considers includes the property of the adjoining landowner, I would note that Drawing 1562-100 submitted with the application shows the proposed sightlines and visibility envelope. To the west the sightline traverses the drain as shown on this drawing which is overlain on the topographical survey. While I would again refer the Board to Section 34(13) of the PDA as amended, I would consider that the sightline can be achieved without impinging on the third party property to the west and that the access arrangement is acceptable. I note the carriageway has traffic calming measures and the development of the proposed site will facilitate the creation of a new footpath along the southern side of the carriageway.

#### **8.4. Pedestrian Access to Adjoining Estates**

- 8.4.1. The proposal to create two pedestrian accesses from this site to two adjoining existing residential developments, is in my opinion, the most pertinent issue arising from the submissions on file. The first party contend that it was at the PA's request that the pedestrian access points were proposed in the scheme. The Planners report notes, in response to the letters of objection, that improved permeability has been identified as important in promoting improved pedestrian connectivity. It further states that no attempt is being made to open up cul-de-sacs to additional vehicular traffic, with additional traffic generated likely to be in the form of pedestrian movement with improved permeability for the benefit of all allowing easier access to the town centre and schools.
- 8.4.2. While I address residential amenity separately in Section 8.6, concern has been expressed about the potential impact on the residential amenity of properties within the adjoining estates by reason of the creation of the proposed pedestrian

connections. There is fear that opening up existing cul-de-sacs to provide for pedestrian connections will lead to anti-social behaviour and encourage unwanted pedestrian traffic in the area. While I acknowledge the concerns of the residents in respect of opening up existing cul-de-sacs, Development Plan Policy seeks at Objective T04 to create greater connection within urban areas. There is an existing pedestrian link from the Links close to the entrance to Baltra Hall through the Donabate Village development. This provides easier access to the village centre for the Links. I note that there are a large number of community activities located to the north of the site on the opposite side of the Portrane Road and access through the appeal site would create greater connectivity from Baltra Hall and Donabate Village to these uses.

8.4.3. One of the concerns expressed in respect of the creation of the pedestrian connections is the loss of parking spaces. I would note that the turning heads which terminate cul-de-sacs while used for parking were not designed for same and in this regard are not designated parking spaces. Therefore there would be no loss of parking per se. In respect of the loss of trees along the boundaries where the connections are proposed the openings would not be extensive and therefore I would note that the loss of trees would be minimal.

8.4.4. Both the first and one of the third parties refer to extracts from the document 'Permeability Best Practice Guide 2015' produced by the National Transport Authority. This is a useful document however, I would note it includes extracts which can be used to support the proposed connections and to oppose same. What I would note from the document is the importance of lighting for such connections. While Section 4.3 is included in a chapter related to alternatives to right-of-way extinguishments, the following section is of particular importance in my opinion. The document states (at section 4.3) 'visibility and passive supervision are fundamental elements of good permeable neighbourhoods in deterring anti-social behaviour and making links more attractive to potential users. New enhanced lighting is an obvious

measure which can deter anti-social behaviour. In many cases, lighting is non-existent or not working due to either neglect or vandalism. If lighting is not provided, less people will use the route, meaning it becomes more attractive for anti-social behaviour and a vicious circle develops. Lighting is the first step that should be implemented at all links that are being considered for closure’.

8.4.5. I would note that the public lighting plan submitted in response to further information (Drawing No. 14.151FID01) shows a light stand closet to the proposed pedestrian access to The Links however one is not shown at the access proposed into Baltra Hall. I would note that condition 11 of the PA’s notification required design details in respect of the proposed pedestrian accesses. As part of their response to the third party appeals, the first party have included Drawing No. 14.151.ABP03 which they also include as Figure 3 of their written response. This proposal shows how the applicant intends to comply with the condition. I consider that the proposal is acceptable in respect of the design of the proposed links however I would suggest to the Board that it would be appropriate to seek the written agreement of the PA on this matter given the policy to create such links and the need to create some consistency in same and a condition requiring same is advised if the Board are minded to grant permission. I would also recommend that the matter of public lighting of these connections is included.

8.4.6. In principle, I consider that the provision of such connections should be facilitated at planning stage so as to create greater and safer access to and from schools and the village centre. The creation of greater permeability around and through the residential areas of our towns will encourage walking and cycling to and from local services. Subject to the Council having sufficient title to construct same, the principle of the proposed connections is acceptable in my opinion.

## 8.5. **Design and Open Space**

- 8.5.1. I consider that the house design proposed is acceptable. The elevations are contemporary and offer good quality internal spaces. The height I would suggest is acceptable. The units are in some cases designed to provide 3 levels of accommodation with the top level within the roof space. There is some discussion in the appeal about whether they are 2.5 or 3 storeys. This discussion is not of any relevance in my opinion. The units are between 9 and 10.5 metres in height and therefore are higher than what would be considered an average two-storey. However, the design of residential units has been evolving and it is considered more sustainable to seek to provide as much internal space as is reasonably possible within housing plots. I consider that subject to considerations relating to residential amenity which I discuss below that this approach is satisfactory.
- 8.5.2. The Planners report does not discuss the matter of the quality or quantity of open space in any detail. The appellants raise the matter of open space in respect of its quality and quantity. They question the usability of the open space as designed and the overshadowing of the space. They contend that there is a shortfall of 0.137 hectares or 60% and consider same to be a material defect in the proposal. They refer to the applicants cover letter submitted with the planning application which states at page 7 of the report that 10% of the open space will be provided and that the balance will be dealt with by way of financial contribution. They calculate that that total public open space requirement based on the occupancy rates (94.5 persons) of the units is 0.236 ha. The first party response to the appeal notes that the Council has a discretion to accept a financial contribution in lieu of the remaining open space requirement under Objective OS2 and notes that the provision of open space at 10% of the site area is acceptable to the Council. What the first party do not address I would note is the quality or usability of the redesigned open space.
- 8.5.3. The requirement in respect of the current Fingal County Development Plan is set out in Objectives OS2 where a minimum provision of public open space of 2.5ha per 1000 population is required. As the applicant states the development equates to 94.5



persons which would provide that the requirement for this development is 0.2362.5 hectares for this development. The Development Plan seeks the provision of at least 10% of the proposed site area to be provided as open space. This leaves a shortfall of 0.137 as noted by the appellants. I would note that no condition was attached by the PA seeking a contribution under Section 48(2)(c) of the Planning and Development Act 2000 as amended and I would suggest to the Board that such a condition is included if the Board are minded to grant permission for the development.

8.5.4. In relation to the proposed open space, I have a number of concerns. While I do not have an issue with the provision of attenuation within the open space, the amended design has now made areas of the space of marginal use as a play space. The space has a stated area of 992m<sup>2</sup> in the site plan submitted in response to the further information. This is effectively 10% of the site area (0.98 hectares). However, the landscape plans submitted at further information illustrate that the space as amended during the course of the application now provides effectively a bowl which has a graduated slope of 1:3 in order to facilitate the necessary attenuation. The sloped element provides that a considerable area of the space is arguably not usable.

8.5.5. I do not consider that given the requirement for attenuation that the design of the proposed open space can be significantly altered by condition. I would however, recommend to the Board as I recommend above, that a condition is attached requiring the applicant/developer pay a contribution to the Planning Authority in respect of the shortfall in open space, as outlined above, so that usable public open space can be provided elsewhere and that this contribution should reflect the area within the proposed open space proposed which is not considered useable.

8.5.6. In terms of private open space, I note that the PA have required as per condition No. 6 of their notification that they require house numbers 18 & 30 shall be provided

within a minimum of 60 sq.m of open space to the rear of the units. They are currently proposed to have private open space areas of 56m<sup>2</sup> and 53 m<sup>2</sup> respectively. These units are both Type B – two-bed two storey units of 89m<sup>2</sup>. The requirement for private open space for 2-bed units is set out in objectives OS38 & OS39 and requires that 3-bed units or less provide 60 sq.m and 4-beds and more provide 75 sq.m. Objective OS39 allows for a reduced standard for 1 and 2 bed townhouses in circumstances where a particular design solution is required in order to develop a small infill or corner site. This would not apply in this instance in my opinion. Therefore, I would concur with the PA that a condition should be included, if the Board are minded to grant permission, seeking that Units 18 & 30 are provided with 60 sq.m of private open space.

## **8.6. Impact on Residential Amenity**

- 8.6.1. In respect of overlooking the three Type ‘D’ properties located on sites 01, 16 and 31 have side elevations addressing the boundary to the east of the site. The Type D units on Plots 24 and 20 have side elevations addressing the southern boundary. While the units are located close to the party boundary with the neighbouring properties. The units have first and second floor windows which are from the stairwell and have opaque glass proposed in the opes. I do not consider that there would be any adverse overlooking from these openings. Units 24-28 back onto the eastern boundary with directly opposing first floor windows in the adjoining residential development. The opposing first floor windows are 22m or more apart which meets the minimum standard. There is no window proposed on the 2<sup>nd</sup> floor in Unit Type D overlooking the rear boundary. Units 17 – 19 have first floor windows in excess of 11 metres from the southern boundary. I do not therefore consider that any adverse overlooking of adjoining properties would arise.
- 8.6.2. In terms of overshadowing, I do not consider that the properties located to the south of the site would be affected in any measurable way by the proposal. The residential

properties located in the Links are east of the proposed units and any potential overshadowing would be marginal and not in my opinion likely to cause an adverse impact on the residential amenity of the existing properties in the Links.

## **8.7. Appropriate Assessment**

- 8.7.1. Having regard to the nature and scale of the proposed development, nature of the receiving environment, the discharge of foul and water arising from the proposed development to treatment facilities and proximity to the nearest European sites, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

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

## **10.0 REASONS AND CONSIDERATIONS**

Having regard to the location and the zoning of the site it is considered that the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity and would be 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.

## **11.0 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 17th day of May 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. The proposed development shall be amended as follows:

(a) Detailed design of the proposed pedestrian access points which also provide for cyclist movement including railings, gates, walls and lighting as shown on drawings submitted to the Planning Authority on 17<sup>th</sup> May 2016.

(b) A revised site plan showing a minimum of 60 sq.m of private open space to Units 18 & 30.

(c) boundary design details for the proposed boundary with the Portrane Road including details of the entrance and pavement.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water and provision for existing foul sewer connections within the site, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

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

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

5. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

6. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

7. 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 noise management measures, railway safety and offsite disposal of construction/demolition waste including any excess soil arising from the proposed excavation of the site.

Reason: In the interest of public safety and residential amenity.

8. A plan containing details of the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act,

as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

12. 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 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.

13. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in lieu of open space provision towards the cost of amenity works in the area of the proposed development in accordance with the requirements of the requirements of the Fingal Development Plan based on a shortfall of 0.137 hectares of open space. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Una Crosse

Senior Planning Inspector

October 2016