



An  
Bord  
Pleanála

## Inspector's Report PL06F.247545

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<b>Development</b>	Construction of 46 no. houses, ESB substations, decommissioning of existing 225mm foul sewer and constriction of a new 225mm foul sewer and all associated site works.
<b>Location</b>	Baskin Cottages, Baskin Lane, Cloghran, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F16A/0152
<b>Applicant(s)</b>	Skyrise Developments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First & Third Party
<b>Appellant(s)</b>	Skyrise Developments Ltd (First) & Carol Archbold & Others (Third)
<b>Observer(s)</b>	DAA
<b>Date of Site Inspection</b>	20 January 2017
<b>Inspector</b>	Una Crosse

## 1.0 Site Location and Description

- 1.1. The application site has an area of 8 hectares comprised of agricultural grassland. The site, while relatively flat to the south of the site adjoining the existing Ashgrove development, slopes significantly to the north west of the site towards the River bank. A gravel road traverses the site which leads to an agricultural shed currently in poor repair located close to the river. This structure is not within the application area. There are a number of significant trees further east of the eastern boundary of application area.
- 1.2. The site is adjoined to the north and northeast by the remainder of the Abbeyville Demesne which accommodates Abbeyville House, a protected structure, and its attendant grounds which accommodates a number of outbuildings and related structures accessed from a driveway from the Malahide Road. The appeal site is separated from the grounds of the House by the Sluice River which runs along the northern boundary of the appeal site. A drain traverses the western area of the site from the western corner in a southwest northeast direction towards the River and is partly located within the site. To the south, the site is adjoined by the existing Ashgrove residential development and the Baskin Cottages further south which comprise the original Baskin Cottages and more recently constructed residential dwellings behind same. There are a number of large detached dwellings fronting Baskin Lane and a footpath connects the Baskin Cottages to the Malahide Road.

## 2.0 Proposed Development

- 2.1. The development as submitted proposed 46 two-storey residential units with 4 house types comprising: 4 detached 4-bed units, 22 semi-detached 3-bed units, 15 terraced 2-bed units and 5 detached 3-bed units. Vehicular and pedestrian access is proposed from the Ashgrove development. Services proposed include internal roads, footpaths, public open space, landscaping, street lighting, SUDS drainage, attenuation tanks and ESB substation. It is also proposed to decommission part of an existing 225mm foul sewer which runs through the lands to the east of the development area and construct a new 225mm foul sewer connecting the site with

the mains drainage network on the Malahide Road (R107). A flood risk assessment accompanied the application.

- 2.2. The layout comprises an 'L' shaped configuration of units to the east of the site addressing the central area of proposed open space. A linear configuration of units adjoins the southwestern boundary of the site adjoining the Ashgrove development. The proposed units address the greenbelt area and the river looking north. The units have a contemporary design with a clean palette of materials.
- 2.3. Following the request for further information a number of changes were made to the scheme including: a revised drainage design using over ground detention basins with all drainage works within the red line boundary. A revised site layout showing drain and proposed riparian strip; Boundary of Plot 46 encroaches into the riparian strip which is not considered appropriate and should be addressed by condition. Revisions are proposed to the design of the elevations of units on Plots 44 & 46 dwelling on Plot No.45 moved further north from the adjoining boundary. Plot 46 contains part of the riparian strip. Bin storage areas have been identified. The proposed entrance arrangements are set out in Drawing 2014-94-AI-102 including a footpath. It is proposed to provide access from the internal estate road to the existing agricultural track which accesses the agricultural shed.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission was granted by the PA subject to 31 conditions which are summarised as follows (the Conditions subject of the first party appeal are set out in full for clarity):

C2 – This permission authorises 41 residential units;

C3 – A revised site layout plan shall be submitted for the written agreement of the Planning Authority prior to the commencement of development omitting dwellings on sites 45, 46, 23, 24 and 25. The revised site layout plan shall provide for fencing around the identified Japanese Knotweed Plant located in these areas of the site. A separate planning application for this part of the site for future development will be

necessary, following the eradication of Japanese Knotweed from the site, to the satisfaction of the Planning Authority.

C4 – A detailed Japanese Knotweed Invasive Species Management Plan, incorporating additional preconstruction surveys of the site and indicating how this plant species will be eradicated and managed before, during and after construction shall be submitted for the written agreement of the Planning Authority prior to the commencement of development. The plan shall include timeframes within which the action will be taken. The identified Japanese Knotweed plant, as indicated on the submitted Landscape Plan, drwg no. 300 Rev g, shall be suitable fenced off prior to commencement of construction on site, and such fencing shall be maintained in place during the construction period, and shall remain in place until such time as the Japanese Knotweed is eradicated to the satisfaction of the Planning Authority. Any additional areas of Japanese Knotweed plant identified on the site shall be addresses with the Japanese Knotweed Invasive Species Management Plan to the satisfaction of the Planning Authority. The developer shall consult with the Council's Biodiversity Officer prior to any such Management Plan being prepared.

C5 - Map of sampling points and a methodology reports in support of the findings of the soil investigation report.

C6 – mitigation plan to address loss of feeding and roosting habitat for bats;

C11 – all bathroom/en-suite windows to be fitted and permanently maintained with obscure glass;

C14 - Recommendations of the Arboricultural Report to be implemented;

C23 - Mitigation Implementation Schedule to include a numbered list, person responsible for implementation and map outlining the measures;

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- Site zoned for residential development and proposal acceptable in principle notwithstanding the lack of local services, public transport in the area;
- Proposal to locate drainage infrastructure within GB zoning acceptable in principle;

- Density of c.20 units per hectare acceptable given the transitional location;
- Proposal accords with Development Plan objectives in relation to design and layout and Urban Design Statement complies with UD01 and sets out design rationale;
- Provision of 15m riparian strip along the existing drain complies with Objectives but requires clarification;
- Noted that the layout and connectivity of the site constrained by the location of the site at the rear of a cul-de-sac with a single access point and by the topography of the site;
- Design of units distinctive, adaptive and degree of clarity with height consistent with adjoining development and good mix of units with some concern at elevational treatment of some elevations addressing open spaces and proximity of Unit 45 to a steep bank;
- Two boundary treatments provided with Option A considered most appropriate;
- Separation distances between opposing first floor windows acceptable;
- Concerns regarding open space, treatment of greenbelt area and footpaths are addressed;
- Transportation Engineer of view that existing road infrastructure including junction of Baskin Lane and Baskin Cottages has recently been upgraded to a sufficient standard;
- Concerns regarding parking along the public road is outside scope of current application;
- Distance of site from Abbeyville House and tree cover around property provide no significant impact from the proposal;
- Foulwater connection feasible subject to upgrade works being completed;
- Issues related to construction phase to be addressed in Construction and Waste Management Plan;
- Part V to be addressed by providing 10% of units;
- Screening report required due to proximity of existing drain to the proposed;

### 3.2.2. Further Information Request

The further information requested is summarised as follows:

- Information regarding previous use of site as an 'illegal dump' and waste transfer facility;
- Issues raised by Water Services Section on surface water;
- Location of existing drain and proposed 15m riparian strip to be shown on site plan;
- Design of unit No. 46, 44, 45, bin storage for units 7, 8, 9, 16, 17, 18 & 36, 37, 38;
- Landscaping and open space including Arboricultural Method Statement, Tree Protection/Constraints Plans; treatment of greenbelt and boundary to the open space, revisions to open space in vicinity of units 25 and 46;
- Revised entrance and relation of proposed pillars and signage with amendments to footpath, clarify position on existing gravel access road through the site, wayleaves etc;
- Screening Report to include route of the foul sewer;
- Noise assessment
- Construction and demolition waste management plan;

### 3.2.3. Planning Report following FI submission

In response to the further information submission it is stated that:

- (1) Site never used as waste transfer site to best of applicant's knowledge with soil investigation report prepared which confirms soil is inert;
- (2) Revised drainage design using over ground detention basins with all drainage works within red line boundary and noted that Water Services Section satisfied with response;
- (3) Revised site layout showing drain and proposed riparian strip; Boundary of Plot 46 encroaches into the riparian strip which is not considered appropriate and should be addressed by condition;

- (4) Revisions to design of units on Plots 44 & 46 considered appropriate with dwelling on Plot 45 moved from the bank; Bin storage areas identified satisfactory;
- (5) Ecological assessment not satisfactory in respect of management of Japanese Knotweed with a detailed management plan required to be put in place prior to commencement of any development on the site; Considered prudent that units on plots 45, 46, 23, 24 & 25 omitted until the knotweed is eradicated from the site; Reference made to difference between revised site layout plan and landscape plan in respect of private garden boundaries; Concern that part of Plot 46 includes part of riparian strip superseded by issue of knotweed and omission of Plot; Arboricultural report deemed satisfactory subject to tree protection measures; requirements set out in terms of street lamps and trees; Open space provision appropriate;
- (6) Transportation Section has no objection to submission; Existing road infrastructure has been recently upgraded to a sufficient standard; Noted that existing route to agricultural sheds to north of the site to be retained with consideration to be given to use of a reinforced grass access route;
- (7) Construction management plan required to set out how the mitigation measures in the Ecological Assessment will be implemented;
- (8) Specific noise mitigation measures by way of construction materials proposed to dwellings with mitigation measures proposed to external walls, windows and roofs;
- (9) C&D Waste Management Plan proposes to identify site compound at later date and a more detailed C&D plan required by condition;

Concluded that due to the zoning and subject to omission of the 5 units that the proposal is consistent with the Development Plan and will not detract from residential amenity of the area.

#### 3.2.4. **Other Technical Reports**

Transportation Planning Section - No objection subject to conditions – revised layout of the pedestrian footpath and entrance; relocation of underground or overhead services; In response to FI submissions – no objection subject to conditions;

Water Services – FI required regarding SUDS, attenuation tanks, capacity of surface water sewer; In response to FI – no objections subject to conditions;

Irish Water – Irish Water Infrastructure capacity requirements and proposed connections to the Water and Waste Water Infrastructure subject to constraints of the Irish Water Capital Investment Programme; Wastewater connection feasible subject to completion of an Irish Water Capital Project to deliver infrastructure upgrade (currently on IW CIP with first stage development of a Drainage Area Plan for this area); Water connection feasible without infrastructure upgrade by Irish Water. Further report on FI response recommends conditions.

Parks – FI required including full tree survey and queries about area of site zoned greenbelt and design of open space; In response to FI a number of issues set out which need to be addressed; It is stated that a management plan for Japanese Knotweed is required;

Heritage Officer – Reference made to verbal report requiring screening report. In response to FI, Construction management plan required to set out how mitigation measures in Ecological Assessment implemented in respect of potential for pollution to Sluice River system; Management plan for Japanese Knotweed prior to commencement of development; mitigation plan to address loss of deeding and roosting habitat opportunities for bats;

### **3.3. Prescribed Bodies**

DAA – requests noise assessment;

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

A large number of submissions were received by the PA and many of the matters raised are raised in the third party appeal.

## **4.0 Planning History**

### **4.1. On Site/Landholding**

F96A/0430 – Permission refused for a house due to agricultural zoning and backland development;



F05A/0167 (PL06F.214992) – permission granted for an integrated tourism/recreational facility on 93 ha site at Abbeyville House and Demesne including hotel, golf club, 32 houses and all associated site development works including relaying of a section of the existing foul sewer and constructing new gravity foul sewer along the Malahide Road.

#### 4.2. **On the adjoining site**

F94A/0078 (PL06F.094006) – Permission granted for demolition of house and construction of 38 semi-detached houses and 2 detached houses with new entrance at rear of Baskin Cottages (Ashgrove Development);

There are a number of applications within the Ashgrove Development for extensions to the properties;

### 5.0 **Policy Context**

#### 5.1. **National Policy**

- 5.1.1. Guidelines on Sustainable Residential Development in Urban Areas (2009)
- 5.1.2. Quality Housing for Sustainable Communities – Guidelines for Planning Authorities (2007)

#### 5.2. **Development Plan – Fingal County Development Plan 2011-2017**

##### 5.2.1. Zoning

There are two zoning objectives on the site. The western half of the site is zoned 'RS' – residential – the objective of which is to 'provide for residential development and protect and improve residential amenity'. The eastern half of the site and an area of the site along the northern boundary of the western area of the site is zoned 'GB' – Greenbelt - the objective of which is 'to protect and provide for a Greenbelt'

##### 5.2.2. Policy and Objectives

Section 7.2 of the Plan deals with Urban Design; Section 7.4 deals with Residential Development; Section 7.5 relates to Open Space; and Section 6.3 deals with Architectural Heritage;

The following Local Objectives apply to the site:

- 375 - Protect the mature trees and parkland at Abbeyville.
- 376 - Provide for an integrated tourism and recreational complex on Abbeyville Demesne, incorporating facilities which may include: Hotel / Conference Centre, Golf Course, Fitness Centre and at least one other extensive tourist/recreational facility. A strictly limited number of dwelling units, preferably grouped in a courtyard type configuration, a majority of which shall be reserved for tourism use. The nature and extent of the facilities to be provided shall be determined primarily by the need to conserve the house and its surroundings, which are of major architectural importance, and the special landscape character and heritage features of the demesne.
- 383 - Encourage the provision of a local shop at Baskin Cottages.

5.2.3. Part of the eastern area of the site is within the Abbeyville Demesne Architectural Conservation Area. The house is a Protected Structure - Ref. 452) and is described as a nine-bay two-storey 18th century house & outbuildings. Ref. 453 is also a protected structure comprising a Milestone and is described as a cast-iron milestone in granite setting in boundary wall of Abbeville House.

Part of site defined as within Flood Zone C (Green Infrastructure 3 Map) and the site is located within the Outer Airport Noise Zone.

### 5.3. **Natural Heritage Designations**

The site is located c. 3.1km west of the Malahide Estuary SAC (000205) and a similar distance from the Broadmeadows/Swords Estuary SPA (004025). It is also c.3.4 km west of the Baldoyle Bay SPA (004016) and SAC (000199). A Screening Assessment is undertaken at Section 7.3 below.

## 6.0 **The Appeals**

### 6.1. **First Party Grounds of Appeal**

The first party grounds of appeal are summarised as follows:

- Seeks removal of Conditions 2 & 3 and wording of Condition No. 4 amended;

- Reason for the omission of the 5 dwellings is the presence of the knotweed in small pockets of the site;
- Seek wording of C4 amended to require the submission of a Species Management Plan for the site and that construction of Units 45, 46, 23, 24 & 25 not be commenced until the Japanese Knotweed is eradicated to the satisfaction of the PA;
- Proposed density (46 units) consistent with settlement pattern and character of the area;
- Proposal otherwise considered acceptable by the Council;
- Omission of 5 units for the sole reason of the presence of Japanese knotweed, as recommended by the Heritage Officer, considered unwarranted presenting unnecessary delays;
- Construction on the sites identified can be restricted to the final phase of development facilitating completion of the eradication programme;
- Condition No. 4 requires that the identified knotweed plan will be suitably fenced during construction and remain in place until the species is eradicated.
- Ecological assessment submitted in response to Further Information request which identified the presence of the knotweed;
- No specific legislative provisions that directly govern control or removal of the knotweed;
- Mitigation measure 3 of the ecological report provides for the control of the weed and outlines a strategy for its removal and refers to Guidelines and advises that an Invasive Species Management Plan is prepared and implemented sufficiently in advance of the proposed construction works;
- Applicant fully committed to implementing an approved plan to eradicate Japanese knotweed from the site and treatment options outlined;
- Board have previously included conditions on a number of permissions requiring the eradication of Japanese Knotweed from sites prior to commencement with one noting (PL06S.246231) reference in Inspectors report to the absence of relevant planning policy to support the Japanese Knotweed reason for refusal;

- Refers to request in FI to have riparian corridor to north of Site No.46 within the site of No. 46 and final report which states it should not be within same;
- Site layout plan (No. 2014-94-ABP-101) submitted showing that riparian area will not be encroached by the dwelling or associated garden of No. 46 but can be revised to be included within same, as envisaged by Item 5(c) if appropriate;

#### 6.1.1. **Planning Authority Response**

The PA response to the first party appeal is summarised as follows:

- PA of the view that Japanese Knotweed should be eradicated prior to the commencement of any construction works on the site as the risk of the invasive species spreading during construction is high.

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

The third party grounds of appeal are summarised as follows:

- Condition of F94A/0078 required omission of an agricultural entrance with Board removing this in PL06F.094006;
- Consider entrance not capable of accommodating the scale of units proposed in terms of residential amenity and traffic safety;
- PA have facilitated the development of the rear gardens of properties at Baskin Cottages with 23 additional residences with road infrastructure not capable of accommodating proposal;
- Lack of services at Baskin Cottages with Objective 383 in Development Plan seeking same;
- 40% increase in housing in the area contrary to 20% recommendation in Section 6.129(c) of Sustainable Residential Development Guidelines (2009);
- Development premature pending the development of an LAP for Kinsealy;
- Development premature pending the proposed new link bypass road to the east of the site which crosses Baskin Lane which should provide access to the site;
- Disagree with PA interpretation of the site as underutilised infill/backland site as site is agricultural zoned residential without proper independent access;

- Development proposed does not protect the residential amenity of existing residents;
- Proposal does not comply with Sections 1.9, 3.14 & 6.8 of the Sustainable Residential Development Guidelines as proposal entirely car-based and lacks sense of place;
- Concern that access to existing properties will be impacted;
- PA consideration of the observations received questioned;
- Loss of privacy given development to rear of properties with a buffer zone required increasing separation distance;
- Concern regarding extent of detail to be agreed post planning through compliance including Management Plan for Waste;
- Conflict between conditions 8 & 19 and consider site should be completed prior to any occupation of the units.
- Wastewater connection subject to completion of Irish Water capital project which is planned but no works in place and premature pending same;
- Proposed access to the site is substandard and a traffic hazard;
- Access into and out of the site obscured by boundary wall of No. 45 Ashgrove and contrary to National Design standards;
- Estimated trip generation underestimation and concerns regarding traffic not adequately considered;
- Road network serving the development is congested at peak times with the proposal increasing traffic by 50%;
- No meaningful audit carried out of the receiving road geometry and capacity;
- Sightline to east of Baskin Cottages at 70m would require a design speed of 50kph which is substantially lower than the calculated design speed of 67kph and the recorded average speed of 60kph;
- Width and alignment of existing roadway from the public road to the site is insufficient to facilitate passing;

- No assessment provided of traffic demands during construction nor is there an estimate of duration of construction period, haul route, staff parking;
- No visitor parking provided;
- Poor permeability from the scheme to the local road network with no connectivity or accessibility to public transport;
- Agricultural access through the site has not been explicitly extinguished;
- Concerns expressed regarding the parameters for site operations and access to the site;

### 6.2.1. First Party Response

The first party response to the third party appeal is accompanied by A Technical Note from Waterman Moylan Consulting Engineers and is summarised as follows:

- Site is zoned and proposal responds to the site context including residential amenity of existing dwellings;
- Density proposed lower than densities proposed in Guidelines but response to the area to provide a suitable transition;
- Site layout protects existing residential amenity by providing adequate separation distances, site lower in level and north of existing units, and given land zoned, expectation of its development;
- Proposed rural vernacular design of dwelling creates attractive transition between urban and rural creating a more visually attractive end to the suburban area;
- Proposal for a buffer zone would create an area of anti-social behaviour;
- Development has been designed to make sustainable use of existing road infrastructure without compromising same;
- Access from the proposed Kinsealy by-pass would require development of a road over 0.5km long across greenbelt;
- Estimated trip rates for peak hours generated using industry standard methodology;
- Note no objection from Transportation Section of Fingal;

- Agricultural entrance permitted as part of Boards decision for Ashgrove development with zoning of lands supporting principle of access through Ashgrove;
- Provisions of Broomfield LAP example of how Fingal do not preclude the retention or provision of through access for agricultural lands as part of new residential development;
- Sightlines at entrance to proposed development comply with DMURS requirements for a low-speed environment (23m from 2.4m setback with 30kph speed limit);
- TIA not required;
- Sightlines at Baskin Lane based on the speed limit of 60kph;
- Roadway through to the site from Baskin Lane at 4.9m is just 10cm short of the 5m required and function satisfactorily and during construction phase, deliveries can be managed through Construction Management Plan;
- Footpaths within proposed development connect directly to existing path in Ashgrove;
- Footpath from Baskin Cottages to the Malahide Road with Dublin Bus services from same;
- If visitor parking required there are a number of suitable locations parallel to access roads;
- Reference to requirement for an infrastructure upgrade not included at Condition 20 as stated in the appeal;

#### 6.2.2. **Planning Authority Response**

The PA response to the third party appeal is summarised as follows:

- Application assessed against the policies and objectives of the Plan currently in force and existing government policy and guidelines;
- PA remains of opinion that the proposal on zoned RS lands is acceptable and will not detract from residential amenity subject to compliance with conditions;

- Transportation Planning Section assessed proposal and considered it acceptable;
- Number of observations listed in the Planners report was typographical error and all submissions were considered;

### 6.3. **Observations**

The observation from Dublin Airport Authority is summarised as follows:

- Request condition is attached requiring dwellings be provided with noise insulation to an appropriate standard having regard to location of the site within the Outer Airport Noise Zone;

## 7.0 **Assessment**

### 7.1. **First Party Appeal**

7.1.1. I will deal firstly, with the first party appeal, which relates to Conditions 2, 3 & 4 of the PA's decision. This element of the assessment relates solely to these conditions and does not consider the principle of the proposed development or other issues which have been raised by the third party which are assessed separately in Section 7.2 below. The key point of the first party appeal is that the omission of Units 45 & 46 and 23, 24 & 25 is not warranted and that the condition related to the eradication of Japanese Knotweed on the site could be amended to provide that the units in question would not be commenced until the eradication plan has been satisfactorily implemented.

7.1.2. The rationale for the omission of the units is set out in the report of the Planning Officer following receipt of the further information. It is stated that the Heritage Officer has reviewed the Ecological Assessment and then goes on to reference the existence of Japanese Knotweed on the site. It is then stated that the proposed management of Japanese Knotweed as set out in the report is unsatisfactory and states that it is considered prudent that a detailed management plan is in place prior to the commencement of development. It is then stated that it is considered prudent that the dwellings on plots 45, 46 and 23-25 are omitted from the scheme until the knotweed is eradicated and a condition is proposed to be attached to address the



issue. The report of the Heritage Officer (dated 6 October 2016) notes the presence of Japanese Knotweed on the site and states that he is of the view that a management plan must be submitted prior to the commencement of development which should set out how the plant will be eradicated and managed before, during and after construction taking into account best practice. Consultation with the Council's Biodiversity Officer prior to preparation of same is also advised. There is no mention in the Heritage Officers report of the omission of Units 45, 46 or 23-25.

- 7.1.3. The PA included Conditions 2 & 3 to omit these units and in addition, Condition 4 was included requiring a detailed Japanese Knotweed Invasive Species Management Plan. I note that the PA in response to the appeal state that they are of the view that the Japanese Knotweed should be eradicated prior to the commencement of any construction works on the site given the risk of the spread of the species during construction. They do not, however, make any specific comment to the units specifically omitted nor to the suggestion in the first party appeal. I would note that Condition No. 4 as included by the PA differs to their suggestion in response to the appeal that the species should be eradicated prior to any construction on the site.
- 7.1.4. Notwithstanding, I would consider that a condition requiring eradication of the species prior to construction is merited. However, I do not consider that the units, otherwise considered appropriate, should be entirely omitted from this permission, on the basis of a report which was not submitted as a detailed Invasive Species Management Plan. I would suggest that if a detailed Invasive Species Management Plan had been requested in Further Information and if that Plan were found to be unsatisfactory that the omission of the units may be reasonable. However, in the absence of same, the omission of the units, is not reasonable.
- 7.1.5. I concur with the first party that it is reasonable and rational to permit the units in question as part of the scheme and amend the condition related to Japanese Knotweed such that the units in question are not commenced until the PA are satisfied that the Japanese Knotweed has been eradicated from the site. I consider that this approach maintains the integrity of any permission which the Board may grant rather than requiring a new permission for the units in question following the eradication of the Japanese Knotweed, unless there is another rational reason to omit the units from the scheme.

7.1.6. Therefore, I would recommend that, if the Board are minded to grant permission for the proposed development, that Conditions 2 & 3 of the PA decision are omitted and Condition 4 related to Japanese Knotweed is amended to require that the construction of Units 45 & 46 and 23, 24 & 25 are not commenced until the PA are satisfied that the Invasive Species Plan has been implemented satisfactorily.

## 7.2. **Third Party Appeal**

I consider that the key issues are as follows:

- Compliance with Development Plan Policy
- Traffic Impact and Site Access
- Residential Amenity
- Other Matters

### 7.2.1. **Compliance with Development Plan Policy**

There are a number of matters arising in respect of Policy compliance, firstly, the zoning and then the local objectives. I will address each in turn. I will also address the concerns raised regarding compliance with the Residential Guidelines.

In terms of the zoning of the site, as pointed out by the PA and the first party the site is zoned for residential development. A very specific area has been zoned and comprises that part of the Abbeyville estate which directly adjoins the existing residential development at Baskin/Ashgrove. Therefore, the principle of residential development on these zoned lands has been established in the current and previous Development Plans.

The third party states that they disagree with the PA's interpretation of the site as underutilised infill/backland lands and that it comprises agricultural land zoned residential without independent access. While the third party are correct to state that the site is agricultural land which is zoned residential and which is without its own independent access this does not mean the PA's interpretation is incorrect. The lands are zoned residential and as I state above, the principle of residential development on the lands has been established by this zoning. Like the existing Ashgrove Development, the site is to rear of existing residential development and

therefore is backland development and similar to Ashgrove is proposing to use an access to an existing residential development for access.

It is also stated that the development is premature pending the Local Area Plan proposed for Kinsealy. However, I do not agree with this as the lands have been zoned for some time, the site is effectively, in principle terms, an extension to an existing residential area and therefore is not dependent on matters of principle which may be determined in such an LAP. Similarly, I do not agree that the development is premature pending the development of a by-pass road for Kinsealy. Proposing access to the site from a road which would be more than 500 metres from the site requiring the building of a road across a demesne landscape within an ACA where no other land has been zoned is not sustainable.

Local Objective 383 states 'encourage the provision of a local shop at Baskin Cottages'. While it would be amenable to have a local shop within the vicinity of the Baskin residential area, the objective explicitly states encourage rather than require or provide. Therefore, any development of the subject site is not premature pending same or inconsistent with the zoning objective if this objective is not met.

The third party refer to a number of sections in the Guidelines for Sustainable Residential Development (2009). The main issues arising relate to the scale in the increase of units, connectivity and permeability. The appellants argue that at 46 units, the development represents a 40% increase in the number of units within this area. While the development would increase the number of units by a significant amount, the development itself has a low density and given that this area is unique in its context, developing from a row of cottages rather than the nucleus of a village or urban area, I consider that the scale of the proposal is appropriate. In terms of permeability, I would consider that the scheme is permeable from the public road given the access through the cottages and Ashgrove. Footpaths are available and the site is easy to find. In terms of public transport, I note that there is a footpath along Baskin Lane to the Malahide Road from where Dublin Bus services provide access to Dublin City and Malahide.

The site is part of the Abbeyville demesne but is outside the boundary of the Abbeyville House Architectural Conservation Area which adjoins the appeal site. The lands to the south of the site towards Baskin Cottages were all previously part of the

Demesne. The proposed development will be visible from parts of the Demesne to the north of the River west of the House but I would suggest they will be viewed in the context of the existing residential development at Ashgrove which is on higher ground. The site will not create any visual impact from the rear elevation of Abbeyville House given the tree cover that exists and separation distance and will not be visible from the front of the protected structure with no impact on the curtilage of same.

#### **7.2.2. Traffic Impact and Site Access**

The matters of principle concern to the third parties, I would suggest is the nature of the access to the development from Ashgrove and the traffic impact likely to arise on the local road network as a result of the proposed development. I will address each in turn.

Concern is expressed that the proposed site access from Ashgrove into the development is not appropriate. I acknowledge that the entrance arrangement, given the angle at which the entrance is located, is a little unusual curving as it does into the site. However, I note that the sightlines required by DMURS for the speed limit arising is satisfied. I do not consider that any of the adjoining accesses are impacted such that safe access and egress is not achievable. Furthermore, no evidence has been presented to suggest that any of the existing properties will not be able to access and egress from their properties. I note drawing 2014-94-AI-102 provides details of the pedestrian footpath arrangements proposed.

In terms of the impact of the proposal on the wider context of the existing residential development, the width of roadway accessing the Baskin Cottage development and Ashgrove is 4.9metres in width and while less than the 5m requirement, the deficit is not material, in my opinion. The scale of the proposal at 46 units is not such that would impact negatively on the existing road network within the existing residential area. Impacts related traffic demand during construction, while I acknowledge will create some negative impacts, will be temporary with construction hours restricted.

#### **7.2.3. Residential Amenity**

The third party appellants state that the proposal does not protect the residential amenity of the existing residents. They also suggest that a buffer zone between the existing and proposed developments should be incorporated. The site layout plan

submitted with the application including the submission to the further information highlight the separation distances between existing and proposed properties. The first floor rear wall of each proposed unit is in excess of 11m from the rear boundary line therefore the distance between opposing first floor windows is in excess of the minimum 22m requirement. Sections provided highlight that the levels on the appeal site fall to the north so that the proposed units will have a lower FFL than existing properties and therefore will not impose on their neighbours to the south. The creation of a buffer between the development would not be appropriate as it would create an area which would not be adequately overlooked and could encourage anti-social behaviour.

#### **7.2.4. Other Matters**

Concern has been expressed at the number and extent of conditions attached by the PA which require compliance. Matters requiring compliance such as details regarding construction and site operations and waste management require compliance as standard in any development of this nature. In relation to the proposed wastewater connection and to upgrades required by Irish Water in this regard, it is clear from the submissions from Irish Water that such upgrades are likely during the lifetime of any permission which the Board might be minded to grant. If it were the case that the timeframe was outside of same, Irish Water would have been required to indicate same. Furthermore, the Board, if they are minded to grant permission for the development herein, may include a condition that requires that no units are occupied until such infrastructure is in place.

The appellants refer to the agricultural access within the site and that same has not been explicitly extinguished in the application. The revised site layout plan submitted in response to the further information request shows an access from the internal access road within the development along the existing internal track towards the agricultural shed and lands in vicinity of the riverbank. I consider that this is appropriate as it provides access to the remainder of the landholding in the vicinity of the site. Given the repair of the building as exists and the limited area of lands accessed, it is likely that any use of this access track for agricultural purposes will be limited.

#### **7.3. Appropriate Assessment**

At further information stage, a screening assessment of Appropriate Assessment for the appeal site was requested and a report entitled Natura Impact Assessment Screening Statement was submitted dated September 2016 and comprises a screening report.

There are a large number of Natura 2000 sites within 15km of the site, all of which are identified in a map in the screening report (Figure 7). They are as follows:

- Baldoyle Bay SAC (000199) & SPA (004016) – 3.4km
- Malahide Estuary SAC (000205) & SPA (004025) – 3km;
- Ireland's Eye SAC (002193) – 4km;
- North Dublin Bay SAC (000206) – 6km;
- North Bull Island SPA (04006) – 6km;
- Ireland's Eye SPA (004117) – 8km;
- Rockabill to Dalkey SAC (003000) – 8km;
- South Dublin Bay and River Tolka Estuary SPA (04024) 8km;
- Rogerstown Estuary SAC (000208) & SPA (004015) – 8km;
- Howth Head SAC (000202) – 9km;
- Howth Head Coast SPA (004113) – 11km;
- Lambay Island SAC (000204) & SPA (004069) – 13km

The site is hydrologically linked to Baldoyle Bay SAC and SPA via the Sluice River which runs to the north of the site. I would suggest that in terms of potential impacts the following potential impacts are considered most relevant, direct loss of land/habitat, surface water and domestic wastewater. The site itself is cultivated grassland and therefore there is no loss of significant habitat. The site is located over 3 km from Baldoyle Bay SAC and SPA. I consider that significant attenuation is proposed within the site by way of SUDS measures such as detention basins and swales. In addition, given the distance from the Natura sites and the proposed connection to existing foul network the proposal would not have any adverse effect on the conservations objectives of these sites.

In respect of the sites mentioned above, I consider that due to the limited value of the vegetation on site, the separation distances of the appeal site from these sites and the nature of the proposed development that it is reasonable to conclude that on the basis of the information on the file which I consider to be adequate that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Baldoye Bay SAC (000199), Baldoye Bay SPA (004016), Malahide Estuary SAC (000205), Malahide Estuary SPA (004025), North Dublin Bay SAC (000206), North Bull Island SPA (04006), Ireland's Eye SAC (002193), Ireland's Eye SPA (004117), Howth Head SAC (000202), Howth Head Coast SPA (004113), Rockabill to Dalkey SAC (003000), South Dublin Bay and River Tolka Estuary SPA (04024), Rogerstown Estuary SAC (000208), Rogerstown Estuary SPA (004015) in light of the site's Conservation Objectives and a Stage 2 Appropriate Assessment is not therefore required.

## **8.0 Recommendation**

I recommend that permission is granted for the proposed development subject to the conditions outlined below.

## **9.0 Reasons and Considerations**

Having regard to the zoning of the site and the planning history in the vicinity of the site, it is considered that the proposed development would not seriously injure the architectural character of the area or the residential 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.

## **10.0 CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 19<sup>th</sup> day of September 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. Prior to the commencement of development, the developer shall submit, for the written agreement of the Planning Authority, a Japanese Knotweed Invasive Species Management Plan which shall include measures for the eradication of the Invasive Species and timeframes for same. The areas of the site where the species has been identified as set out in Landscape Plan Drwg. 300 Rev. G shall be suitable fenced off prior to any construction commencing on the site and maintained in place until such time as the Planning Authority are satisfied that it has been eradicated from the site. Construction on sites 45, 46, 23, 24 & 25, as outlined on Site Layout Plan 2014-94-AI-101 shall not commence until the Japanese Knotweed has been eradicated from the site to the satisfaction of the Planning Authority. The developer shall consult with the Biodiversity Officer of Fingal County Council prior to the preparation of the Plan.

**Reason:** To prevent the spread of Japanese Knotweed.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

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

4. (a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the southern boundary, consisting predominantly of trees, shrubs and hedging of indigenous species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.  
  
(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the



sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development, in the interest of visual amenity.

5. The internal noise levels, when measured at the windows of the proposed development, shall not exceed:
  - (a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and
  - (b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

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

6. 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.

7. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car park 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.

8. Public Lighting shall be provided in accordance with a scheme, (which shall include lighting along pedestrian routes through open spaces), details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

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 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.

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Una Crosse  
Senior Planning Inspector

February 2017