



An  
Bord  
Pleanála

## Inspector's Report 06F.247764

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<b>Development</b>	Demolition of house and construction of a replacement house and all associated works.
<b>Location</b>	Glenlion, Thormanby Road, Howth, Co. Dublin, D13 F380.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F16A/0261
<b>Applicant(s)</b>	Joe Sweeney.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Michael O' Neill
<b>Observer(s)</b>	Stella Dunphy (Hillwatch)
<b>Date of Site Inspection</b>	23 <sup>rd</sup> February 2017
<b>Inspector</b>	Deirdre MacGabhann.

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## 1.0 Site Location and Description

- 1.1. The appeal site lies to the south east of Howth summit, Howth Head, Co. Dublin. It is situated to the south of Thormanby Road, between the road and the sea. Access to the site is via a private lane that serves five dwellings, Glenlion Lodge, Glenlion Pines, Glenlion Cottage (the appeal site), Glenlion House and Glenlion Cliffs.
- 1.2. The appeal site comprises a small detached single storey dwelling, and land to the east and south of it. The property lies immediately north east of Glenlion House, a more substantial two storey stone property.
- 1.3. The appeal site falls from north to south towards the sea. To the north of the existing dwelling, and to the south of the appeal site, are a number of substantial mature trees. To the east of the site is a garage (serving the existing dwelling) and gated access to a parking area serving a property to the south east of the appeal site.
- 1.4. Cliff walk, a public footpath, runs along the coast and passes to the south of the site. Another footpath runs along the eastern boundary of the site to join Thormanby Road. From the east and west there are views of the appeal site and notably the mature trees on it, particularly to the south of the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing two-bedroom, detached single storey dwelling (47sqm) and the construction of a replacement two bedroom detached dwelling (107sqm), with associated landscaping, drainage and site works.
- 2.2. The proposed development will be sited c.24m east of the adjoining dwelling (Glenlion House) and will share its southern building line. The proposed dwelling has a flat roof, at split levels, over the living area, utility and bedroom accommodation. It is proposed that the building will be partly cut into the sloping site and the upper parapet level is below the ridge level of the adjoining two storey building and the existing garage to the north of it.
- 2.3. The south, east and west elevations of the development are finished substantially in glazing and a canopy extends to the front and sides of the building, to 1.5m from the face of the building.

2.4. In October 2016 the applicant submitted further information to the planning authority including the following:

- Natura Impact Assessment Screening Statement – Concludes that the proposed development will not have a significant effect on Natura 2000 sites which are located in the closest proximity to the proposed development site as (a) foul water will be treated by way of a new EPA compliant wastewater treatment system, (b) surface water will be treated by way of SuDS principles and soakaway and (c) all works will be carried out sensitively to as to ensure that there is no impact on any Natura 2000 sites in terms of noise, dust, vibration and general disturbance.
- Landscape and Visual Impact Assessment – Identifies views of the site from the adjoining public footpaths. Concludes that due to its location, scale and design, the development will give rise to no significant negative impact on the landscape or preserved views.
- Landscape Plan.
- Site suitability assessment and details of proposed wastewater treatment system (packaged wastewater treatment system and partially raised polishing filter). The site characterisation form refers to a property with three no. bedrooms (maximum 6 residents) and to the Ballywaltrim/Bray Group Water Scheme.
- Details of surface water drainage system (to comply with SuDS).
- Arboricultural Report – Identifies and assesses trees to be removed from the site and sets out means to protect remaining trees during construction.

### **3.0 Planning Authority Decision**

#### **Decision**

3.1. On the 23<sup>rd</sup> November 2016 the planning authority decided to grant permission for the development subject to 12 no. conditions. Most of these are standard. Site specific conditions include the following:

- No. 3 – Prior to occupation of the proposed dwelling, the existing dwelling shall be demolished.
- No. 7 – Best practice measures as set out in section 4.2 of the NIS Screening Report to be strictly adhered to.
- No. 8 – Landscape plan to be submitted to the planning authority for written agreement prior to commencement of development. All tree protection measures, set out in Tree Report, to be adhered to. Tree protection measures to be agreed with planning authority prior to commencement of development. Tree bond of €16,000 to be lodged.
- No. 10 – Requirements of Water Services Planning section to be adhered to (including submitting amended Site Characterisation Form and location of P/T and trial holes).
- No. 12 – Development charge.

### **Planning Authority Reports**

3.2. There are two reports by the Planning Officer on file:

- Report dated 29<sup>th</sup> July 2016 – States that the development is consistent with the zoning objective of the site, modest in scale and cut into the site. However, given its proximity to public footpaths, from which there are protected views, and sites of nature conservation interest, the report recommends that additional information is sought from the applicant including a Natura Impact Statement, information on the existing and proposed on site wastewater treatment system, means to dispose of surface water, landscape and visual impact assessment, tree survey and landscape plan for the site.
- Report dated 23<sup>rd</sup> November 2016 – This report refers to the further information submitted by the applicant, the subsequent technical reports received and the additional observations made. It comments as follows:
  - Impact on sites of nature conservation interest – Having regard to the conclusions of the applicants NIS Screening Statement, the separation of the site from Howth Head SAC (by cliff walk) and proposals in respect of tree protection, no adverse impacts on Natura 2000 sites are anticipated to arise and a full AA is not required.

- Existing septic tank and on site waste water treatment system – Refers to the proposed installation of a new EPA compliant wastewater treatment system and to errors in the Site Characterisation Form. Considers that the matter can be dealt with by condition.
- Surface water – Notes that soakaway designs do not correspond to drainage drawing. Recommend a condition to address the matter.
- Landscape and Visual Impact Assessment – Demonstrates that the development will not have an adverse impact on the landscape or protected views at this location.
- Tree survey – Proposal to remove 11 no. trees is acceptable.
- Landscape Plan – Difficult to read planting plan, recommend a condition to address the matter.
- Third party submission – No evidence to suggest that the existing dwelling was an ancillary structure. Site location plan indicates that the existing dwelling is in separate ownership from the adjoining dwelling. Replacement dwelling would not therefore breach density controls in the SAAO. Siting of existing dwelling results in dis-amenity to both occupiers and the proposed development improves the situation. Exempted development rights do not apply in SAAO, planning permission would be required therefore for any future extension.

3.3. In conclusion, the report considers that the development would not detract from the visual amenity of the area or from the amenity of the adjoining property. It recommends that permission be granted for the development subject to conditions.

#### **Other Technical Reports**

3.4. On file are the following technical reports:

- Transportation Planning (5<sup>th</sup> July 2016 and 2<sup>nd</sup> November 2016) – No objections.
- Water Services (5<sup>th</sup> July 2016) – Recommends further information in respect of the existing on site wastewater treatment system.

- Water Services (7<sup>th</sup> November 2016) – No objection subject to conditions in respect of foul sewer and surface water.
- Parks Planning (25<sup>th</sup> July 2016) – Require a tree survey and landscape plan.
- Parks Planning (9<sup>th</sup> November 2016) – Removal of 11 trees is acceptable. Not possible to read planting schedule text associated with drawing. Recommend conditions to be attached to any permission granted.
- Irish Water (7<sup>th</sup> July 2016 and 4<sup>th</sup> November 2016) – No objections.
- Heritage Officer (15<sup>th</sup> November 2016) – Development will not have any adverse impact on Natura 2000 sites, alone or in combination with other plans and projects, provided that it meets the requirements of the Fingal County Development Plan in relation to the management of surface water and foul drainage and demolition works meet best practice standards in relation to noise, dust and vibration. A full AA is therefore not required.

### **Prescribed Bodies**

- 3.5. An observation from the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (15<sup>th</sup> July 2016) states that having regard to the location of the development on the boundary with the Howth Head SAC (site code 0000202) insufficient information has been presented to allay concerns regarding the impact of the development on vegetated sea cliffs, the cumulative and/or ‘in combination impacts’ of the development with other similar development and the impact of the proposed drainage arrangements on the existing hydrology of the area and the designated site. The Department state that the development needs to be screened for AA.

### **Third Party Observations**

- 3.6. The following observations were made in respect of the proposed development:
- Stella Dunphy, on behalf of Hillwatch – Impact of development, which relocates house to southern part of site, on views from footpaths in the Howth SAAO and conflict with policy LC04 of Fingal County Development Plan (impact on highly sensitive area). Argue that the development moves the

proposed house too far south to cliff path where there is no building.  
Development should be located at the northern end of the site.

- O'Neil Town Planning – Inadequate information regarding foul and surface water drainage.

3.7. Subsequent to the submission of further information, the following additional observations were made O'Neil Town Planning:

- Incorrect information in site characterisation. Questions, therefore, the findings of the report.
- Absence of information on how foul and surface water from the existing property/main house is dealt.
- Existing dwelling was never a permanent residence, but ancillary to the main house.
- To convert an ancillary structure into a separate permanent residence on a site of 0.38ha would breach density controls of the Howth SAAO and materially contravene the County Development Plan for the area.
- A similar residential development close to Howth summit was refused by the Board under PL06F.244329/PA Ref. F14A/0425 on the grounds that the development, in the Howth SAAO, breached density controls.
- Size of the house could be dramatically increased in years to come.

## 4.0 Planning History

4.1. There is no recent planning history in respect of the appeal site.

## 5.0 Policy Context

### Development Plan

5.1. The appeal site falls within the administrative area of the Fingal County Development Plan 2017-2023. The Plan became effective on the 16<sup>th</sup> March 2017. There has been no substantial change in the policies that affect the appeal site (described



below). However, in order to follow the arguments raised by the appellant, copies of policies from the current plan and the previous plan are attached for information.

- 5.2. The appeal site lies within a Coastal Landscape Character Type and on the prominent headland of Howth, which is also the subject of a Special Amenity Area Order (1999). The site is zoned RS which seeks to '*provide for residential development and protect and improve residential amenity*'. Policies of the plan provide for residential development at a density of 1 dwelling per hectare in the vicinity of the site and to protect and preserve trees, woodlands and hedgerows on the site. Land immediately south of the appeal site falls within the zoning HA, which seeks to '*protect and enhance high amenity areas*'. Views from the footpath to the south and east of the site are identified as protected views.
- 5.3. The Coastal Landscape Character Type is considered to be highly sensitive to development (Table LC01) and the plan sets out principles to guide development in such areas and landscape character assessment policy objectives NH33-NH39 (see attachments). Essentially the objectives seek to preserve the uniqueness of landscape character type and ensure that development reflects and reinforces this character.
- 5.4. Identified views and prospects are afforded protection under objective NH40 of the Plan. Special Amenity Areas, including the Howth Special Amenity Area, are afforded protection under policy objectives NH44 in accordance with the relevant Order.

#### **Howth SAAO, 1999**

- 5.5. The appeal site falls within a defined '*Residential area within the Special Amenity Area*' (see Map A of Order). Further, the following features are identified for protection in the vicinity of the site (Map B of the Order):
- Footpaths to the south and east of the site,
  - Mature trees in gardens, to the north and south of the proposed dwelling,
  - A proposed natural heritage area to the south and east of cliff walk.
  - Heathland and maritime grassland, south east of cliff walk.

- 5.6. Schedule 1 of the Order sets out a number of objectives for the enhancement of the Special Amenity Area. Objective 1.1 includes to manage the area in order to conserve its natural and cultural assets and protect the amenity of local residents.
- 5.7. Schedule 2 of the Order sets out objectives for the preservation of the character or special features of the area, these include, to preserve views from public footpaths and roads (Objective 2.1), to preserve woodland (Objective 2.5) and to preserve the wooded character of existing residential areas (Objective 2.6).
- 5.8. Schedule 3 of the Order sets out objectives in respect of development in residential areas, as defined in Map A. These include to protect residential amenity, to protect and enhance the attractive and distinctive landscape character of the areas and to ensure that development does not reduce the landscape and environmental quality of adjacent natural, semi-natural and open areas.

### **Natural Heritage Designations**

- 5.9. Natura 2000 sites are afforded protection under policy objective BD12 of the Fingal County Development Plan. Natura 2000 sites which lie in the vicinity of the appeal site are shown in the attachments and include:
- Howth Head SAC (site code 000202), lies immediately south of cliff walk, south of the appeal site.
  - Howth Head Coast SPA (site code 004113), lies c. 400m to the east of the appeal site.
  - Rockabill to Dalkey Island SAC (site code 003000), c.100m to the south of the appeal site.

## **6.0 The Appeal**

### **Grounds of Appeal**

- 6.1. There is one third party appeal in respect of the planning authority's decision to grant permission:
- Density

- The application is reliant on the existence of a permanent independent dwelling for which there is no supporting information (existing dwelling was probably ancillary accommodation to the main house). Failure by the planning authority to require proof that the structure was a permanent dwelling would set an inappropriate precedent.
- The development is in conflict with the zoning, density controls and regulations of the Howth SAAO (one dwelling per hectare) and Fingal County Development Plan 2011-2017. The site has an area of 0.36ha. Development would materially contravene this development objective of the SAAO and County Development Plan.
- Board is confined by the restrictions set out in section 37(2)(b) of the Planning and Development Act 2000, as amended. Applicant has not got the appropriate hectare to develop a house on the site.
- Loss of trees - The development is in conflict with a specific objectives of the Fingal County Development Plan 2011-2017 to 'protect and preserve trees, woodlands and hedgerows'. The development requires the removal of a number of trees, many not mentioned in the tree survey.
- Protected Views - The proposed development would interfere with and compromise protected views and prospects in the immediate area (from Thormanby Road, the cliff walk, right of way to the east of the site). No photomontages from right of way along eastern boundary of the site.
- Disposal of Wastewater/surface water
  - No information was submitted to allay the planning authority's concerns regarding foul and surface water drainage (in particular incorrect site indicated in additional information submission). Conditions imposed by planning authority are contrary to the government's Development Management guidelines.
  - Existing dwelling served by septic tank for Glenlion house. No information on location and suitability of the existing septic tank/treatment plant and to properly distinguish this from the proposed treatment plant and percolation area.

- Development would contravene zoning objectives of County Development Plan and Howth SAAO (five houses in overall site, c.1.45ha), concentration of septic tanks and percolation areas giving rise to a possible health hazard and establish an inappropriate precedent.
- Impact on Natura 2000 sites - Department of Arts, Heritage and the Gaeltacht raised concerns in relation to impact on Howth Head SAC. Heritage Officer was of the view that the development would not adversely impact on Natura 2000 sites subject to meeting requirements of Fingal County Development Plan. No information submitted to allay the concerns of the Department or Heritage Officer.
- Rights of way - Site is affected by a vehicular right of way through the site to the car parking space to serve Glenlion Cottage.
- Impact on landscape character
  - To allow a very small house on the small site would lead to a reduction in the residential amenity of the area (change in character and pattern of development in the area) and devalue properties in the area.
  - Development fails to comply with many of the Landscape Character Assessment Objectives of the County Development Plan and policies and objectives of the Howth SAAO.

### **Applicant Response**

6.2. The applicant responds to the appeal as follows:

- Validity of the appeal – The appellant is removed from the proposed development (north side of Howth peninsula) and the appeal is vexatious.
- Conflict with zoning and density controls
  - The proposed development is consistent with the zoning objective for the site, and comprises the replacement of an existing dwelling with another of high architectural quality and design and will promote the objective of the zone, to protect and improve residential amenity.

- The established practice is that the density cap set out in the county development plan is not relevant to replacement dwellings as density has already been established. On page 8 the applicant lists permissions granted in the vicinity of the appeal site for replacement dwellings on sites of less than 1ha but where the density cap of 1 dwelling per ha applies. It includes planning permission granted under PA Ref. F08A/0230 for a replacement dwelling where the original dwelling was in close proximity to another dwelling.
- F14A/0425, PL06F.244329 refers to an application for a new house and is not relevant.
- The five houses comprising Glenlion Lodge, Glenlion Pines, Glenlion Cliffs, Glenlion Cottage (appeal site) and Glenlion House in the vicinity of the appeal site are in separate ownership and existed prior to the enactment of the Howth SAAO 1999 and concurrent development plan.
- Glenlion Cottage is not akin to an outbuilding. It dates back to 1950s, has an eircode, is registered for property tax and has mains water supply. Glenlion House, adjacent to the site, has been vacant for the last 11 years. Glenlion Cottage has been occupied prior to and during this period. The dwelling on the appeal site comprises a habitable house (Section 2(1) Planning and Development Act, 2000, as amended).
- Glenlion Lodge, adjacent to Thormanby Road, comprises a house of 78sqm on a site of 328sqm, is similar to the appeal site, and demonstrates the variety of houses and site sizes in the area.
- Tree loss – Objective BD27 of the County Development Plan corresponds with Map B in the Howth SAAO, 1999. Map B shows groups of mature trees to be protected, including the large mature pine trees close to the boundary of the site with Cliff Walk and trees on the north side of the site. The replacement house has been sited to minimise tree loss in particular those which contribute to the amenity value and biodiversity of the area. Demolition of the existing house will allow new tree planting to complement the groups of trees on the north end of the appeal site. The tree survey identifies 11 no.

trees to be removed, which are either poor quality, dead/dying or dangerous or of moderate quality. Only two trees are to be removed from the cluster of trees at the southern end of the site.

- Impact on views from rights of way – Section 6.0 of the appeal shows existing views from the public footpath which abuts the eastern boundary of the site. A photomontage from this walkway would be futile given the vegetation. The Visual Impact Assessment examined viewpoints on Cliff Walk from where the replacement house could be seen.
- Natura 2000 sites – The boundary of Howth Head SAC extends to the southern side of cliff walk. The site is located c.600m to the west of Howth Head Coast SPA.
- Disposal of wastewater – The irregularities in the form were typos (revised form enclosed).
- Concentration of septic tanks – The proposed development will replace an existing house and provide an EPA compliant wastewater treatment system and raised soil polishing filter. How foul water is treated for other dwellings in the area is outside of the control of the applicant. A current application for the refurbishment of Glenlion Lodge (F16B/0226) includes replacement of a septic tank, which also serves Glenlion Pines with a new wastewater treatment system.
- Rights of way – The proposed development will not affect the access to or parking area serving Glenlion Cliffs, to the south east of the appeal. The driveway from Thormanby Road is contained in the title for Glenlion House, with a registered right of way allowing access to each of the other four properties. The parking area for the property lies outside the red line boundary of the appeal site.

### **Planning Authority Response**

- 6.3. The planning authority note the points made by the appellant but consider that these were addressed in the Planning Officer's report. No additional or new comments are made.

## **Observations**

- 6.4. There is one observation on file, from Stella Dunphy, on behalf of Hillwatch. It refers to the previous objection made in respect of the development and, in addition, states that they object to the siting of the proposed development (not the replacement dwelling itself) which will damage the local environment.

## **Further Responses**

- 6.5. The applicant's response to the appeal was circulated to the appellant and the planning authority. No additional comments were made by the planning authority.

The appellant makes the following additional remarks:

- The appeal is not vexatious. It is made by a member of the public and is based on detailed planning issues, having regard to the property planning and development of the area. It includes concerns expressed in the SAAO document by the Chief Medical Officer regarding the suitability of lands to support septic tanks.
- The underlying objective of the Howth SAAO (zoning and density controls) is to provide single houses on large sites to ensure openness of lands, trees, landscaping, protection of views and prospects etc. The proposed development is inconsistent with this.
- The applicant has provided insufficient evidence of the claim that the house is a permanent dwelling. It is a chalet structure which is part of Glenlion House. The property is properly referred to as 'The Chalet' as evidenced in details of the property when on sale in 2007 (attached to submission). Glenlion Cottage, on the cliffs, lies to the south east of the site.
- A large portion of the site lies outside of the residentially zoned part of the lands. HA zoned lands would be close to 2 acres.
- The applicant cannot decide what part of the overall site the objectives of the County Development Plan refer to (preservation of trees).
- The photomontages do not show the impact of tree removal.
- The applicant would need to know the location of the existing septic tank in order to plan the location of the proposed wastewater treatment system.

- The site, which includes the cliff and beach to the low water tide, is in an area attached to an SAC and SPA, where feeding and roosting take place. In a marine environment to suggest an SAC or SPA has strict map boundaries would be to ignore the movement and habits of the protected flora and fauna.

## 7.0 **Assessment**

7.1. Having regard to the information on file, policies of the Fingal County Development Plan 2017 - 2023 and my inspection of the appeal site, it is my view that the key issues for this appeal relate to the following matters:

- Nature of the appeal.
- Principle of development/density.
- Loss of trees.
- Impact on protected views, landscape character and residential amenity.
- Disposal of wastewater/surface water.
- Impact on Natura 2000 sites.
- Rights of way.

### **Nature of the Appeal**

7.2. As stated in the appellant's submission to the Board (20<sup>th</sup> February 2017), the appeal is brought forward by a member of the public who lives and works in Howth. Whilst it is evident that the appellant does not live in close proximity to the site, as a member of the public who has an evident interest in the environment of Howth, he is entitled to make an appeal to the Board. Further, the issues raised in the appeal relate matters relate to the proper planning and development of the site. I do not consider the appeal, therefore, to be vexatious.

### **Principle of Development/Density**

7.3. The appeal site lies on land zoned RS, in the current Final County Development Plan, to provide for residential development and protect and improve residential amenity. Specific objectives include to provide for residential development at a density of 1 dwelling per hectare.



- 7.4. The proposed development comes forward on a site of 0.38ha, but on part of a larger overall landholding that extends to the shore. The proposed development is brought forward as a replacement dwelling and entails the demolition of the existing residential property to the north east of Glenlion House.
- 7.5. The applicant argues that the dwelling, dating back to the 1950s, is a habitable house, in separate ownership from Glenlion House, with a mains water supply, eircode and subject to property tax. I also noted, at the time of site inspection, oil tanks adjacent to the property and a meter panel to the left of the front door. However, I do note the appellant's submission regarding the sale of the Glenlion House in 2007, where the existing house was included in the landholding and described as 'an adjacent chalet'.
- 7.6. I would infer from the above, that the existing house on the appeal site was originally associated with the larger Glenlion House property. However, I would also accept that it is currently in separate ownership.
- 7.7. Parties to the appeal refer to similar cases in the Howth SAAO, notably, PA Ref. 14A/0425, PL06F.244329 by the appellant and FA08A/0230 by the applicant. I note that PL06F.244329 refers to a new property and I do not consider that it is of relevance, therefore, to this appeal.
- 7.8. With regard to F08A/0230, this relates to an application for the extension of an existing property, in close proximity to a larger property (on the same overall landholding), on a site of 0.177ha at 'Danesford', Carrickbrack Road, Howth, in an area where the density restriction of one dwelling per ha applied. The planning officer's report in respect of the dwelling states that the separation of the house from the main house and the presence of a kitchen would suggest an independent dwelling unit, consequently, the replacement of the unit was considered to be acceptable.
- 7.9. My understanding of the density restrictions set out in the Howth SAAO (and Fingal County Development Plan 2017-2023) is that, they come forward under objectives for the prevention and limitation of development (Map A), i.e. to protect residential amenity and protect the distinctive landscape character of the area.
- 7.10. The existing dwelling on the appeal site lies in close proximity to the larger Glenlion property and I would accept that the residential amenity of both properties, but

particularly the smaller property, is affected by this proximity. Movement of the property on the appeal site away from Glenlion House would improve the amenity of the property on the appeal site, however, it would extend development into the undeveloped area of the site. The consequential impact of the development on landscape character is discussed further below.

- 7.11. Whilst I am mindful of the applicant's statement that the property is and has been occupied over a period when Glenlion House has remained occupied, and there is some evidence that it functions as a separate dwelling unit (as referred to above) I note that the drawings of the building submitted by the applicant whilst indicating a kitchen do not show any bathroom or toilet facilities in the property and it is not clear, therefore, how it could function as a standalone residential property. In this context, and mindful of the particularly protectionist policies in respect of the special amenity area, I would consider that the development conflicts with the density restrictions of the Howth SAAO and Fingal County Development Plan, in that on the basis of the information submitted by the applicant, it would comprise a new residential unit.

### **Loss of Trees**

- 7.12. The applicant's survey of trees on the appeal site identifies 11 no. trees to be removed. The trees are a mix of Austrian Pine, Monterey Pine, Myrtle, Box, Cider Gum and Laburnum and range in height from 2.5m to 15m,
- 7.13. Map B of the Howth SAAO identifies groups of mature trees on the appeal site, towards its southern boundary and to the north of the site, as natural or semi-natural features to be protected. The County Development Plan similarly affords protection to trees, woodland and hedgerows in the vicinity of the appeal site, but is not sufficiently detailed to identify particular tree groups on the site for protection.
- 7.14. I note that most of the trees to be removed as a consequence of the proposed development are situated towards the centre of the appeal site, outside of the groups identified in Map B, and that most trees are poor quality (Category C trees). However, as discussed below, the mature trees on the appeal site make a significant contribution to the landscape character of the area, in particular when viewed from the coastal path to the west and of the site (see photographs 15 to 17 and applicant's view 17). Therefore, whilst I acknowledge that the planning authority's Parks Planning service has no objections to the removal of the trees, I am concerned

at the visual effect of the removal of the taller trees on the prominent site has not been adequately explored.

### **Impact on Protected Views, Landscape Character and Residential Amenity**

- 7.15. Map A of the Howth SAAO identifies footpaths X-F, E-F and G-F in close proximity to the appeal site. The impact of the development in views from these footpaths is assessed in the applicant's Landscape and Visual Impact Assessment.
- 7.16. Footpath X-F runs along the eastern side of the appeal site. This narrow path has dense vegetation along most of its length and, in the vicinity of the appeal site, is below the level of the adjoining ground. There are therefore very limited views of the appeal site from this path (photographs 3 and 4 and the applicant's View 04). From the footpath E-F, again the footpath is narrow and vegetation is substantial. Most views are naturally towards the sea. However, it is possible to glimpse directly into the appeal site from one location (applicant's View 03) which extends over a very short length of the path. However, when walking towards the site from the west there are good views of the tall trees on the appeal site which form a distinct group on the promontory. Along footpath F-G, vegetation is dominant and the footpath falls away from the site and then rises again. No direct views into the appeal site are possible, but again the mature trees on the site are very evident and contribute significantly to landscape character in the area of the site.
- 7.17. Having regard to these observations, the nature of the proposed development, I would accept the findings of the applicant's Landscape and Visual Impact Assessment, in respect of the proposed dwelling i.e. that it would not be overly visible from the footpaths in the vicinity of the site.
- 7.18. However, I am concerned that the visual effect of tree removal has not been included in the Landscape and Visual Impact Assessment, and that the removal of some of the larger trees on site (e.g. nos. 14, 22, 23, 24 and 29 which range from 11m to 15m) may significantly detract from the landscape character of the small promontory on which the site lies and views from public footpaths in the vicinity of the site, in conflict with policies of the Howth SAAO and County Development Plan.
- 7.19. The proposed development introduces a dwelling to an area of the overall landholding and appeal site which is undeveloped. Whilst this risks eroding the open and generally undeveloped character of the site, the proposed dwelling is very

modest in scale and form, is cut into the site and utilises 'light' materials. I would accept therefore that, if accompanied with the demolition of the existing structure, it would add little to the built character of the site or detract from residential amenity. Further, any potential extension to the property would be subject to planning approval.

### **Disposal of Wastewater/Surface Water**

- 7.20. The applicant's Site Characterisation Form sets out proposals for a 3-bedroom property, with a maximum number of 6 residents (section 1.0 and section 6.0). Further, it refers to the Ballywaltrim/Bray, public/group water scheme. In response to the appeal, the applicant submits a revised Site Characterisation Form showing a 2-bedroom property with a maximum of 4 residents in section 1.0 and connection to the Howth public/group water scheme. However, in section 6.0 it indicates a maximum PE of 6 (proposed capacity of secondary treatment system). Whilst I would accept that references to the size of the property and Bray water scheme were typographical errors, the sizing of the proposed secondary treatment system remains a little unclear.
- 7.21. The Site Characterisation Form demonstrates that the site is not suitable for a conventional septic tank but that it could accommodate secondary treatment system with polishing filter. The methodology and conclusions of the site assessment would seem reasonable and consistent with the observed site characteristics and soils present on site. No information is provided on the location of the existing septic tank which serves Glenlion House (and possibly the existing dwelling e.g. wastewater arising from kitchen) and any adjoining percolation area so it is not possible to establish the relative positioning of the existing and proposed system. This approach taken is at odds with the EPA's code of practice in respect of wastewater treatment and disposal systems for single houses which indicates that the applicant should consider the presence of existing percolation areas and the possibility of high nutrient loading. If the Board were minded to grant permission for the proposed development, I consider that this matter should be addressed.

### **Impact on Natura 2000 Sites**

- 7.22. The appeal site lies in proximity to three Natura 2000 sites, Howth Head SAC, Howth Head Coast SPA and Rockabill to Dalkey Island SAC. The closest site is Howth

Head SAC which lies immediately south of cliff walk. Rockabill to Dalkey Island SAC lies slightly further south and Howth Head Coast SPA c.500m east of the appeal site. Conservation objectives for the two of the three sites are set out in the applicants NIS Screening Statement Report. For Howth Head SAC conservation objectives relate to habitats listed on Annex I/II of the Directive, vegetation sea cliffs and dry heaths and for Rockabill to Dalkey Island SAC they relate to reef habitat and Harbour Porpoise. I note that the NPWS site conservation objectives for Howth Head Coast SPA relate to the conservation of the bird species Kittiwake.

- 7.23. The applicant's NIS Screening Report describes the work practices to be adhered to as part of the proposed development, which will be included in a Works Management Plan, best practice guidelines to be adhered to and pollution prevention measures, to minimise environmental pollution arising as a consequence of the development.
- 7.24. The NIS Screening Report considers that the proposed development will not have a significant effect on either Howth Head SAC or Rockabill to Dalkey SAC, having regard to the proposed means to carry out works such that no disturbance arises by way of noise, dust, vibration or general disturbance and treatment of foul water by way of a new EPA compliant wastewater treatment system and disposal of surface water by way of SuDS principles and soakaway.
- 7.25. Having regard to the conservation interests of Howth Head SAC and Rockabill to Dalkey SAC, the location of the proposed development outside of any Natura 2000 site, the proposed construction methodology and means to treat wastewater and surface water (subject to clarification on the location of the existing septic tank at Glenlion House), I would accept the conclusions drawn in the NIS Screening Report.
- 7.26. With regard to Howth Head Coastal SPA, the NIS Screening Report considers that there is no link between the appeal site and the conservation interest of the SPA. Having regard to the modest nature of the proposed development, the methodology of construction and means to dispose of wastewater and surface water. I would also concur with this conclusion.

### **Rights of Way**

- 7.27. The appellant argues that the appeal site is affected by a right of way through the site to the car parking space to serve Glenlion Cottage (referred to by the appellants as Glenlion Cliffs). Whilst I note that there is an existing right of way to the parking

area lying to the east of the appeal site, no development is proposed which affects this right of way.

## **8.0 Recommendation**

8.1. Having regard to the matters discussed above, I consider that the applicant has failed to demonstrate (a) that the existing property on the appeal site is an independent dwelling unit, (b) the nature and location of the existing septic tank which serves the existing dwelling on the site, and (c) the impact of the proposed removal of mature trees on landscape character of the area and protected views. In view of this, the sensitive coastal environment in which the development is sited and the protective policies of the Howth SAAO and current development plan for the area, I recommend that planning permission for the proposed development be refused on the grounds of (a) and (c) above. I consider that the matter of the existing septic tank is not, of itself, a substantial reason for refusal.

## **9.0 Reasons and Considerations**

The proposed development is situated within the Howth Special Amenity Area Order. Policies of the Order and the Fingal County Development Plan 2017-2023 restrict residential development in the area of the appeal site to a density of one dwelling per hectare and provide for the protection of the sensitive, coastal landscape character type and views to be had from defined footpaths. The Board is not satisfied, on the basis of the information which is on file, that the existing property on the appeal site is an independent dwelling unit or that the removal of mature trees will not detract from the landscape character of the area or protected views. The proposed development would, therefore, contravene the policies and objectives of the Howth Special Amenity Area Order and the county development plan and be contrary to the proper planning and sustainable development of the area.

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Deirdre MacGabhann  
Planning Inspector

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22<sup>nd</sup> March 2017