



An
Bord
Pleanála

Inspector's Report PL06F.248584.

Development	Demolition of dwelling and construction of 82 no. residential units, a childcare facility and all associated site works.
Location	Chapel Road and Kinsealy Lane, Malahide, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F16A/0511.
Applicant(s)	O'Flynn Construction Co. Limited.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	1. Niall Melvin. 2. Barbara and Killian Nolan
Observer(s)	None.
Date of Site Inspection	24 th August 2017.
Inspector	Karen Kenny.

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1.0 Site Location and Description

- 1.1.1. The site is located in Kinsealy, a rural village located approximately 6 kilometres south east of Swords, 3.5 kilometres south west of Malahide and 3 kilometres west of Portmarnock.
- 1.1.2. The site fronts onto the southern edge of Chapel Road east of the junction of Chapel Road and the Malahide Road (R107). Strips of land along Kinsealy Lane and Chapel Road to the north and at the junction of Chapel Road and Malahide Road to the east are also included within the red line boundary of the site.
- 1.1.3. The site, with a stated area of 3.65 hectares is an open grass field with an unoccupied dwelling on its western end. Site boundaries include mature trees along the southern boundary, along the western section of the northern boundary and around the existing dwelling. The eastern section of the northern boundary is open with a post and wire fence. The eastern boundary is defined by a managed hedgerow. The site levels fall from south – west to north east, with a drop of almost 9 metres across the full extent of the site. There are overhead lines traversing the site, a pylon adjacent to the northern boundary and a dry drain running east-west close to the southern boundary.
- 1.1.4. The site is located c. 75 metres east of the village core and is bounded by Chapel Road to the north, by three detached dwellings to the east, by the former Teagasc Kinsealy Centre to the south and an agricultural field to the west. The recent housing developments of Cooper's Wood and Abbey Well front the opposite side of Chapel Road.
- 1.1.5. There are three protected structures in the vicinity of the site. Kinsealy House is located to the east of the site. The Church of St. Nicholas of Myra is located west of the site at the junction of the Malahide Road and Chapel Lane. The ruins of the medieval Church of St. Nicholas and an associated graveyard are located to the north east of the site.

2.0 Proposed Development

2.1.1. The proposed development as amended on foot of further information would comprise of the demolition of an existing detached dwelling and the construction of a residential development of 82 no. dwellings (12 no. 4-bed houses, 54 no. 3-bed houses, 14 no. 2-bed houses, and 2 no. 1-bed house) and a childcare facility. The proposed development includes the following:

- 3 no. vehicular access points from Chapel Road, one located at the eastern end of the site, one at the western end and one located centrally opposite the junction of Chapel Road and Kinsealy Lane.
- A north-south 'spine road' extending south from the junction of Chapel Road / Kinsealy Lane to the southern site boundary (Teagasc Lands).
- 3 no. public open spaces including 2 no. play areas.
- Cycle path, footpath and grass verge along Chapel Road.
- Water services upgrades including provision of a surface water drain on Chapel Road and Kinsealy Lane, partial replacement of an existing foul sewer on Chapel Road and Kinsealy Lane and diversion of existing foul sewer.
- Hard and soft landscaping and associated works.

2.2. **The application was accompanied by the following reports:** Planning and Environmental Report; Archaeological Impact Assessment; Conservation Impact Statement; Noise Impact Assessment Report; Civil and Structural Engineering Report; Outline Construction, Demolition and Waste Management Plan; Preliminary Tree Survey and Report; Ecological Appraisal Report; Landscape Design Rationale Report; Appropriate Assessment Screening Report; Lighting Layout Design.

2.3. **Further Information was accompanied by the following reports:** Civil and Structural Engineering Report; Landscape Design Rationale Report; Asbestos Pre-Demolition Survey; Shadow Analysis.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 33 no. conditions. The following conditions are of note:

Condition no. 3: Details of the signalisation of the junction of Malahide Road and Chapel Road to be agreed. Works to be completed to prior to occupation of development.

Condition no. 4: Development to proceed in accordance with the submitted phasing plan. Suitable location to be identified for a childcare facility and separate planning application to be submitted.

Condition no. 22: Restricts exempt development provisions for extensions to dwellings no. 5, 6, 62, 66 and 77-82.

Condition no. 23: Restricts exempt development provisions for front boundary hedges and fences.

Condition no. 30: Section 48 (2) (c) - Special Contribution for significant upgrade work to the Malahide Road, Chapel Road Junction.

Condition no. 32: Section 48 (2) (c) - Special Contribution for open space.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Following initial assessment by the Planning Authority, a request for additional information issued on matters of design and amenity, drainage, transportation, boundaries, childcare facility, landscaping, demolition works and pylons. On receipt of this information, the Planning Officer's assessment can be summarised as follows:

- RV zoning objective requires development to be undertaken in accordance with an approved Local Area Plan (LAP). Development could be considered in this instance as it would not affect the delivery of a comprehensive Local Area Plan due to proposed urban form, street structure and connections to adjoining sites.

- Development aligns with the density standards for ‘edge of village sites’ and incorporates acceptable mix of dwelling sizes.
- Further information included significant modifications to address issues raised by the Planning Authority in relation to the design and layout of the development, including revised house types, increased built frontage along Chapel Road and along a north-south spine road, a new vehicular access at the western end of the site onto Chapel Road (3 no. in total), 10 no. parallel parking spaces along Chapel Road, relocated childcare facility, alterations to internal street network and car parking arrangements, rearrangement of public open space, provision of a cycle track along the southern boundary of the site and the spine road and revisions to ground levels and landscaping. The revised scheme was considered to be acceptable.
- Further information submitted on 30th March 2017 included a proposal to signalise the junction with two design options. The revised proposal was considered acceptable.
- Transportation Section consider the set down for the childcare facility to be a traffic hazard. Condition no. 4 of the permission requires the developer to identify a suitable location on the site to provide an appropriately sized childcare facility and to submit a separate planning application for a childcare facility.
- Considered that the development adequately addresses heritage sites in the vicinity and offsite archaeology. Archaeological monitoring recommended.

The issues raised by third parties were noted in the assessment of the application.

A recommendation to **grant permission** issued.

3.3. Other Technical Reports

Transportation Section:	No objection (following FI).
Public Lighting:	No objection.
Water Services:	No objection (following FI).

Parks and Green Infrastructure: No objection (following FI).

Community, Culture and Sport: No objection.

EHO: No objection.

Public Lighting: No objection.

Housing Department: No objection.

3.4. Prescribed Bodies

Irish Water: No objection subject to conditions.

Dublin Airport Authority: Site located within the inner Noise Zone of Dublin Airport. Recommend that noise mitigation measures in Noise Impact Assessment Report are required by way of condition.

3.5. Third Party Observations

Eight submissions were received and considered by the Planning Authority from the County Childcare Committee, local residents and other parties. The principal issues raised in the collective appeals can be summarised as follows:

- Development premature pending preparation of a Local Area Plan.
- Capacity of the road network and public transport and need for traffic impact assessments.
- Lack of physical and community infrastructure.
- Potential impacts during construction phase.
- Level of development / density excessive.
- Loss of privacy, impact on amenity and on rural character of the area.
- Questions assumptions used in traffic assessment.
- Junction design options for Malahide Road / Chapel Road junction do not represent best design solution. Alternative design proposed.

4.0 Planning History

A number of planning history files are referenced in the planner's report. Those considered to be most relevant are listed under as follows:

Subject Site:

F95A/0182:

Permission granted for revised dormer cottage.

F04A/1669:

Permission granted for three 38kV 12 metre Line Termination Masts under the existing Grange – Mountgorry 38kV line (including a mast of the appeal site).

Kinsealy House:

PL06F.248515 / F16A/0464:

Fingal County Council granted permission for development at Kinsealy House, a Protected Structure that is located to the east of the appeal site. The development includes refurbishment and extension of Kinsaley House, refurbishment of a store shed and change of use to residential, demolition of an apartment building and agricultural buildings and the construction of 101 no. dwellings and a childcare facility. The decision is subject to appeal.

Coopers Wood

FL06F.235291 / F09A/0436:

Permission granted for a residential development of 38 no. two storey dwellings with access from Chapel Road opposite the appeal site. Extension of duration granted for 18 months up to 14th September 2016 (PA Ref. F09A/0436/E1).

5.0 Policy Context

5.1. National and Regional Policy

- 5.1.1. In my assessment of this case, I had due regard to relevant national policy including the following guidance documents:

- Development Management Guidelines for Planning Authorities, (DEHLG, 2007),
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (DEHLG 2009) and the accompanying Urban Design Manual: A Best Practice Guide (DEHLG 2009),
- Design Manual for Urban Roads and Streets (DMURS) (DECLG and DTTS 2013),
- Architectural Heritage Protection Guidelines for Planning Authorities (DAHG 2011),
- Childcare Facilities, Guidelines for Planning Authorities (DECLG 2001),

5.2. Development Plan

5.2.1. The Fingal County Development Plan 2017-2023 is the relevant statutory plan. The following sections of the Fingal County Development Plan 2017-2023 are considered to be relevant:

- **Zoning** - Rural Village 'RV' with an objective to 'protect and promote the character of the Rural Village and promote a vibrant community in accordance with an approved Local Area Plan, and the availability of physical and community infrastructure.
- **Chapter 2 Core Strategy** – In the Metropolitan Area growth in villages will be managed to ensure that these centres do not expand rapidly, putting pressure on services and the environment and creating the potential for unsustainable travel patterns (p46).
- **Chapter 3 Placemaking** – Chapter 3 sets out Design Criteria for Residential Development including mix of dwellings, density and open space provision.
- **Chapter 5 Rural Fingal** - Kinsealy is identified as a 'Commuter Village' within the Metropolitan area (as defined by the RPGs). The Village Settlement Strategy states that the level of growth in villages will be managed through the Core Strategy and the Local Area Plan process.
- **Chapter 5 Objective RF04** is to 'Manage the development of each village, within the existing RV boundaries, having regard to the Sustainable

Residential Development in Urban Areas Guidelines (2009), the settlement strategy for rural villages set out in the RGP's, and, the Core Strategy of the Development Plan'.

- **Chapter 5 Objective RF05** is to 'Ensure that a suitable mix of housing type and tenure is available in villages'.
- **Chapter 12 Development Management Standards:** Sets out standards for residential development including design criteria and quantitative standards relating to dwelling size, separation standards, public and private open space provision, car parking, etc.
- **Sheet No.9 (Malahide and Portmarnock):**
 - The site is in the Outer Airport Noise Zone and Outer Public Safety Zone.
 - Indicative Road Proposal west of the R107 Malahide Road - Malahide Road Realignment, Balgriffin Bypass.
 - Map Based Local Objective 67: 'Facilitate a traffic impact assessment of the junction of Chapel Lane with the Malahide Road and, subject to an identified need and resources being available, carry out improvement works to same'.
 - Map Based Local Objective 69: 'Facilitate a traffic impact assessment of the junction of Baskin Lane with the Malahide Road and, subject to an identified need and resources being available, carry out improvement works to same'.

Local Area Plan: The Kinsealy Local Area Plan was adopted in 2006 (incorporating the appeal site) and expired in 2012.

5.3. Natural Heritage Designations

Sluice River March pNHA (Code: 001763) is located c. 1.5 kilometres east of the site and the Sluice River abuts the northern boundary of the March. Feltrim Hill pNHA (Code: 001208) is located 1.2 kilometres to the northwest of the site.

6.0 The Appeal

6.1. Grounds of Appeal

Two third party appeals have been submitted. The grounds of appeal are summarised as follows:

- A decision to grant permission is premature pending preparation and adoption of a Local Area Plan for Kinsealy Village.
- The planning status of the lands have materially changed as the new CDP includes lands within an enlarged LAP.
- Permission in this instance will prove prejudicial to the preparation of a Local Area Plan.
- A decision to grant permission will have far reaching and impactful implications for the preparation of the LAP and undermine the very recent action of LAP designation.

6.2. Applicant Response

- Development accords with the best principles of proper planning and sustainable development, in accordance with the policies and objectives of the Fingal County Development Plan 2017-2023, Rebuilding Ireland – Action Plan for Housing and Homelessness, the Regional Planning Guidelines for the Greater Dublin Area 2010-2022 and other relevant considerations.
- The development supports the Government’s action plan to increase housing supply. 10 percent of proposed units are for social and affordable housing.
- Development Plan Core Strategy makes provision for residential development in Kinsealy. The development complies with the sites residential land use zoning. The site was similarly zoned in the former Fingal Development Plan and formed part of the 2006 LAP for Kinsealy. The former Teagasc lands to the south were rezoned from “Rural Business” to “Rural Village” in the new Development Plan.

- The Development Plan does not state that a LAP will be prepared for Kinsealy. The applicant has been advised by Fingal County Council that the Planning Authority has no immediate plans to prepare a LAP for the village.
- The Development Plan does not contain any policy or objective prohibiting development in Kinsealy, prior to the preparation of a LAP.
- Should a LAP be prepared for the Village, it must comply with the Development Plan and RPGs (Section 19 (2) of the Planning and Development Acts 2000-2016). As the proposed development complies with these documents the principle of the development is unlikely to contravene a future LAP. This opinion is supported by Fingal County Council, which confirmed in its assessment that the development “*would not affect the delivery of a comprehensive LAP for Kinsealy rural village due to proposed urban form, street structure and connections to adjoining sites*”.
- Chapter 5 of the Development Plan describes each of the Metropolitan Villages in the County and states that a LAP will be prepared for certain villages. The plan is silent on the preparation of an LAP for Kinsealy and contains no policy or objective prohibiting development in Kinsealy, prior to the preparation of an LAP.
- The Development Management – Guidelines for Planning Authorities (June 2007) state that development should not be refused for being premature if there is no realistic prospect of a LAP being prepared “However, development which is premature because of a commitment in a development plan to prepare a strategy, Local Area Plan or framework plan not yet completed should only be used as a reason for refusal if there is a realistic prospect of the strategy or plan being completed within a specific stated timeframe”.

6.3. Planning Authority Response

- Application initially assessed against the Fingal Development Plan 2011-2017. The new Fingal Development Plan 2017-2023 came into force on the 16th March 2017 and therefore the Planning Authority assessed the additional information against the objectives and policies of the new Fingal Development Plan.

- The Planning Authority remains of the opinion that the concerns raised in the appeal have been considered in the Planner's Report and it is considered that the proposed development will not unduly jeopardise the formulation of an LAP in the future having regard to the design, layout and connectivity provided in the scheme.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. The main issue raised in the grounds of appeal relates to the prematurity of the development pending the preparation of a Local Area Plan. I consider that a number of additional issues need to be considered. The key issues can be addressed under the following headings:

- Compliance with Planning Policy
- Overall Context, Density and Design
- Layout and Site Access
- Traffic Impacts
- Water Services
- Phasing
- Other Issues
- Appropriate Assessment and EIA

7.1.1. The Board may wish to note a current appeal on lands adjacent to the appeal site, An Bord Pleanála reference PL06F.248515 refers.

7.2. Compliance with Planning Policy

- 7.2.1. The Fingal County Development Plan 2017-2023 is the relevant statutory plan. There are two key matters that arise in respect of policy compliance, firstly, the principle of residential development and secondly the issue of development being premature pending the preparation of a Local Area Plan. I will address each in turn.
- 7.2.2. The appeal site is located within the zoning boundary of Kinsealy Village which is defined in the Core Strategy as a 'commuter village' within the Dublin Metropolitan area. The site is zoned Rural Village (RV) with an objective to '*protect and promote the character of the Rural Village and promote a vibrant community in accordance with an approved Local Area Plan, and the availability of physical and community infrastructure*'. The site was also zoned RV in the 2005-2011 and 2011-2017 Development Plans. Residential development is '*permitted in principle*' in this zone. I am satisfied on the basis of the foregoing that the principle of residential development on these zoned lands is established by the current and the previous Development Plans for the area.
- 7.2.3. The grounds of appeal argue that a decision to grant permission is premature pending the preparation and adoption of a Local Area Plan for Kinsealy Village and that a permission in this instance will prove prejudicial to the preparation of a Local Area Plan. The Development Plan places an emphasis on managing growth in villages to ensure that these centres do not expand rapidly, putting pressure on services and the environment and creating the potential for unsustainable travel patterns. The Rural Settlement Strategy states that growth in villages will be managed through the Core Strategy and the Local Area Plan process. Objective RF04 of the Development Plan seeks to '*manage the development of each village, within the existing RV boundaries, having regard to the Sustainable Residential Development in Urban Areas Guidelines (2009), the settlement strategy for rural villages set out in the RGP's and the Core Strategy of the Development Plan*'. The appeal site is within the RV zoning of Kinsealy and is part of the residential land allocation for 'Other Settlements' in the Core Strategy of the Development Plan (Table 2.8 refers). I consider that the appeal site represents a natural expansion of the village by virtue of its proximity to the village core, its frontage onto one of the

primary streets in the village and its position relative to existing housing. The development would extend the village streetscape to the east and is structured to support future connectivity to adjacent 'RV' zoned lands to the north and east. The development would also address infrastructural deficiencies relating to the road network and foul drainage network in so far as is required to support the proposed development without prejudicing more strategic upgrades in the future.

- 7.2.4. I do not, therefore, agree that the proposed development would be premature pending the preparation of a Local Area Plan, as the lands have been zoned for some time, the site is effectively, in principle terms, an extension to the existing village and is therefore not dependent on matters of principle which may be determined by a Local Area Plan. I also agree with the view of the Planning Authority, that the development would not affect the delivery of a comprehensive Local Area Plan for the area in the future given the scale of the development, the proposed urban form and connections.

7.3. Overall Context, Density and Design

- 7.3.1. Permission is sought for the construction of 82 no. dwellings at a net density of 24 units per hectare excluding a proposed link road. The proposed development is in accordance with the recommendations for edge of village sites outlined in the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, which envisage densities in the region of 20-35 dwellings per hectare including a wide variety of housing types. The development by reason of its scale, design and character would be in keeping with the character of the area and provide for effective connectivity back to the village and to adjoining zoned lands.

7.4. Layout and Site Access

- 7.4.1. The appeal site is a rectangular site with extensive frontage along the southern edge of Chapel Road in Kinsealy Village. The site is c. 75 metres to the east of the junction of the Malahide Road (R107) and Chapel Road and is within the 60 kph speed limit. Kinsealy Lane a local road runs north - east to the north of the site.
- 7.4.2. A revised layout was received by the Planning Authority at further information stage. The proposed layout incorporates three vehicular accesses onto Chapel Road, a

north-south spine road that would extend from the junction of Chapel Road and Kinsealy Lane to the north to zoned lands to the south of the appeal site. There is also provision for a second connection to zoned lands to the south. The layout is permeable with a connected street network and a strong built edge along Chapel Road that takes cognisance of the edge of village location. I am satisfied that the details submitted with the application and in response to the request for additional information, satisfactorily address the issues of site access and layout in compliance with national guidance set out in the Design Manual for Urban Roads and Streets and in the Sustainable Residential Development in Urban Areas Guidelines and accompanying Urban Design Manual.

7.5. Traffic Impacts

- 7.5.1. The impact of the proposed development on the existing road network is a key consideration. The initial assessment of the Planning Authority noted that the junction of Chapel Lane and the Malahide Road (R107) is operating above its design capacity. I would note that the Transportation Department of the Local Authority relied on a Traffic Impact Assessment submitted with a concurrent application on lands to the east in its assessment of the subject application (ABP Ref. PL06F.248515 / PA Ref. F16A/0464). Revised details received by the Planning Authority at further information stage propose to signalise the junction of the Malahide Road and Chapel Road with two design options proposed. The revised proposals were considered acceptable to the Planning Authority. I would note that the decision of the Planning Authority does not specify the approved design option. The Engineering Report submitted with the application assesses the impact of development on zoned lands in Kinsealy (up to 300 units) on the junction. The report indicates that Option 1 would improve the safety and capacity of the junction but that the junction would continue to operate over its design capacity. Option 2 would improve the safety and capacity of the junction and the junction would operate within the acceptable capacity limits. I would note that a submission to the Planning Authority on behalf of the landowner to the west of the junction states that a four arm junction with increased turning lanes and access to the west would be safer and preferable. However, I consider on the basis of the submitted information that Option 2 is sufficient to serve existing and proposed development in the area,

without impacting unduly on the character of the village and that it would not prejudice future upgrades or access to the west.

7.5.2. While I note that the conditions of the permission are not subject to appeal, condition no. 3 of the permission requires the junction upgrade to be carried out to the satisfaction of the Planning Authority prior to the occupation of any dwelling, while condition no. 30 seeks a special contribution for the works¹. I would note that the decision of the Planning Authority under the concurrent application (ABP Ref. PL06F.248515 / PA Ref. F16A/0464) to east incorporates similar conditions. I consider that this gives rise to a level of uncertainty in relation to the carrying out of the works.

7.5.3. Given the capacity constraints at the junction I considered it reasonable that the junction upgrade is completed prior to the occupation of any further development in the area. The applicant has proposed an acceptable design solution and altered the site boundary to incorporate the junction and I am therefore satisfied that the junction upgrade can be adequately addressed within the scope of the subject application. Outstanding matters in relation to junction design and the undertaking of the works can be agreed with the Planning Authority prior to the commencement of development. In this regard I recommend that a permission would be conditional on the details of the upgrade being agreed prior to the commencement of the development based on design Option No. 2 (Drawing DOBA1536- C-017) and that the works are completed and operational prior to the occupation of the development. I would also recommend the inclusion of a condition that allows for the payment of an appropriate special contribution to the Planning Authority, in the event that Fingal County Council decide to undertake some or all of the works.

7.6. **Water Services**

7.6.1. It is proposed to discharge to the existing public foul network on Kinsealy Lane which feeds to the Floraville pumping station to the north of the site. The Report of Irish Water confirms that the existing pumping station has insufficient capacity to cater for the proposed development. The applicant proposes to undertake rehabilitation works to reduce the extent of ground water infiltration, and to create additional capacity for c. 43 dwellings. I would note that the similar rehabilitation works are

¹ Under Section 48 (2) (c) of the Planning and Development Act.

proposed under the concurrent application to create capacity for 50 no. dwellings. This approach is acceptable to Irish Water and to the Planning Authority. In the longer term Irish Water propose to construct a new pumping station to the North Fringe Sewer. The Report of Irish Water states that the connection of the overall scheme is dependent on the implementation of the Kinsealy Drainage Area Plan through the Capital Investment Programme (CIP). Phase 1 (43 units) shall be allowed to connect after the interim upgrade works and Phase 2 shall only be allowed to connect following completion of the CIP works. The capacity of the existing foul sewerage network is a limiting factor on the development and I note that there is no definite timeframe for the completion of upgrade works. Nonetheless, I do not consider a grant of planning permission to be premature in this instance subject to an appropriate phasing condition, on the basis that the 'infrastructure upgrade' that is required is on Irish Waters current Capital Investment Programme and would therefore be likely to be addressed within a reasonable timeframe. The phasing of development is addressed in more details in Section 7.7 below.

- 7.6.2. The Engineering Assessment Report and the drawings and details submitted with the application and in response to the request for additional information, are considered to satisfactorily address surface water drainage and water supply.

7.7. Phasing

- 7.7.1. Drawing BSM 301 (Rev. 01) sets out a phasing plan for the development that would see the build out of the scheme over three phases moving from east to west across the site. The Report from Irish Water confirms that there is capacity in the foul drainage network for 43 no. dwellings and that later phases are dependent on implementation of the Capital Investment Programme. Based on the east to west progression proposed, this provides sufficient foul drainage capacity to serve all development to the west of the spine road which is considered to represent an acceptable first phase. I would recommend that a detailed phasing plan is submitted for the written agreement of the Planning Authority based on the availability of wastewater services. In view of the proposed east to west progression of development I would also recommend that the full extent of the footpath and cycleway along Chapel Road is completed in Phase 1, to ensure that there are

adequate connections for pedestrians and cyclists back to the village core and local centre to the west.

7.8. Residential Amenity

- 7.8.1. Having regard to the nature and scale of the proposed development, which is primarily two storey, the pattern of development in the area and the set back from adjacent residential properties, I would agree with the view of the Planning Authority, that the proposed development would not seriously injure the residential amenities of property in the vicinity and would not be injurious to the visual amenity of the area.

7.9. Other Issues

Childcare Facility

- 7.9.1. The development incorporates a childcare facility of 190.2 square metres. I consider that this is adequate to meet the requirements for childcare provision under the '*Childcare Facilities Guidelines for Planning Authorities*' DoEHLG (2001).
- 7.9.2. Condition no. 4 of the permission requires the developer to identify an alternative location for the childcare facility and to submit a separate planning application for this alteration. The Report of the Transportation Department of the Local Authority states that the set-down area is a traffic hazard and recommends that the layout be agreed with the Planning Authority prior to the commencement of the development. I would note that the Planning Officer's Report notes that the positioning of the facility has place making benefits and that the requirements of the Transport Section appear onerous. I would agree with the view expressed in the Planning Officers Report. The building addresses streets to the north and east and provides a level of architectural variety along Chapel Road. The facility incorporates 3 no. in curtilage car parking spaces. There are 4 no. on street spaces adjacent to the entrance and 10 no. on street spaces to the north. I consider that there is adequate parking in the vicinity to cater for the parking and set down needs of the facility and that detailed design matters can be agreed prior to the commencement of the development.
- 7.9.3. Having regard to the requirements for childcare provision under the '*Childcare Facilities Guidelines for Planning Authorities*' I agree with the phasing requirement

outlined in the Planning Authorities decision for the provision of the childcare facility prior to the occupation of the 75th dwelling.

Conservation

- 7.9.4. There are three protected structures in the vicinity of the site. Kinsealy House is situated c. 185 metres to the east of the site. The Church of St. Nicholas of Myra is located c. 65 metres to the west of the site at the junction of the Malahide Road and Chapel Lane. The ruins of the medieval Church of St. Nicholas and associated graveyard located c. 65 metres to the north east of the site. A Conservation Impact Statement submitted with the application concludes that the development would not have an adverse impact on the built heritage of the area. Having regard to the nature and scale of development and to its set back from protected structures in the vicinity, I am satisfied that the development would not impact unduly on the setting of the structures.

Archaeology

- 7.9.5. There is no known archaeological features within the appeal site. An Archaeological Impact Assessment submitted with the development details known features in the vicinity, including 7 no. recorded monuments within 500 metres of the proposed development. The report indicates that the development would have impacts on the environs of the medieval Church and Graveyard and Kinsealy House to the east of the site but that the potential impacts are addressed through mitigation measures in the development design, such as landscaping and the positioning of open space. I am satisfied, having conducted a site visit that the development is sufficiently set back from historic features in the area and that with appropriate mitigation (as proposed) that it would not impact unduly on historic features in the area. Taking account of the extent of known features in the area the assessment recommends that the development would be subject to archaeological monitoring during ground works. If the Board are minded to grant permission for the proposal, I would suggest that a condition is attached to this effect.

Dublin Airport Public Safety and Noise Zones

7.9.6. The appeal site is located within the Outer Airport Noise Zone and the Outer Public Safety zone for Dublin Airport. The application is accompanied by a Noise Impact Assessment. The assessment includes a range of mitigation measures to ensure that the internal noise levels meet recommended residential standards. An observation received from the DAA requests that in event of permission being granted that the Board attach a condition requiring that noise mitigation measures contained in the assessment are implemented. I would suggest that a condition is attached to address this issue.

Exempt Development

7.9.7. Condition no. 22 of the permission seeks to limit the exemptions provided for under Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) for dwelling extensions. Condition no. 23 seeks to limit the exempted development provisions under Class 5 for alterations to the boundary of a dwelling. I would consider that it is not necessary to attach a planning condition that de-exempts exempted development. The conditions and limitations of the exemptions as provided for in Column 2, Part 1 of Schedule 2 of the Planning and Development Regulations are clear and unambiguous and will determine whether or not planning permission is required.

8.0 Appropriate Assessment (AA) Screening

8.1.1. There are a large number of Natura 2000 sites within 15kms of the site. They are as follows:

- Baldoyle Bay SAC (000199) & SPA (004016)
- Malahide Estuary SAC (000205) & SPA (004025);
- Ireland's Eye SAC (002193);
- Ireland's Eye SPA (004117)
- North Dublin Bay SAC (000206);
- North Bull Island SPA (04006);
- Rockabill to Dalkey Islands SAC (003000);
- South Dublin Bay and River Tolka Estuary SPA (04024);

- South Dublin Bay SAC (000210);
- Rogerstown Estuary SAC (000208) & SPA (004015);
- Howth Head SAC (000202) & Howth Head Coast SPA (004113);
- Lambay Island SAC (000204) & SPA (004069).

8.1.2. An Appropriate Assessment Screening Report was submitted with the Planning Application (dated November 2016).

8.1.3. There are limited relevant pathways between the development and the majority of the aforementioned sites. The only sites where there is any potential for connectivity, as detailed in the report, are Baldoyle Bay SAC (000199) & SPA (004016) by virtue of their locations downstream of the Sluice River which is located to the north of the appeal site. In respect of the other sites mentioned above, I consider that due to the limited value of the vegetation on site, the separation distances of the appeal site from the designated sites and the nature of the proposed development that it is reasonable to conclude, on the basis of the information on the file which I consider to be adequate, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Malahide Estuary SAC (000205) & SPA (004025); Ireland's Eye SAC (002193); Ireland's Eye SPA (004117); North Dublin Bay SAC (000206); North Bull Island SPA (04006); Rockabill to Dalkey Islands SAC (003000); South Dublin Bay and River Tolka Estuary SPA (04024); South Dublin Bay SAC (000210); Rogerstown Estuary SAC (000208) & SPA (004015); Howth Head SAC (000202) & Howth Head Coast SPA (004113); and Lambay Island SAC (000204) & SPA (004069) in light of the site's Conservation Objectives and that a Stage 2 Appropriate Assessment is not therefore required.

8.1.4. The site has a potential hydrological link to Baldoyle Bay SAC and SPA via the Sluice River. The River is located c. 90 metres to the north of the site and enters the estuary c. 3.5 metres downstream.

8.1.5. I would suggest that in terms of potential impacts surface water and wastewater impacts during the construction and operational phases of the development are most relevant. The site itself is in grassland and there would be no loss of significant habitat. I am satisfied that the proposed construction management methodology is

adequate to ensure that no significant effect would arise during the construction phase. I consider that significant attenuation is proposed within the site during the operational phase and therefore the potential for impact on the water quality within the designated sites is remote. In addition, the proposal for phased connection to the public foul network based on available capacity would mitigate any potential for impacts from wastewater. I am satisfied on the basis of the foregoing that the proposal would not have any adverse effect on the conservation objectives of the Baldoyle Bay SAC (000199) & SPA (004016).

8.1.6. **Screening Conclusion**

It is reasonable to conclude that on the basis of the information on the file, which I consider to be adequate in order to issue a screening determination that that proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. Baldoyle Bay SAC (000199) & SPA (004016); Malahide Estuary SAC (000205) & SPA (004025); Ireland's Eye SAC (002193) and SPA SPA (004117); North Dublin Bay SAC (000206); North Bull Island SPA (04006); Rockabill to Dalkey Islands SAC (003000); South Dublin Bay and River Tolka Estuary SPA (04024); South Dublin Bay SAC (000210); Rogerstown Estuary SAC (000208) & SPA (004015); Howth Head SAC (000202) & Howth Head Coast SPA (004113); and Lambay Island SAC (000204) & SPA (004069), in view of the site's conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 **Recommendation**

- 9.1.1. Having regard to the 'RV' zoning of the site and the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would not conflict with the objectives of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 30th March 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) Prior to the commencement of development, the developer shall submit, for the written agreement of the Planning Authority, detailed proposals for the signalisation and upgrade of the junction of the Malahide Road (R107) and Chapel Lane in accordance with Drawing DOBA1536-C-017 (Option 2).
(b) No dwelling shall be occupied on foot of this permission until such time as the signalisation of the junction of the Malahide Road (R107) and Chapel Lane is completed and operational to the satisfaction of the Planning Authority.

Reason: To ensure that there is an adequate level of road infrastructure to support the proposed development.

3. The development shall be carried out on a phased basis based on the availability of public water / waste water services.
(a) The first phase shall consist of not more than 43 dwelling units, together with their associated site development works. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.
(b) Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

4. (a) Not more than 75 residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed.

- (b) Prior to the commencement of development the developer shall submit, for the written agreement of the Planning Authority details of the set-down area for the proposed childcare facility.

Reason: To ensure that childcare facilities are provided in association with residential units and in the interest of residential amenity and traffic safety.

5. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development.

Reason: In the interest of wildlife protection.

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) Employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

- (b) Should archaeological material be found during the course of monitoring, the Archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Heritage and Planning Division of the Department of Arts, Heritage and the Gaeltacht with regard to any necessary mitigation action (e.g. preservation in situ, or excavation) and should facilitate the recording of any material found.

(c) The Planning Authority and the Heritage and Planning Division of the Department of Arts, Heritage and the Gealtacht shall be furnished with a report, within 4 weeks of the completion of ground works, describing the results of the monitoring.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

7. The proposed dwellings shall be provided with noise insulation to an appropriate standard, having regard to the location of the site within the Outer Airport Noise Zone, and in accordance with the measures set out in the Noise Impact Assessment submitted with the application.

Reason: In the interest of residential amenity.

8. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the submitted landscaping details and the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

9. Proposals for a street name / house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs and house numbers, shall be provided in accordance with the agreed scheme. No advertisements / marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

10. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

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

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

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

16. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

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

19. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of costs to be incurred by the planning authority in connection with the signalisation and upgrade of the junction of the Malahide Road (R017) and Chapel Road. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the

area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Karen Kenny

Senior Planning Inspector

8th September 2017