



Development

The development consists of: - The demolition of the 4 existing houses on 4 sites totalling to 8931m² approx. - The construction of 16 houses split into 4 blocks to the rear of the site at the existing ground level at the rear of the site. There are 12 (2 storey 3 bedroom houses) and 4 (3 storey including attic 4 bedroom houses) with front and back gardens. All houses have rear access and parking to front. - The construction of 2 x 4 storey apartment blocks (including recessed top floor) to the front of the site at street level, totalling to 52 apartments consisting of (8 one bedroom, 34 two bedroom and 10 three bedroom). All apartments have balconies/terraces. - Lower level parking for 79 cars (including 4 Disabled), Bin Store and Plant Rooms beneath the road and parking for the 16 Houses. - Existing 4 entrances replaced by 1 vehicular entrance, 1 vehicular exit for fire truck and pedestrian gate entrance. - All

associated site works including paths, roadways, vehicular ramps, stairs and pedestrian ramps, bicycle stands and visitor parking.

Location	778-784 Howth Rd., Raheny, D. 5
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2917/16
Applicant(s)	MKN Property Group
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	(i) Gráinne Walsh (ii) S. Dooley, P. Kane & Karl Carpenter (iii) Geraldine Walsh & others (iv) Gregory Duggan (v) Michael Scahill
Observer(s)	(i) Thomas Broughan T.D. (ii) Senator Aodhán O Riordáin (iii) Derek Kirwin (iv) Seán Haughey T.D.
Date of Site Inspection	8 th March 2017
Inspector	Tom Rabbette

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Third Party Observations	6
4.0 Planning History.....	7
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations	9
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Applicant's Response.....	20
6.3. Planning Authority's Response	25
6.4. Observations.....	26
6.5. Further Responses.....	27
7.0 Assessment.....	28
8.0 Recommendation.....	46
9.0 Reasons and Considerations.....	47

1.0 Site Location and Description

- 1.1. The application site is located off the Howth Road in Raheny in Dublin 5. It faces out over Dublin Bay with Bull Island in the foreground. Howth Road is a regional route, the R105. There are footpaths on either side of the road at this location. There is a dedicated cycle path running along the coastline inside the seawall across the road from the site. There are bus stops on inbound and outbound lanes within walking distance of the site. The site currently consists of four separate residential sites, each accommodating a detached habitable dwelling and each with a separate vehicular entrance off the R105. These existing four sites are to be amalgamated to form one site of stated area c. .9 ha. The existing four dwellings are located well back from the roadside boundary. Ground levels rise across the site from the its frontage to its rear. The four dwellings are located within a row of 8 detached dwellings that are all setback from the road frontage and adhere to the same building line. The dwelling on the site adjoining to the north-east is a detached bungalow (No. 786 Howth Road), the dwelling on the site adjoining to the south-west reads as a two-storey with attic accommodation over (No. 776 Howth Road). All of the dwellings that form this row of 8 have generous deep front gardens as well as large back gardens. Dwellings further north-east along the Howth Road are much closer to the public road thus creating a different building line. The site backs onto an established residential area that fronts onto St. Margaret's Avenue to the north-west of the site. These dwellings to the north-west are two-storey semi-detached units.

2.0 Proposed Development

- 2.1. The applicant is seeking permission to demolish the existing four habitable dwellings on the site, amalgamate the four sites to form the application site, and to construct a residential development on the lands.
- 2.2. The proposal consists of the construction of two no. four-storey apartment blocks towards the front of the site accommodating 52 apartments and the construction of 16 houses to the rear of the site providing a total of 68 residential units.
- 2.3. The two apartment blocks to the front of the site are of the same design and each will accommodate 26 apartments. Following a request for further information from the planning authority, some amendments were introduced to these apartment

blocks including changes to some windows and the addition of screens to some balconies. Block B was also relocated marginally further back from the front of the site.

- 2.4. Initially the houses towards the back of the site were to be provided in four blocks but following the FI request this was changed to two blocks of 8 dwellings. Other changes to the housing element included changes to the building line and an increase in distance of the proposed end units from the side site boundaries.
- 2.5. A new vehicular entrance to the site is to be created towards the north-east end of the front site boundary. The site is to be excavated and a car park constructed below the existing ground levels on the site. Changes are proposed to the ground level across the site. In addition to this lower level/basement car parking, surface car parking is to be provided in front of the proposed dwellings and visitor parking is to be provided along the north-east boundary of the site.
- 2.6. An emergency vehicular exit for fire trucks is proposed at the south-western end of the site frontage. A pedestrian entrance is proposed towards the centre of the front boundary.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 17/11/2016 the planning authority decided to grant permission for the proposed development subject to 19 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's Report dated 13/07/2016:

- Additional information required.

Report dated 17/11/2017:

- Further information response noted and considered.
- Permission recommended subject to conditions.

3.2.2. Other Technical Reports

Engineering Department Drainage Division Report dated 20/06/2016:

- No objections subject to conditions.

Waste Management Division Report dated 23/06/2016:

- Conditions recommended.

Roads & Traffic Planning Division Report dated 06/07/2016:

- No objection subject to conditions.

Parks & Landscape Services Report dated 08/07/2016:

- Additional information requested.

Report dated 07/10/16:

- Payment in lieu of open space should be sought.

3.3. **Third Party Observations**

Objections/observations on file addressed to the planning authority make reference to the following issues: impact potential on SAC; impact potential on SPA; excessive scale; excessive density proposed; inappropriate design; inappropriate height; resulting building bulk; impact on coastal location; impact on existing building line; proposal out-of-character with surrounding development; traffic congestion; noise pollution arising; loss of trees; overshadowing; loss of daylight; impact on views; inadequate services available; impact on sewers; road safety concerns raised; flood impacts; impact on local amenities; over-development of the site; loss of privacy; overlooking of adjacent residential properties; environmental impacts; security concerns raised; adjacent property devalued by the proposed development; air pollution arising; limited on-site open space proposed; contravenes land use zoning objective; ridge height proposed; potential impacts arising from proposed excavations; planning history pertaining to the site; site access; misleading photomontage submitted, and inadequate car parking being provided.

4.0 Planning History

4.1. The application site: -

3747/07: The planning authority refused permission for a development described as:

“The development will consist of the demolition of 3 no. existing habitable houses on the site and the construction of 55 no. apartments (8 no. 3 beds 31 no. 2 beds and 16 no. 1 beds) each with its own balcony in 2 no. blocks, block A ranging in height from 2 to 5 storeys comprising 13 no. 1 beds, 26 no. 2 beds and 8 no. 3 beds and block B ranging in height from 2 to 3 storeys comprising 3 no. 1 beds and 5 no. 2 beds; 55 no. car parking spaces and 55 bicycle spaces at basement level; 1 no. vehicular entrance from Howth Road; 1 no. two storey 3 bed detached house with two associated surface level car parking spaces and 1 no. combined vehicular and pedestrian entrance from Howth Road; and all associated site development works including infrastructure, landscaping and boundary treatments.”

The above development was proposed on a site that forms part of the current appeal site, specifically, it encompassed Nos. 778, 780 and 782 Howth Road. The planning authority refused for 4 reasons, it was not the subject of appeal. Plans and particulars on that application are in the appendix attached to this report.

1784/08 (PL 29N.232118): The Board overturned the decision of the planning authority and refused permission for a development described as:

“The development consists of: a) Demolition of the existing detached residence. b) Construction of a residential development in 2 no. detached blocks comprising of a total of 26 apartments over basement car parking, Block A has a total of 13 apartments; 10 no. x 2 bed and 3 no. x 3 bed, all in a 3 storey plus penthouse over basement level; Block B has a total of 13 apartments 10 no. x 2 bed and 3 no. x 3 bed, all in a 3 storey plus penthouse over basement level. Both blocks have balconies at all floor levels to the front and rear elevations. c) Retention of and alterations to 1 no. existing vehicular entrance opening onto Howth Road, also giving access to basement car park containing parking for 39 no. cars, bicycle storage for 28 bicycles, apartment

storage areas and refuse storage areas. d) All associated landscaping and external works. e) Construction of 1 no. pedestrian entrances to Howth Road.”

The above development was proposed on a site that forms part of the current appeal site, specifically No. 784 Howth Road. The Board refused for one reason. The history file on PL 29N.232118 is attached to the current appeal for the Board’s attention.

4.2. The wider area:-

5104/07 (PL 29N.226635): The Board overturned a decision by the planning authority and refused permission for a residential development at the junction of Howth Road/Kilbarrack Road located further north-east along the Howth Road from the current application site. The Board refused for two reasons. Plan, particulars and the Board’s Order are in the appendix attached to this report.

5.0 Policy Context

5.1. Development Plan

The operative plan for the area is the Dublin City Development Plan 2016-2022. The site is located in an area where the land use zoning objective is ‘Z1 – to protect, provide and improve residential amenities’ as per Map C of the statutory plan.

Other directly relevant elements of the plan include the following:

16.3.3 ‘Public Open Space – All Development’

16.4 ‘Density Standards’

16.5 ‘Plot Ratio’

16.6 ‘Site Coverage’

Fig. 19 ‘Building Height in Dublin Context’

16.7 ‘Building Height in a Sustainable City’

16.7.2 ‘Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development’

16.38 ‘Car Parking Standards’

5.2. Natural Heritage Designations

The site is immediately across the road from the North Dublin Bay SAC and North Bull Island SPA.

6.0 The Appeal

6.1. Grounds of Appeal

Gráinne Walsh, 65B St. Margaret's Avenue, Raheny, Dublin 5.

The contents of the third party appeal from the above can be summarised as follows:

- Permission has already been refused on this site on two occasions.
- The appellant refers to 3747/07, the current proposal should be refused for the same reasons.
- The appellant refers to 1784/08 (PL 29N.232118), the current proposal should be refused for the same reasons.
- The proposed development is of an excessive scale and density.
- Block B will be only 6 metres from the Howth Road/Coast Road and will interfere with an established character and attractiveness of this traditional and prominent coastal location on Dublin Bay.
- This is a traditional coastal low density area and the height, bulk and density of the apartment blocks will seriously injure the amenities of the adjoining residential properties.
- The appellant quotes from the Inspector's Report on PL 29N.232118 (1784/08).
- The proposed development fails to take cognisance of the established built context of the surrounding area.
- There are only two apartment developments located between Watermill Road and Sutton Cross, a distance of c. 5 km, both developments are situated within the Fingal Co. Co. administrative boundary.

- The character of the Howth Road/Coastal Road is that of individual houses on generous plots of land with significant set-backs between the building line and the public road, it is this design detail which generates the character of the road.
- The proposed development will be totally at variance to any development within the area or more specifically on this coastal Dublin Bay road.
- The development will impose dominance on the landscape.
- The height, bulk, mass and scale are alien to the existing built form.
- The building line used within this application is incorrect.
- The application seeks to increase the number of residential units on this portion of the seafront by 329%, the development is located in an area zoned 'Z1 – to protect, provide and improve residential amenities', the proposal clearly does not achieve this.
- Given the location of the site in excess of 1 km from the nearest train line, car parking should be 1.5 spaces per dwelling which would equate to 102 spaces, this would leave a shortfall of 3 spaces.
- The extremely heavy trafficked and busy Howth Road has not been adequately evaluated.
- It should be noted that the road is in the 60 kph not 50 kph zone and that negates the applicant's TRICS survey.
- The road at this location is already at capacity and will not be able to manage 150-200 additional cars queuing to get into and out of this development.
- If this development was more respectful to the open nature of the existing character of the area, then there would be no problem allocating the open space provision on the site.
- The density of development fails to take account of the future residents and the development is a clear case of overdevelopment.
- The applicant states in their Appropriate Assessment Screening that the nearest Natura 2000 site is North Bull Island SPA and suggests that this is 15 km distance, in fact the nearest Natura 2000 site, North Dublin Bay SAC is on

the roadside of the development itself and of course North Bull Island SPA is not 15 km distance.

- The applicant fails to address the flooding risks and water run-off of this proposed development on the Natura 2000 sites.
- Clearly the proposed development of two multi-storey blocks with deep underground basement works, below sea level, will have a negative impact on the North Dublin Bay SAC and its many Annex I habitats and Annex II species of the North Dublin Bay SAC.
- The applicant plans to remove 15,000 cu.m. of sub-soil from the site, there is no reference to test holes or examination of the make-up of the sub-strata but what is clear is that this is a substantial land movement on North Dublin Bay SAC. The applicant should have clarified that the proposed site is at risk of damaging two Natura sites: North Dublin Bay SAC and North Bull Island SPA. The second site is also of course an UNESCO Biosphere site.
- The applicant fails to record that the Blackbanks Stream and the Kilbarrack Stream are located to the east and west of the site.
- The applicant also fails to address the impact of CFRAM studies. CFRAM Map 257 identifies the Coast Road as 'pluvial indicative'.
- It has flooded twice in recent years.
- The flooding was 1 metre above the road level of 4.69 m. With a proposed ground floor level of 5.25 m, not only will Block B underground parking flood but the ground floor apartments are in danger of flooding with a return of 1 m pluvial flooding as that of 2011.
- No information has been given by the applicant in respect to recent flooding at the site or on St. Margaret's Avenue or the 2 water courses and therefore the Appropriate Assessment Screening is flawed as there may be direct links to the Natura 2000 site.
- The development will be a gated community divorced from the surrounding community.

- Proposed Block A and Block B, a mere 6 m from the road, break the natural building line.
- The applicant failed to address the existing identity of the area.
- Concerns raised in relation to on-site public space provision.
- It is overbearing and visually obtrusive.
- Neighbouring houses 776 and 786 will be badly affected by the proposed development.
- There will be overlooking of adjacent houses.
- Negative impact on the quality of life of adjacent residents.
- Serious impact on value of neighbouring property.
- The development contravenes the land use zoning objective.
- The Board is requested to overturn the p.a. decision.

S. Dooley, P. Kane & Karl Carpenter c/o 23 St. Margaret's Avenue, Raheny, Dublin

5.

The contents of the third party appeal from the above can be summarised as follows:

- Loss of privacy/overlooking of existing households.
- Increased traffic and associated safety concerns in the immediate area and surrounding streets.
- Loss of mature treeline and impacts on wildlife and green corridor.
- Noise pollution at both construction and operational stages.
- Close proximity to Bull Island, one of only two UNESCO sites in Ireland.
- Not in the public interest of both existing community and new residents.
- Security and personal safety in proposed laneways.
- Property devalued.
- Loss of views and sunlight.
- Overbearing impact and significant increased shadowing.

- Adverse impact to existing visual amenity.
- Out of context with the unique character of the existing area.
- Concerns raised in relation to the size, scale and density of the proposed development.
- It will significantly impact on the existing streetscape and established building line.
- Ridge height of proposed houses is significantly higher than the prevailing ridge height in the area.
- The established streetscape and character of the area will be irrevocably lost by the community and the wider public if permission is granted.
- The development represents a 1700% increase in dwellings on the proposed site.
- The resultant density of 76 dwellings per ha. seems excessive in the context of a low density suburban coastal location.
- The appellants submit a diagram indicating existing and proposed building lines.
- The appellants submit a diagram indicating existing and proposed ridgelines.
- An assessment of existing traffic and new traffic impact of this and other developments in the locality currently in planning or under construction is not evident within this application or the additional information provided.
- The provision of 1.5 car spaces per property is low.
- A wider traffic assessment should be considered.
- A construction management plan has not been included in the applicant's submission.
- Issues raised in relation to health and safety within proposed parking.
- The proposed development will eliminate a large portion of a scarce mature greenery and ruin the aesthetic.
- Concerns raised in relation to potential impacts arising on the adjacent SAC.

- Loss of trees on site is of concern, trees are known to reduce CO2 in the atmosphere.
- Concerns raised in relation to permanent reduction in light and increased overshadowing arising from the development.
- The applicant has not submitted an existing and proposed shadow study without trees to illustrate the impact of the proposed development on neighbouring properties.
- The appellant submits an approximated shadow study to demonstrate the likely order of magnitude of shadowing (excluding trees) that is likely to be imposed on existing neighbouring properties.
- It is recommended that the Board request an accurate existing and proposed shadow study from the applicant to facilitate a direct comparison and informed decision regarding the amount of additional shadowing of private open space to existing neighbouring properties.
- It is unclear how the developer proposes to limit the increased noise generated by the development both during construction and day to day after completion.
- Light spillage will have to be considered so as to not affect neighbours and wildlife.
- The applicant should provide more green space within the development more in keeping with the context and character of existing and neighbouring properties.
- A number of laneways are proposed to the new houses presenting a security and personal safety risk to both new and existing residents.
- Adverse impact on privacy of properties in St. Margaret's Avenue.
- The boundary wall in the proposed development is considerably higher than the existing and is likely to dwarf the existing property boundaries.
- A number of properties on St. Margaret's Avenue currently have a view of Howth Head and/or the seafront, this will be lost if the proposal proceeds.
- No children's play areas have been identified on the plans.

- The proposed development is out of character with the area and thus does not comply with the CDP.
- The proposed site is not identified as a Key Development Area (KDA), Key Development Centre (KDC) or Specific Development Regeneration Area (SDRA) and there is no LAP for the area.
- Fingal Co. Co.'s (which is c. 300 m from the site) general approach to applications by residents is to keep proposed ridge heights the same as the current houses.
- There are no 4 or 6 storey developments along the entire stretch of the seafront in this area.
- Other properties along this road have been relatively recently bought and developed in a means in keeping with the character of the area.
- There is no precedence on the Howth Road seafront for the proposed density and type of development.
- Concerns raised in relation to compliance with the Building Regulations.
- No arborist report submitted.
- Have records been reviewed to ensure there is no underground runoff water to the sea?
- Has a species survey been carried out?
- Proximity of the site to the SAC.
- What research has been done to come to the conclusion that there is 'no direct watercourse link' to the SAC?
- Has a soil contamination report been completed?
- Has the risk of flooding to adjacent properties been adequately assessed?
- A number of questions have been raised in relation to the transportation assessment/access study report.
- The appellant questions the availability of a document relating to a pre-planning response that was referred to in the planning application.

Geraldine Walsh & others c/o P. Gillet & Assoc. Town Planning & Development Consultancy

The contents of the third party appeal from the above can be summarised as follows:

- There are 19 signatories to the appeal.
- The proposed development has the potential to adversely impact on the residential and visual amenities of both adjoining and nearby houses on St. Margaret's Avenue and the Howth Road.
- It will detract from the amenity offered by this attractive and scenic coastline to the Bull Island and Dublin Bay as well as posing a significant environmental impact on this Natura 2000 site located across the road from the site.
- The proposed development is far too excessive in density and scale in terms for this scenic low density suburban location which overlooks Dublin Bay.
- The proposal would be seriously injurious to the residential amenities of adjacent and adjoining houses and would seriously decrease the value of same.
- The proposal is contrary to the current City Plan in respect of zoning and policy regarding residential development and place making.
- The proposed gross infringement of the original building set back to the Howth Road will create a visually discordant element along the Howth Road and severely detract from its seascape setting and importance.
- The traffic generated by 68 new dwellings up to 200 mainly adult people will adversely impact on the convenience and safety of road users on the heavily trafficked Howth Road.
- The proposed development would not provide for satisfactory amenities for future residents in terms of public open space for aesthetic and amenity purposes and to provide for reasonable separation and sun lighting and day lighting between the 4 storey apartment blocks and the proposed houses.
- The p.a. failed to adequately assess the planning and environmental impacts of this excessive development in an objective and sensitive manner having regard to the proximity of adjacent houses and the site's prominent location

along this scenic coastline which is of considerable recreational and tourist value as well as containing a Natura 2000 site of international importance.

- The adjoining area in St. Margaret's Avenue and to the front along the Howth Road is prone to flooding with the last major flood in 2011.
- The grounds for refusal by the p.a. for 55 apartments under 3747/07 and the refusal by ABP for 26 apartments in two 4 storey blocks under 1784/08 are still valid and directly pertinent to the much larger scheme now proposed.
- There will be considerable adverse impacts on the amenities of adjacent houses arising from construction and particularly from the major excavation required for the basement car park and surface water storage tanks and plant room.
- Traffic generated by the excavation and construction works will adversely impact on road users.
- There is a real threat of significant environmental impacts on the adjoining Natura 2000.
- There is no precedent for a scheme of apartments of four storeys in the general area that also substantially breaches the adjoining building line.
- With reference to the massive excavations proposed, this seaside site may well have an unstable substrata and be pervious to ground water and possible interaction with tidal movement of the bay.
- There are a number of underground streams that pass through or nearby, that affect the site's potential for flooding. The submission includes, *inter alia*, pictures of a flooding event in the area in 2011.

Gregory Duggan, 776 Howth Road, Blackbanks, Dublin 5.

The contents of the third party appeal from the above can be summarised as follows:

- The proposed development by virtue of its bulk, inappropriate design, height, massive road frontage, and proximity to the appellant's house to the south-west of the application site, is unsuited to, and is inappropriate to, the area.
- The proposed development would seriously injure the residential amenities of adjacent dwellings, including the appellant's house.

- The proposed development is of an inappropriate design in a prominent coastal location and would interfere with the established character and attractiveness of the area and would seriously injure the amenities of the area.
- The proposed development, and in particular the second, third and fourth floors of Block A would form a 'viewing gallery' looking down and into most of the rooms in the appellant's house from the front/side.
- The proposed development, and in particular the proposal to move a strong and established building line about 40 m forward, would be ruinous to the visual amenities of the appellant's house.
- It would seriously devalue the appellant's property.
- The development does not reflect the character of the area.
- The proposed development does not integrate with existing housing along the Howth Road in terms of building line, proportion, heights, road frontage and materials.
- The proposed development does not maintain existing front and side building lines.
- The proposed development would represent an unacceptable loss of greenery on the site.
- The proposed development, by virtue of massive extent of site excavation, would produce a 'ground zero of the Northside'.
- The applicant has not included any technical assessment of the excavation needed.
- The appellant and his wife work from home and it will probably be impossible to continue working from home for the entire duration of the construction phase.
- The appellant requests the Board to refuse permission for the development in its entirety.
- Submission includes pictures of recent flooding events in the area.

Michael Scahill c/o M. Halligan Planning Consultants

The contents of the third party appeal from the above can be summarised as follows:

- The development would seriously injure the residential amenities of properties in the vicinity.
- It would materially contravene the residential zoning objective of the area.
- The proposed development would result in a serious traffic hazard.
- It would devalue the appellant's property.
- Permission should be refused.
- The appellant resides in the residential property immediately abutting the eastern boundary of the site.
- Items 2, 3, 6, 9 and 12 of the p.a. FI request are particularly relevant to the appellant. They have not been addressed.
- Higher densities must not be achieved at an unacceptable amenity cost to the surrounding dwellings and to the residents of the proposed development.
- The appellant cites P L29N.226635, PL 29N.232118 and 3747/07.
- The proposed houses are totally out of keeping with the existing streetscape and building form along this section of Howth Road.
- The plan is to 'drop in' a high density development into a low density area.
- The architectural language of the proposal does not sympathetically respond to the demands of the existing building and urban form and its context.
- The availability of public transport does not reduce the requirement for private car ownership but only the reliance on it.
- The R105 is a very busy road with tailbacks at peak hour and also from weekend traffic to Howth.
- The 4 road junction nearby is a problematic junction.
- Traffic exiting the development at peak hour will be forced to turn left and use St. Margaret's Avenue which is already used as a 'rat run'.

- Traffic entering the site from the far lane will have to cross a very busy road, this will result in interference with the free flow of traffic and will result in a traffic hazard.
- The development is seriously out of character with the established pattern of development in the area and a significant overdevelopment of these lands.
- The visitor parking is proposed alongside the boundary with the appellant's property.
- The visual environment of the appellant's property will be dramatically changed.
- The development will result in significant noise and light pollution in particular for the appellant's property.
- The appellant's agent recommends two reasons for refusal.

6.2. Applicant's Response

The content of the applicant's response to the appeal from Gráinne Walsh can be summarised as follows:

- The current proposal is materially different to the previous applications, 3747/07 and 1784/08.
- The decisions in 3747/07 and 1784/08 helped to inform the nature, scale, design and layout of the current proposal.
- Unlike the previous proposals on the subject site, the design of the current proposed development has taken reference from the character of the site's surrounding context, including coastal location, scale of surrounding dwellings, building lines and the topography of the site.
- The proposed development was developed and designed in a manner which employed best practice in urban design in accordance with a number of listed policy documents.
- The proposal will successfully integrate with the existing buildings that are located on Howth Road as well as those located on St. Margaret's Road to the rear, in contrast to the previously refused proposals.

- The proposed development has been set out to provide 2 no. building lines on the site with the new houses towards the rear being in a similar location to the existing units currently on the site, while the proposed new apartments take their reference from the houses located to the east (no. 788 and beyond).
- The Howth Road and surrounding area is of a relatively low density, which is considered to represent an underutilisation of residential zoned land.
- It is CDP policy as well as national planning guidance to provide appropriate densification of appropriately zoned lands.
- The subject site represents one of the last remaining areas of land in this location which allows for increased density.
- The proposal provides for a mix of housing typologies.
- The scale of the overall development site is modest and the plot ratio at just 0.8:1, which is significantly below the indicative maximum plot ratio standard of 2.0:1 as set out in the CDP.
- Applicant refers to other similar schemes in the surrounding area as prime examples of how contemporary residential developments can successfully integrate into the existing coastal landscapes and surrounding built environments, and the Board is requested to refer to the planning precedent that these schemes have established.
- The proposed development has correctly taken the correct building line along Howth Road.
- The densification of Dublin is vital to creating a sustainable future for the city that will be critical for a competitive Dublin.
- The proposed development is in accordance with quantitative standards for residential developments as set out in the CDP.
- The site is located c. 1 km from Kilbarrack DART Station and is located at the Howth Road QBC.
- The development respects the existing character, context and urban form of the surrounding area.

- The proposed development has been designed in accordance with the BRE Guidelines for Site Layout Planning and will not give rise to any significant or overbearing, overshadowing or overlooking on neighbouring properties.
- The applicant refers to a number of reports submitted to the p.a. at application stage.
- The rate of car parking being provided is in accordance with the CDP standards for parking zone 3.
- There is a Dublin Bus Stop outside of the site (routes 31, 31A, 31B, 31N and 32).
- The applicant submits a detailed response by NRB to issues concerning traffic generation.
- The subject site is located close to a number of amenity and public open spaces which will cater for this development, including a dedicated walking/cycling route from Sutton to Clontarf and which will form part of the planned Sutton-Sandycove route, a suitable kick around space on Greenfield Park (c. 500 m from the site), St. Anne's Park to the south west, Bull Island, including Dollymount Strand, The Island Golf Club and Royal Dublin Golf Club.
- The Board is referred to a report prepared by Eireng Consulting Engineers which deals with flooding issues.
- A response to the appellant's reference to design issues is provided.

The content of the applicant's response to the appeals from: Gregory Duggan; Michael Scahill; S. Dooley, P. Kane & K. Carpenter, and Geraldine Walsh & others can be summarised as follows:

- The development will not give rise to any environmental, flooding or traffic concerns, which has been confirmed by the documentary evidence submitted as part of the planning application and FI response, and as part of the applicant's response to the appeals, and also by the internal departmental reports of the p.a.

- The proposed development will help to increase supply within the Dublin Metropolitan area, which is urgently required and is a key objective in the Programme for government.
- Applicant refers to the pattern of development in the area and the planning history pertaining to the site, referring to the differences between the previous refusals and the current proposal.
- The current proposed development does not form part of a wider masterplan for the surrounding area.
- The applicant responds to design issues raised.
- The scheme has made use of the topography of the site in order to protect existing views of residents as well as to reduce the perceived impact that the scheme may have.
- The new apartment blocks are to be located to the front of the site, which is at a lower level than that of the rear where the proposed dwellings will be located.
- The proposed development has sought to take elements of the design from the 'Seascape' development in Clontarf and incorporate them into the subject proposal, the Seascape development is a multiple award winning scheme.
- It is noted that s.4.5.3.1 of the CDP highlights the Seascape development stating: "Developments such as Seascape in Clontarf (in the outer city) can make a positive contribution to the evolving urban form and structure of the city".
- The applicant refers to other schemes granted in the area.
- The subject site does not provide for a full basement requiring large excavations, rather the undercroft parking area will only be below the proposed houses towards the rear of the site.
- A Construction and Demolition Waste Management Plan will be submitted to the p.a. as conditioned. The construction phase will result in only short term and temporary inconvenience.

- Appropriate mitigation measures will be employed to ensure that such inconveniences are avoided or minimised.
- The applicant responds to issues raised concerning the building line and outlook from neighbouring property.
- Potential grounds for overlooking were suitably addressed in response to item no. 6 of the p.a. FI request.
- The applicant's engineers' survey did not reveal any drain within the application site, all sewer and drainage connections for the scheme must be agreed with the p.a. and IW, prior to the commencement of development.
- The response includes reference to pluvial flooding concerns raised by appellants.
- The development is in accord with the Z1 zoning.
- The 2009 Guidelines recommend increased residential densities on residential zoned lands and also recommend a minimum density of 50 units per ha for sites within public transport corridors. The proposed development represents a density of 78 units/ha.
- Potential impact on No. 786 Howth Road (the dwelling immediately to the east of the site) is responded to.
- The traffic assessment submitted as part of the planning application was prepared in accordance with an established methodology and its contents were agreed with the p.a.'s Road's Department.
- The traffic assessment concluded that the proposal would ensure that the local road network would continue to operate within capacity and that there are sufficient car parking spaces on the site to cater for the development without giving rise to illegal parking on Howth Road.
- Existing boundary vegetation will be retained where possible.
- No protected species were found on site during site visits.
- The proposed development will take place without any environmental risk or significant effect on Natura 2000 sites or UNESCO sites.

- There will be no direct overlooking of adjoining properties.
- The proposed development will provide an appropriate quantum of private and communal open space within the scheme in accordance with CDP standards.
- Opaque glazing is proposed on balconies and side windows that may otherwise have a view onto third party lands.
- All dwellings will have a minimum separation distance of at least 22 metres from opposing first floor rear windows.
- Appropriate flood risk measures have been incorporated into the design of the proposed development that will ensure that it will not give rise to any increased flood risk both within the site and nearby as the ground floor level of the apartments will be 1 m above the tidal flood level.
- Flood litigation measures will also ensure that no pluvial flooding will take place within the site itself.
- The submission includes a report by Eireng Consulting Engineers addressing issues raised in the appeals, specifically: flood risk; existing sewer crossing the site; excavation and construction management, and foundation design.
- The submission includes NRB Consulting Engineers Ltd. response to car parking and traffic issues.
- The submission includes a report by Chris Shackleton Consulting in relation to issues raised concerning the sunlight/daylight and shadow study.

The content of the applicant's response to the appeal from M. Scahill can be summarised as follows:

- Submission relates to missing page 6 of the third party's appeal.
- The applicant responds to issues raised in that page 6: traffic hazard, overdevelopment, building height and building line.

6.3. Planning Authority's Response

- There is no response from the p.a. on file at time of writing.

6.4. Observations

Thomas Broughan T.D. c/o Dáil Eireann

The contents of the observer submission from the above can be summarised as follows:

- Opposes the granting of permission.
- The height and density of the proposal is totally at variance with the receiving area.
- The site layout and building design constitutes overdevelopment and does not address the loss of residential amenity for this locality.
- Constituents have grave concerns about traffic access and egress to the proposed new development and in relation to parking.
- There are major concerns about the drainage and flood risks at the proposed development.
- The relatively close access to Dublin Bay and St. Anne's Park amenity open spaces does not compensate new residents for the cramped and claustrophobic nature of the proposed development.

Senator Aodhán O Riordáin, c/o Seanad Eireann

The contents of the observer submission from the above can be summarised as follows:

- The observer quotes from ABP decision on 1874/08.
- If it was deemed inappropriate by ABP to grant permission for application 1784/08 then it follows that the larger development of 2917/16 would be inappropriate.
- The observer also quotes from the DCC decision on 3747/07.
- The proposed development is out of character with the adjoining residential area and is clearly an over-development and over-intensification of use on this site.

Derek Kirwin, 788 Howth Road, Dublin 5.

The contents of the observer submission from the above can be summarised as follows:

- The site fronts onto a Special Area of Conservation of both National and International importance.
- The proposed development must run contrary to the proper planning and sustainable development of the area.
- The proposed development by virtue of its height, bulk, scale and building line, would be seriously out of locational context and would constitute excessive development in a unique coastal location, which would interfere with the established character and attractiveness of the area.

Seán Haughey T.D. c/o Dáil Eireann

The contents of the observer submission from the above can be summarised as follows:

- The observer supports local residents' opposition to the proposal.

6.5. Further Responses

Gráinne Walsh, 65B St. Margaret's Avenue, Raheny, Dublin 5.

The contents of response to the other third party appeals by the above third party appellant can be summarised as follows:

- The appellant reiterates concerns raised in the appeals.
- The Board is requested to refuse permission.

S. Dooley, P. Kane & Karl Carpenter

The contents of response to the other third party appeals by the above third party appellant can be summarised as follows:

- Fully concur with the thrust and concerns detailed in the appeals, particularly regarding impact on residential and visual amenities, excessive scale, inappropriate location of apartment blocks, impact on Natura 2000 site, lack of amenity space and traffic generation.

7.0 Assessment

I have read all the file documentation and have had regard to the statutory plan for the area and relevant guidelines in relation to residential developments. I have also carried out a site inspection. In my opinion the substantive matters to be addressed in this assessment are as indicated hereunder.

7.1. Building Line

- 7.1.1. Many of the appellants and observers to the appeal have raised this issue about how the proposed development relates to the established building line. It was also raised by a number of objectors at planning application stage. It is held that the proposed development is out of character with the streetscape as it does not adhere to the existing building line along Howth Road. It is held by some that the proposal represents a substantial breach of the building line and would exacerbate the visual impact of the proposal. It is stated that the building line used to justify the proximity of the two apartment blocks to the main road is taken from two extremities along Howth Road (i.e. one at the Howth Road/Kilbarrack Road junction and one near the Greendale Road/Howth Road junction) and that this is not the true building line from immediately proximate dwellings, specifically No. 786 Howth Road adjacent to the north-east and Nos. 772-776 Howth Road to the south-west. Some cite the Board's refusal in 1784/08 (PL 29N.232118) which referred to the impact of that proposal on the building line. They hold that those concerns still apply in relation to the current application.
- 7.1.2. In considering this matter, I have had regard to the refusals on 3747/07 and 1784/08 (PL 29N.232118). The sites subject of those previous applications have been amalgamated to create the current application site. That is not the only material change. The current design strategy and proposal represents a materially different scheme from those previously proposed and refused.
- 7.1.3. There are, in effect, two building lines potentially to be addressed along this stretch of Howth Road between the Kilbarrack Road junction and the Greendale Road junction. The first build line is as created by No. 788 Howth Road to No. 820 Howth Road to the north-east of the site, and also loosely picked up by No. 770 Howth Road to the south-west. The building line most immediate to the application site is that as existing on the site itself defined by Nos. 778-784 Howth Road (all to be

demolished) and as carried on by No. 786 Howth Road to the north-east and Nos. 772-776 Howth Road to the south-west of the application site.

- 7.1.4. The applicant has actually addressed both building lines, and in so doing, has allowed for a development that significantly increase the density of development on the site while anchoring the proposal into the existing built environment. The proposed terrace housing at the rear of the site broadly picks up on the existing building line on the site and extending to the sites immediately adjoining to the north-east and south-west. The amended scheme submitted to the planning authority on the 21/10/2016 improves upon the reference to this existing building line. The two apartment blocks to the front of the site seek to address the building line as defined by Nos. 788-820 Howth Road and No. 770 Howth Road. The applicant refers to this as the 'correct' building line and the existing building line on the site as established by the houses existing on the site as the 'secondary' building line (ref: 'First Party Response to Third Party Appeals' received by the Board on the 24/01/17).
- 7.1.5. The referencing of both building lines is not without some design merit, in my opinion. It allows for increased densities while seeking to show due deference to the existing built environment. Both building lines can be continued on into adjacent sites further delivering sustainable densities on these well-located lands. I agree with the p.a. Planner's Report dated 13/07/16 where it is stated that it would have been much more preferable if No. 786 Howth Road to the north-east had not been left 'stranded' behind the existing building line to the north-east and the proposed apartment block B to its south-west, nevertheless, and on balance, I am of the opinion that a refusal is unwarranted on this specific issue.
- 7.1.6. Having regard to the foregoing, I am of the opinion that the proposal has not ignored the established building line, or more accurately, the established building *lines*. The scheme has addressed both building lines applicable to the site.

7.2. Building Height

- 7.2.1. A number of the appellants and observers have raised concerns about the proposed height of the development. They hold that the proposal is out-of-character with the prevailing height. They hold that the proposed development does not integrate visually with the existing houses along the Howth Road in terms of the height. One of the appellants submitted a diagram indicating existing and proposed ridgelines to

highlight their concerns. It is held by some that the resultant development will be a visually discordant element along the Howth Road.

- 7.2.2. The dwelling on the site immediately adjoining to the north-east (No. 786 Howth Road) is a single storey detached house. The dwelling on the site immediately adjoining to the south-west reads as a two storey with attic accommodation over (No. 776 Howth Road). There are bungalows, two-storey and two-storey plus attic conversions, in the row of dwellings fronting onto Howth Road in the vicinity of the application site. The dwellings to the rear of the site that front onto St. Margaret's Avenue are two-storey structures.
- 7.2.3. The terraced dwellings proposed to the rear of the site are predominantly two-storey (4 of the proposed 16 are two-storey plus attic accommodation – ref: plans and particulars received on the 21/10/16 in response to the FI request) and are thus of a height that very much reflects the scale and height of the existing dwellings to north-east, south-west and north-west. I do not consider that the proposed houses adversely impact on the receiving environment by way of proposed height or scale.
- 7.2.4. Most of the concerns raised in relation to the height focus on the two apartment blocks proposed to the front of the site. On balance, I am of the opinion that the height proposed for the apartment blocks fronting the site can be accommodated here. I do not consider that the 4 storeys, or to be more accurate, 3 storeys to 'shoulder height' with a recessed top floor above, represents a radical intervention. Three storey structures with an additional recessed floor above is not excessive. It contributes to a positive, efficient use of this residentially zoned serviced site. The ratio of the height of the façade of the apartment blocks to the width of the public road in front, is appropriate, in my opinion. This ratio was referred to in the Planner's Report on file where it states, inter alia, the following:
- "In terms of 'framing' a new urban streetscape it is considered that the 4-storey apartment blocks' presentation onto the frontage is proportional to the horizontal cross-section of the public road and promenade."
- 7.2.5. I concur with that assessment. It reflects the guidance given in section 4.2.1 'Building Height and Street Width' in the 'Design Manual for Urban Roads and Streets'.

- 7.2.6. The variation in ridge height and dwelling design as existing along this stretch of the Howth Road does allow for the heights proposed. The apartment blocks address the building line of the mostly two-storey dwellings further east along the Howth Road (i.e. from No. 788 onwards, although it is acknowledged that No. 788 itself is single-storey). In that regard, going from a two-storey dwelling to a three-storey 'shoulder height' block, is not wholly inappropriate, in my opinion. I would accept that removing one of the lower floors of the proposed blocks would result in a development that sticks more rigidly to the prevailing height along this road frontage, however, this would result in a loss of 14 dwelling units along this seafront site, I am not convinced that such a reduction is justified. Four levels of accommodation is not too much here. The Board will be aware of national, regional and local planning policy that seeks consolidation of built-up areas and provides for a more efficient use of serviced zoned land within designated development boundaries. That is what this development delivers.
- 7.2.7. Under PL 29N.232118 the Board refused permission for two apartment blocks on part of the site, specifically at No.784 Howth Road. That development proposed a four-storey apartment block along the road frontage, as well as a four-storey block to the rear of that site. The Board did cite height in its reason for refusal on that appeal. I do consider that the current proposal does materially differ from that previously refused scheme. The applicant has amalgamated four sites here and the two four-storey blocks adhere to the building line further to the north-east. The current proposal provides for a more integrated site solution, unlike that of PL 29N.232118 which proposed a four-storey block on a single narrow site standing alone and forward of a row of detached dwellings.
- 7.2.8. Likewise, with the previously refused 3747/07 on site Nos. 778, 780 and 784 Howth Road. That scheme proposed buildings up to 5 storeys and lacked the integrated design approach of the current proposal.
- 7.2.9. Section 16.7.2 'Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development' of the recently adopted Dublin City Development Plan 2016-2022 indicates that the maximum height for this 'outer city' area is 16 m. The contiguous elevations submitted by the applicant in response to the FI request indicate that the apartment blocks have a maximum height of 12.7 m, that is well within the CDP guidance. It should also be noted that the ground level rises across the site from the

road frontage towards the back of the site, the dwellings on the sites immediately adjacent to the southwest are located on higher ground to the rear of their sites.

7.2.10. Having regard to the forgoing, I would not recommend refusal in relation to height or scale, furthermore, I would not recommend the omission of floors to bring about the lowering of the height. Providing 68 dwelling units on an amalgamated site that currently accommodates just 4 dwellings, in an area well-served by amenities and with coastal frontage, represents a positive precedent providing for an evolutionary consolidation of this city location.

7.3. Density / Plot Ratio / Site Coverage

7.3.1. Some of the appeal submissions and observer submissions raise concerns about the related matters of the proposed density, site coverage and plot ratio. They consider these to be too high for this location.

7.3.2. The existing density, site coverage and plot ratio on the amalgamated site are all extremely low. This is a wasteful, inefficient use of serviced, residentially zoned land within the city boundary. It is particularly wasteful given this excellent seafront location with all the associated amenities. Furthermore, this site is well served by bus routes along the adjacent Regional Road and is c. 1.1 km to a DART Station.

7.3.3. The stated resultant plot ratio is 0.8:1, the CDP indicative plot ratio for this area is 0.5-2.0, so the proposal is comfortably within the CDP guidance (ref: section 16.5 of the Dublin City Development Plan 2016-2022). The stated resultant site coverage is 32.3% which is actually below the indicative site coverage which is given as 45%-60% (ref: section 16.6 of the Dublin City Development Plan 2016-2022). At 68 dwellings on a site of stated area of c. 0.87 ha, the resultant density is c. 78 d.u./ha. Section 5.8 of the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' recommends a *minimum* net density of 50 d.u./ha within public transport corridors.

7.3.4. The resultant density, plot ratio and site coverage do not, therefore, exceed local or national guidance on such matters.

7.3.5. The applicant has achieved these higher densities, plot ratio and site coverage without adversely impacting on neighbouring residential amenities, in my opinion.

7.4. Traffic impact and car parking provision

- 7.4.1. Many of the appellants and observers have raised concerns about the traffic impacts arising from the proposal. They comment that the Howth Road already suffers from significant traffic congestion, particularly at peak hours but also at the weekend with motorists using the road to access Howth. Concerns have also been raised that a.m. peak hour traffic will be forced to take a left turn on exiting the site and thereby generating 'rat running' along St. Margaret's Avenue to the rear of the site further compounding existing 'rat running' through the area. Concerns are also raised that right-turning traffic into the site would pose a traffic hazard. Some appellants hold that the car parking provision on site is insufficient.
- 7.4.2. The site is located along the R105 Howth Road. There are four vehicular entrances currently along the site frontage providing access to each of the four dwellings on the site. These are to be closed. A new vehicular entrance is to be located at the eastern end of the site. This will provide vehicular access to a lower level car park partially underground behind the apartment blocks, this lower level car park will accommodate 79 spaces as per the layout received by the p.a. on the 21/10/17. There will be surface car parking at the level above this, it will provide 32 car parking spaces. There will be a fire truck exit at the western end of the site frontage but this is for emergency use only. Bicycle stands are to be provided on site.
- 7.4.3. The application was accompanied by a 'Transportation Assessment/Access Study Report' as prepared for the applicant by NRB Consulting Engineers. That report finds that there are no traffic/transportation capacity, traffic safety or operational issues associated with the proposed development. I note there is an error in that report where it states that the speed limit for the site frontage is 50 kph, it is actually 60 kph. However, I do not consider that this alters the findings of the study, the SSD still meet the standards as laid down in Table 4.2 of the 'Design Manual for Urban Roads and Street'. The applicant's Transport Assessment applied a somewhat onerous, and therefore robust, rate of 1 car trip per dwelling unit during the weekday AM and PM peak hours, resulting in a total 2-way 68 car trips. The modelling applied indicates that the proposed access to the site will have way more than adequate capacity to accommodate the worst case traffic associated with the scheme.
- 7.4.4. There is a report on file from the 'Roads & Traffic Planning Division' of the p.a. (dated 06/07/16). That report has regard to, *inter alia*, the applicant's 'Transportation

Assessment/Access Study Report'. It concludes that the Division has no objection subject to a number of conditions, including a requirement to relocate the proposed vehicular gates further into the site to avoid queueing on the public road.

- 7.4.5. The Board will be aware that the 'Design Manual for Urban Roads and Street' has an order of priority as follows: pedestrians; cyclists, public transport, and then the private motor vehicle. This scheme, given its location, meets that order of priority, in my opinion. The site is well served by a good footpath network providing good connectivity to the immediate and wider area. Immediately across the road from the site there is a coastline cycle path that forms part of the Sutton to Sandycove Cycle Route. There are a number of bus routes using the Howth Road at this location providing transportation in and out of the city centre. There are bus stops on both in-bound and out-bound directions within walking distance of the site (the in-bound bus stop is immediately across the road from the site). The Kilbarrack Rail Station is c. 1.1 km from the site (c. 14-minute walk) while the Howth Junction Rail Station is c. 1.5 km walk (about a 19-minute walk). This transportation infrastructure i.e. footpaths, cycle routes, bus routes and train/DART services, will ensure that the occupants will have the option of sustainable modes of transport as alternatives to the private car.
- 7.4.6. The on-site car parking provision as per the layouts submitted to the p.a. on the 21/10/16 indicate a total of 111 numbered car parking spaces on the site. This is to serve a total of 68 units. This equates to 1.6 spaces per unit. While some appellants and observers hold that this is insufficient, it actually exceeds the CDP standards. For this Zone 3 area, car parking provision should be a *maximum* of 1.5 spaces per dwelling unit. In fact, the submission of the 21/10/16 indicates 79 numbered spaces on the lower site plan and 32 numbered spaces on the upper site plan given the total referred to above of 111 spaces, but in addition to these, there are 8 unnumbered visitor spaces along the eastern boundary of the site. While I have concerns about the number of car parking spaces being provided (too many as opposed to too few), I do not think it warrants refusal for this exceedance, in this instance.
- 7.4.7. The applicant submitted a response to the traffic issues raised by the appellants. That submission was prepared by NRB Consulting Engineers who prepared the original 'Transportation Assessment/Access Study Report' submitted at application

stage. That response holds that the trip generation will be actually lower than the original report, thus demonstrating its robustness. It referred to the fact that TRICS rate in relation to potential trip generation was not used as part of the original Transportation Assessment and a more onerous and robust rate of 1 car trip per dwelling unit was applied resulting in 68, 2-way car trips at AM and PM peak hour. However, the applicant's agent reiterates that the development is expected to generate significantly less trips than that, it is expected to generate c. 27 car movements. I would concur that applying 1 car trip per dwelling unit is onerous. This area is well served by alternative, attractive, sustainable modes of transport. Many arterial routes in and out of the city experience congestion, particularly at AM and PM peak. Reducing the density of development on the site, which is inside the city boundary, does not necessarily address the congestion. It can result in further suburban sprawl as the dwelling demand will have to be provided elsewhere. Creating new residential development in areas where there is little alternative but to use the car, increases traffic congestion, not reduces it. This application site, with its significantly increased density, has viable and attractive transportation alternatives to the private car. In any event, the applicant's Transportation Assessment would indicate that the AM and PM peak trip generation, in a worst case scenario, can be accommodated on the adjacent R105.

- 7.4.8. I would also note that there is somewhat of a planning traffic gain in that the four existing vehicular entrances along the site frontage are to be decommissioned and replaced with, effectively, one vehicular entrance.
- 7.4.9. In conclusion, the SSD at the proposed entrance complies with DMURS. The area is well served with a good footpath network, good cycle routes, good bus services and within walking distance of two rail stations. The on-site car parking provision exceeds the CDP *maximum* requirements. The projected private car trip generation is relatively low. I do not consider that the proposed development poses an unacceptable risk to motorist, pedestrian or cyclist safety. I would not therefore recommend refusal on the grounds of traffic or car parking issues.
- 7.5. Open Space Provision / Impact on trees / Impact on wildlife on site
- 7.5.1. Some concerns have been raised about the proposed on-site open space provision. It is held by some that it is inadequate. They note the p.a. condition no. 6 which

seeks a special financial contribution in lieu of public open space provision. It is stated that if the development was more respectful to the open nature of the character of the area, then there would be no problem allocating the open space provision on the site. Some have raised concerns about the loss of trees arising from the development and impacts on wildlife on the site. It is stated that no children's play area has been identified on the plans. It is also stated that no arborist's report was submitted. The loss of greenery arising from the development, and its impact on the area, were also raised as concerns.

- 7.5.2. In relation to impacts on trees, I am not aware of any Tree Preservation Order applying to the application site. There is no site specific objective in relation to trees on the site. Nevertheless, matters relating to *inter alia*: a tree and vegetation survey; landscape proposals; green frontage; communal open space provision, and bats and other wildlife habitats on the application site, were raised in Item 12 of the planning authority's request for further information and the applicant duly responded.
- 7.5.3. In relation to the statement on file that no children's play area has been identified, this is not the case. Item 12(c) and 12(g) of the planning authority's request for FI did raise this issue concerning a children's play area. In response, the applicant submitted a Landscape Masterplan by Murray & Associates, that indicates, *inter alia*, a play area to be located towards the centre of the site adjacent the apartment blocks (ref: Drg. No. 1679_PL_P_01).
- 7.5.4. In relation to a statement on file that no arborist's report was submitted, again this is not the case. In response to Item 12 of the FI request, the applicant did submit a report by 'Arborist Associates Ltd.' That report finds that of the 59 trees tagged on site, only one was 'Category A' (i.e. tree of high quality/value). The report goes on to state that all of the tree vegetation within the site area will need to be removed to facilitate the development. It is held that the loss of this tree vegetation from the site on the surrounding area is seen as minimal with the exception of the loss of the one Category A tree. I am satisfied that due consideration was given to the retention of this tree but it was not feasible. In the circumstances, particularly as no TPO or site specific objective pertains to trees on the site, it may be somewhat unreasonable to refuse permission in relation to this issue. The mitigations proposed, such as the planting of a mix of tree, shrub and hedge species using a range of plant sizes within the completed landscaped development, as indicated on file, appears reasonable. In

relation to the loss of greenery, it should be noted that the site is zoned for residential use, it is not zoned as open green space. In any event, the applicant is providing open green areas along the roadside frontage which will include ornamental tree planting as indicated in the Landscape Masterplan submitted in response to the FI request.

- 7.5.5. A bat assessment, as prepared by B. Keeley Wildlife Surveys, was submitted to the p.a. That assessment states that there is no evidence of bat usage of any of the buildings on site and major roost loss is ruled out for the site. The assessment went on to recommend mitigation and biodiversity enhancement. In the event of a grant of planning permission I would recommend that the proposed mitigation and biodiversity enhancement be applied by way of condition in the interests of clarity.
- 7.5.6. Regarding on-site public open space provision, I note that in the applicant's original 'Planning Report' it is stated that as the development fronts onto Dublin Bay and the Bull Island, and is also in close proximity to St. Ann's Park, it is considered unnecessary to provide additional public open space on the application site (ref: p. 12 of the 'Planning Report dated 16/03/16). I do not consider this an unreasonable observation, neither did the 'Parks & Landscape Services' division of the p.a. In its report of the 08/07/16, the Parks & Landscape Services stated that the location and site size is not suitable for the provision of public open space and there is adequate accessible open space provision in the locality, it went on to recommend a financial contribution in lieu of open space provision. A subsequent Parks & Landscape Services report (dated 07/10/16) recommended a financial contribution in lieu of open space and this was applied in the decision issued by the p.a.
- 7.5.7. The site is across the road from Bull Island, it includes, *inter alia*, Dollymount Beach, golf links and a nature reserve. The site is also close to St. Anne's Park which includes several sports grounds/facilities. In the circumstances, I do not consider the planning authority's approach of applying a financial contribution in lieu of on-site public open space provision unreasonable. This is provided for in the statutory CDP for the area (ref: section 16.3.3 'Public Open Space – All Development' in the Dublin City Development Plan 2016-2022). The applicant did not appeal the subject condition.

7.5.8. Having regard to the foregoing, subject to condition, I would not recommend refusal in relation to loss of trees, loss of greenery, impact on wildlife or on-site public open space provision.

7.6. Overlooking / Overshadowing / Access to daylight / Impact on Views

7.6.1. The occupant of the dwelling on the site immediately adjoining to the south-west, No. 776 Howth Road, has raised concerns about potential impact on his property arising from, *inter alia*, the following: loss of outlook; overlooking, access to sunlight/daylight and property devaluation. (Other main issues raised by this appellant are addressed elsewhere in this Assessment.)

7.6.2. In relation to outlook from the adjacent No. 776, the applicant's layout has allowed for a continued outlook from the 3rd party's eastern gable where there are a number of windows overlooking the application site. While the views from these windows will change, they are not protected views as per the statutory development plan, the 3rd party will now have views down the proposed road/street on the application site. The outlook from the front of the 3rd party's dwelling will be changed to the north-east, but impressive views out over Dublin Bay will remain largely unchanged. The appellant in No. 776 has listed specific locations in the proposed development that would, in his opinion, seriously overlook his dwelling. He lists various balconies and windows in proposed apartment block A that he considers problematic and he has also raised concerns about proposed house No. 1 adjacent his dwelling. The potential impact on adjacent No. 776 was the part-subject of the planning authority's FI request. Subsequent to that FI request the applicant did introduce a number of changes to the proposed apartment block A. These included removing certain windows, using obscure glazing at certain locations, re-orientating a window away from the appellant's property and installing 1.8 m high screens at certain locations on the upper floor balconies in the south-west side elevation. Having regard to the following: the changes introduced in the FI response (including, *inter alia*, increasing the separation distance between house 1 and the appellant's dwelling); the orientation of main windows in apartment block A relative to the appellant's house (i.e. not directly opposing windows, windows at an oblique angle to one another); the separation distances involved (c. 17.5 m from the appellant's front facade to the nearest point - not window - in proposed block A), and noting that none of the proposed windows in either house 1 or apartment block A provide direct overlooking

of the appellant's critical private open space to the rear of his dwelling, I am of the opinion that the proposed development will not adversely impact on No. 776 by way of overlooking. However, I have concerns about the balconies in the south-west elevation notwithstanding the addition of the screens at FI stage. The concern here relates to the proximity of these balconies to the shared boundary with No. 776, the balconies are c. 4.5 m to the shared boundary. While they add visual interest to the south-west elevation, I am concerned that they would impact on the development potential of No. 776 should a development be proposed on those lands in the future. Should the Board be disposed to a grant of permission I would recommend that the balconies and main habitable room windows be relocated to the front (south-east facing) façade only. The south-west side elevation can accommodate windows to ancillary accommodation such as kitchens, bathrooms, en-suites etc. but the balconies and windows to the lounge areas should be on the south-east facing façade. In relation to concerns raised by the appellant in relation to access to sunlight/daylight, given the separation distances involved and the location of the proposed development relative to the existing No. 776, and also having regard to the contents of the applicant's 'Shadow, Sunlight and Daylight Studies' (by Chris Shackleton Consulting) submitted to the planning authority in response to the FI request, I am of the opinion that the proposed development will not adversely impact on No. 776 by reason of access to daylight, sunlight or overshadowing.

7.6.3. The occupant of the dwelling on the site adjoining to the north-east, No. 786 Howth Road, has raised concerns about potential impact on his property arising from, *inter alia*, the following: overshadowing from the proposed terrace of housing, loss of sunlight in the morning and afternoon, and impact on the long front garden. (Other main issues raised by this appellant are addressed elsewhere in this Assessment.)

7.6.4. In response to the planning authority's FI request, the terrace of houses proposed at the rear of the site was amended. Proposed houses Nos. 15 and 16, which are closest to No. 786 Howth Road, were pulled forward on the site and the separation distance between No. 16 and the appellant's dwelling was increased. As with changes to proposed apartment block A referred to above, the applicant also introduced changes to windows and balconies in apartment block B following the planning authority's FI request. It should be noted that the north-east side elevation of apartment block B is a greater distance from its shared boundary with No. 786

than the south-west side elevation of apartment block A is with the shared boundary with No. 776 Howth Road. Given the changes introduced at FI stage and the separation distances involved, and also noting that the appellant's critical private open space to the rear of his dwelling is not overlooked, I am of the opinion that the proposed development will not adversely impact on the residential amenity of No. 786 Howth Road by way of undue overlooking/loss of privacy. Again, having regard to, *inter alia*, the contents of the applicant's 'Shadow, Sunlight and Daylight Studies' (by Chris Shackleton Consulting), which I consider to be robust, submitted to the planning authority in response to the FI request, I am of the opinion that the proposed development will not adversely impact on No. 786 by reason of access to daylight, sunlight or overshadowing.

7.6.5. In relation to the existing two-storey dwellings along St. Margaret's Avenue to the rear of the application site, I note that all proposed dwellings on the site have a back garden of minimum depth of 11 m and thus meet the normally applicable standards for such developments. The separation distances between the proposed dwellings and the existing dwellings on St. Margaret's Avenue range from c. 26 (minimum) to over 30 m in many cases. I am satisfied that the proposed development will not adversely impact on the existing dwellings to the rear of the application site. I again note that there are no protected views on, or across, the site.

7.7. Flood Risk

- 7.7.1. Some appellants make reference to two flooding events caused by heavy rainfall along this section of the Howth Road in the last c. 6 years. They comment that the applicant's flood report does not make reference to these events. They hold that the pluvial flooding events resulted in c. 1 m of water above the finished level of the public road in front of the site. Estimates from the third parties put the flood water level between 5.3 m OD and 5.7 m OD, they note the FFL of the proposed ground floor apartments is 5.25 m OD and that the proposed car park and proposed plant room are significantly below that level also. Some of the appeal submissions contain photographs of the flooding events on the Howth Road in the vicinity of the site.
- 7.7.2. The applicant did submit a 'Justification Test & Flood Risk Assessment' with the application as prepared by Eireng Consulting Engineers. The Flood Risk Assessment assessed potential flooding impacts arising from: tidal (the site is c. 20

m from the sea); fluvial (specifically in relation to proximity to the River Santry); pluvial; ground water, and human/mechanical errors. The residual flood risks for each potential source was assessed as 'medium' for human/mechanical error, 'medium to low' for pluvial, and low for all the other potential sources (ref: Table 9.1 of the 'Justification Test & Flood Risk Assessment'). The Flood Risk Assessment included a number of flood risk management/mitigation proposals. In its report of the 20/06/2016, the 'Engineering Department Drainage Division' of the planning authority indicated no objection to the proposed development subject to a number of conditions. One of the conditions sought the implementation of the applicant's flood mitigation measures as contained in the 'Justification Test & Flood Risk Assessment'.

7.7.3. I have significant concerns in relation to this issue.

7.7.4. The applicant's Flood Risk Assessment submitted with the application did not make specific reference to the pluvial flooding events on the Howth Road as referred to by the appellants. In the two responses to the grounds of appeal, the applicant's consulting engineers submit supplementary reports which include further mitigations in relation to flood impact. The Eireng report makes reference to the appellants' photographs referring to the pluvial 2011 flooding event. It acknowledges that there is no specific information in relation to the floodwater level but goes on to note that the photographs indicate that the flood level was below the top of the seawall adjacent the Howth Road and that the top of this wall has a level of 5.5 m OD. I would note that there is no way of knowing if the photograph relied upon actually represents the highest floodwater level. The Eireng report goes on to recommend further mitigations that were not previously proposed either in the original application or in the FI response. It is stated that the boundary wall around the site will be designed as a water retaining structure and that a Flood Management Plan be incorporated into the overall management regime of the development. As part of that Management Plan demountable flood barriers are proposed across the site entrances and across the top of the ramp to the basement car park. It is further stated that the top of this boundary wall will be c. 6.49 m OD. I draw the Board's attention to the road level given in that report. It is stated that the road level is c. 4.7 m OD, however, I note the FI drawings on file indicate that the road and footpath level at the entrance to the site is actually given as 4.61 m OD. Even if one was to

take the higher road level of 4.7 m OD, this would result in a boundary wall of c. 1.8 m height. The Landscape Masterplan submitted in response to the FI request indicates a boundary treatment consisting of a low wall with railings over, clearly not intended as a water retaining structure. The visual impact of such a high wall as a flood risk mitigation around the site is of concern, it would also set an undesirable precedent. In 'The Planning System and Flood Risk Management' (OPW / DoEHLG 2009) at section 5.15 it refers to the application of the criteria of the Justification Test in development management. That Justification Test requires, *inter alia*, that the development proposed addresses flood risk "in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes" (ref: Box 5.1 point 2(iv)). Constructing a c. 1.8 high wall around the site, particularly along the seafront side, is not a good urban design response and does not positively contribute to either a vibrant or active streetscape, in my opinion. But the visual impact is not the only concern here.

- 7.7.5. The success of this mitigation depends on someone placing the demountable barriers in place across the three entrances along the site frontage. In a residential development this may not be feasible. In the 'Technical Appendices' of 'The Planning System and Flood Risk Management', at section 4.5, it states that flood protection devices such as removable barriers should not be relied upon to mitigate flood risk and should be limited to infill development within existing urban areas that are at risk of flooding. It goes on to state that where flood risk mitigation measures are required following flood risk assessment and application of the Justification Test, permanent flood-mitigation measures should always be used. I would consider that demountable barriers, which are not permanent structures, are more appropriate to a retrofit scenario within an existing development rather than as a primary solution for a new-build residential scheme. The 'Technical Appendices' do refer to these demountable barriers as 'secondary defences' (ref: page 25).
- 7.7.6. Furthermore, the appellants' concerns focused solely on another pluvial flooding event at this location similar to that experienced in 2011. But if such a pluvial flooding event was to coincide with a tidal flooding event at this location, the flood impact could be significantly worse. Indeed, the Eireng report does allude to such a scenario when it states that the proposed new mitigations 'will protect the site in the

event of extreme weather events *and* high tidal events'. However, the likelihood and consequences of such combined events are not immediately clear from information on file, making a full assessment of the flood risk problematic.

7.7.7. There is also another significant concern in relation to potential impact on adjacent properties. If the site's boundary wall is now to be designed as a water retaining structure, it could result in floodwater displacement onto these adjoining developed residential lands. In 'The Planning System and Flood Risk Management' at section 5.15, as previously mentioned, it refers to the application of the criteria of the Justification Test in development management. That Justification Test requires, *inter alia*, that the proposal has been subject to an appropriate flood risk assessment that demonstrates that the development proposed will not increase flood risk elsewhere, I have concerns that this has not been so demonstrated. Sealing the application site could result in flood waters being displaced onto adjacent developed residential lands. Ground levels fall across the site from the rear boundary to the site frontage and also in a north-east direction. It is difficult to determine from the drawings on file what the FFL of the bungalow on the adjoining site to the north-east is (No. 786 Howth Road), but it would appear to be in and around 5 m O.D. I would also be concerned of the precedent such a response would set for similar sites in the immediate and wider area. The cumulative impact of such developments that could displace flood waters to other areas would need to be considered.

7.7.8. I also draw the Board's attention to an observer submission on file (by T. Broughan TD). He states that because of pluvial *and* tidal flooding risks at this location, the existing 4 dwellings on the site were set well back from the seafront. It is true that this row of dwellings, unlike those further north-east, are set well back from the seafront and are located on higher land (e.g. the ground floor FFL of existing No. 778 Howth Road is indicated as 6.9 m OD, some 1.65 m above the FFL of the proposed ground floor apartments). The flood risk, both pluvial and tidal, may well have been instrumental in the existing developed nature of the site and cannot be ignored. The Eireng report on file in response to the grounds of appeal refers to the appellants' flood photographs indicating 'flood waters along the Howth Road *outside* the site'. In that regard, I draw the Board's attention to the existing site section on file (ref: John O'Neill & Associates, drg. No. 2000 received by the p.a. on the 20/05/16) and the proposed site section (ref: John O'Neill & Associates, drg. No. 2004 received by the

p.a. on the 21/10/16), a comparison of existing and proposed ground levels across the site indicate that ground levels at the front, and back through the site, are to be lowered. Currently, the lowest level at the front of the site is 6.22 m O.D. but levels then rise from this low level further back into the site to a height of c. 7.03 m O.D. The applicant is to lower the ground levels at the front of the site to 5.1 m O.D. and this new lower level is to be continued back into the site for some 40 m. Then further deeper excavations are proposed to accommodate what is effectively a basement car park. The FFL of this car park is 4.05 m O.D. (and there is a plantroom/watertank proposed beneath that with a FFL of 1.35 m O.D. as indicated in the proposed cross section on file). The existing higher ground levels at the front of the site, and across the site, may have ensured the site didn't flood previously (if indeed it didn't). I am not convinced that significantly lowering the ground levels at the seafront side of the site to develop a residential scheme – a land use classed as 'highly vulnerable' in the OPW/DoEHLG guidelines - and then effectively 'tanking' the site to protect it from flood risk, is an appropriate design response. Lowering the ground levels at this location could be creating a flood risk where one may not have previously existed. In the 'Technical Appendices' of 'The Planning System and Flood Risk Management', at section 3.2, it states, *inter alia*, that "creating a sustainable urban structure is achieved by understanding of, and working with, existing topography". The applicant is not working with the topography, in my opinion.

7.7.9. In summary, the site is located in an area where there is a risk of both tidal and pluvial flooding. While the site appears not to have been subject of flooding itself, there is evidence on file that flooding events have taken place immediately in front of the site in recent times. The applicant is proposing to lower the ground levels on the seafront side of the site and create a 'highly vulnerable' development at this location. There are concerns that the act of lowering the ground levels at this location is creating a flood risk in itself. The mitigation measure proposed may not be feasible for such a new-build 'highly vulnerable' development. Even if the mitigation measure does protect the application site from flooding, there are then concerns that it will displace floodwaters onto neighbouring lands. Furthermore, constructing a c. 1.8 m wall along this seafront site is not good urban design and detracts from the visual amenity of the seafront. In the circumstances, I would advise the Board to adopt the

precautionary approach in this instance and refuse permission for the development proposed.

7.8. Other issues

- 7.8.1. I am satisfied that the proposed residential units broadly comply with the provisions of 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (DoEHLG 2009), including the associated 'Urban Design Manual' and 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (DoECLG 2015).
- 7.8.2. The layout of the 16 houses to the rear of the site as originally proposed allowed for external access to the rear garden of each houses thus allowing for, *inter alia*, appropriate bin storage for each unit. The layout following the FI request changed and individual external access to each back garden is no longer indicated on the site layout. In the event of a grant of planning permission the Board may wish to condition that the applicant agrees bin storage proposals for each house with the planning authority.

7.9. Appropriate Assessment

- 7.9.1. The application was accompanied by a Natura 2000 Screening Report as prepared by Downey Planning & Architecture Consultants. It identifies all SPA and SAC sites within 15 km of the application site. The 17 Natura 2000 sites identified were screened to identify those sites with a potential to experience a significant effect. Sites that have no potential links with the development were excluded from further assessment as not likely to be affected by the development. The screening assessment focused on the protected habitats proximate to the application site, these are: North Bull Island SPA; North Dublin Bay SAC; Howth Head SAC; Howth Head Coast SPA and Baldoyle Bay SAC and SPA. A description of these Natura 2000 sites is provided in the Screening Report and the Conservation Objectives are listed. The assessment finds that the proposed development will not have a significant effect on any SAC and SPA Natura 2000 site which have been identified in closest proximity to the application site.
- 7.9.2. One of the appellants states that the applicant's Natura 2000 Screening Report 'suggests' that the nearest Natura 2000 site is 15 km distance. The applicant's Screening Report does not suggest so, it clearly identifies the application site relative

to the closest Natura Sites in 'Fig. 2' of the Screening Report submitted and states, in section 2.4, that "the nearest Natura 2000 site is North Bull Island which is located on the opposite side of the Howth Road". Both the North Bull Island SPA and North Dublin Bay SAC overlap and share the same boundary at the coastline adjacent the application site. The appellant does refer to Blackbanks Stream and the Kilbarrack Stream in terms of a potential watercourse link between the application site and the Natura 2000 sites to the east. However, with reference to the map submitted by the appellant, neither watercourse traverses the application site prior to outfall into Dublin Bay. The Blackbanks Stream is indicated as being located some 90 m southwest of the site and the Kilbarrack Stream is indicated as being some 290 m northeast of the application site.

This is a proposal to redevelop an existing developed, residential site within the city boundary. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and proximity to the nearest European site, 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.

8.0 Recommendation

- 8.1. The development shows due deference to both building lines that exist at this location along the Howth Road. The proposed height is within the CDP limits for this outer city site. The development is within the CDP guidance governing plot ratio and site coverage. The increased density arising represents an efficient, sustainable use of serviced, residentially zoned land on this well-located seafront site. The area has a number of large open space amenity areas including St. Ann's Park, Bull Island and Dollymount Beach. The site is well-served with a good footpath network, it is across the road from a dedicated cycle route, it is within walking distance of in-bound and out-bound Dublin Bus Stops along this regional route and it is within walking distance of Kilbarrack Rail Station. The residential amenities of existing neighbouring dwellings will not be adversely impacted upon by reasons of overshadowing, access to sunlight/daylight or overlooking. The scheme does not impact on any protected views or vistas. The residential amenity of the proposed units broadly complies with national guidance for such development.

- 8.2. However, there are significant concerns relating to flood risk, both pluvial and tidal at this location. The mitigation measure proposed, consisting of a 1.8 m wall with demountable flood barriers, raises a number of concerns, both for the development on the application site itself and in relation to potential flood impacts arising on adjacent developed residential lands. The visual impact of such a mitigation measure is also of concern given this coastline location.
- 8.3. I therefore recommend refusal for one reason as indicated below.

9.0 Reasons and Considerations

It is considered that the construction of a c. 1.8 m high boundary wall, designed as a water retaining structure around the application site, as indicated in the applicant's response to the grounds of appeal received by the Board on the 17th day and the 24th day of January 2017, would adversely impact on the visual amenity of the area, would not be compatible with good urban design, and would not be compatible with the creation of a vibrant and active streetscape along this seafront. Furthermore, the Board considers that the proposal to substantially lower the ground levels at the seafront side of the site, and across the site, fails to work with the existing topography, and has increased flood risk at this location. The Board is not satisfied that this c. 1.8 m high wall and associated demountable barriers, constitute an appropriate or feasible flood risk mitigation measure for the residential development proposed. In addition, the Board is not satisfied that this flood risk mitigation measure, which is intended to protect the application site, would not increase flood risk to the neighbouring lands. The Board further considers that this mitigation measure would set an undesirable precedent for similar developments in the area. The proposed development would thus fail to comply with the provisions of 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' and the associated 'Technical Appendices' (as issued by the OPW and the Department of Environment, Heritage and Local Government in 2009). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Tom Rabbette
Senior Planning Inspector
9th March 2017