



An
Bord
Pleanála

Inspector's Report ABP-300234-17

Development	A single storey dwelling on site located to the rear garden of existing house 'Silverdale', and a vehicular entrance from The Rise.
Location	Rear of 'Silverdale', The Mall, Malahide, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F17A/0155
Applicant(s)	B & J McDonagh
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Anne Charleton & Others Deirdre Rochford
Observer(s)	None
Date of Site Inspection	9 th of March 2018
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The subject site is located in an established residential area adjoining and to the east of Malahide town centre. The railway line is also within walking distance to the west. 'Silverdale' the host dwelling is an existing large detached and previously extended two storey c.1960's dwelling which is at the junction of and addresses both The Mall to the north and The Rise to the east. 'Silverdale' has vehicular access to The Mall and there is a sizable forecourt and parking area at the frontage. Malahide Lawn Tennis and Croquet Club is on the opposite side of the road. There is a dense evergreen hedge along the eastern site boundary with The Rise, similar to that on the opposite side of the road. There are double yellow lines on either side of this section of The Rise close to the junction with The Mall.
- 1.2. The application site is not sub-divided and forms part of the rear garden area of 'Silverdale'. There is a high hedge along the rear garden site boundaries and a row of mature deciduous trees. The south-eastern corner of the site currently juts out and is further forward of the set back of the vehicular entrance to 'Somerton' and no.1 The Rise. There is currently a utility pole in front of the proposed vehicular entrance.
- 1.3. 'Somerton' is a two storey mews dwelling to the rear (south west) and includes a stone-faced side elevation facing the site and does not have first floor windows overlooking the site. There is a driveway into this site from The Rise. No. 1 The Rise is a c.1960's dwelling that is further set back to match the building line of The Rise.

2.0 Proposed Development

- 2.1. Permission is sought for a single storey dwelling on a site located on what is now the rear garden of the existing house 'Silverdale' and a vehicular entrance from The Rise, the proposed development is to be located at the rear.
- 2.2. The application form provides that the stated area of the site is 0.10hectares. The g.f.a of the existing buildings on site is 320sq.m and the proposed floor area of the single storey house is 105sq.m.

2.3. A letter has been submitted on behalf of the Applicants from EMHogan & Associates providing a rationale for the proposed development. The Schedule of Documents submitted includes the following:

- Tree Survey and Tree Survey Document
- Drawings: A Site Layout Plan, Floor Plans and Elevations including Contiguous Elevations and Photographs have been submitted.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 25th of October 2017 Fingal County Council granted permission for the proposed development subject to 11no. conditions. These conditions generally relate to design and layout, trees and landscaping, infrastructure and services and development contributions.

3.2. Planning Authority Reports

3.2.1. Planner's Report

This had regard to the locational context of the site, planning history and policy and to the submissions made and the considerations raised in the Departmental Reports. It was noted that the site is located within the context of the Town Centre land use zoning and the ACA and within the boundary for the Malahide Urban Centre Strategy. They had regard to the design and layout and to the juxtaposition with the property to the north 'Silverdale'. They considered that the overall contemporary design of the dwelling together with the scale is an appropriate approach to infill development and that the visual impact would not be obtrusive. However, they were concerned that the proposal would breach the established building line to the south along The Rise and if visible, this would not be acceptable in the ACA. They noted that there are issues with the proposed access, landscaping and screening and that the existing trees on site and the hedgerow along the roadside boundary would have to be cutback. They had concerns relative to a number of issues and requested Further Information to include the following:

- Revised plans having regard to the impact on the amenities of the area and the ACA to reduce the overall height of the eastern side of the dwelling.
- A tree and hedgerow survey to be undertaken of the boundaries.
- A drawing showing the sightlines and having regard to encroachment issues and revisions to the proposed entrance to comply with the requirements of the Council's Transportation Planning Section.
- A revised landscape plan which in combination with the tree and hedgerow survey would provide for and augment planting to the site boundaries and boundary fencing.
- Revised plans to show the separation distances between 'Silverdale' and the proposed house matching the contiguous elevation.

Further Information response

EMHogan & Associates have submitted an F.I response to include the following:

- Revised drawings have been submitted to show revisions to the house type.
- An updated Tree Care Report has been submitted.
- The Site Layout Plan shows adequate sight line visibility in both directions.
- They have reduced the width of the proposed entrance from 4.5m to 3m and note design of gate posts.
- They refer to the Arbeco Landscape plan and tree survey which included additional supplementary planting and details of trees to be removed.
- They have submitted revised contiguous elevations to be consistent with the Site Layout Plan.

Planner's response

The Planner had regard to the F.I submitted and noted the Park's Section's concern about trees relative to this issue. They also noted the Transportation Section's concerns relative to sightlines at the access. They had concerns relative to the boundary treatment and gate piers in the ACA. They noted that the issue with the separation distances as shown contiguous elevations and site layout plan had been resolved. They considered that the revised house type is more modest but had some

concerns about screening and the impact on the ACA. They recommended that a Clarification of Further Information be sought to include the following:

- An Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement in accordance with standards be submitted.
- A detailed Landscape Plan to outline augmentary planting to the existing hedgerows and relative to the impact on the proposed vehicular access.

Clarification of F.I response

EMHogan & Associates response on behalf of the applicants included the following:

- They have included a complete tree survey in accordance with standards prepared by a suitably qualified arborist/landscape professional (Arbeco). This includes the up to date house type.
- They have included a detailed landscape plan (prepared by a Landscape Architect) outlining existing and proposed hedging and trees and how they will impact on the public footpath.

Planner's response

The Planner had regard to the C.F.I submitted. They noted that a number of trees would need to be felled and that additional hedging is to be planted. They had regard to the C.F.I, the Parks and Green Infrastructure Division response which provided they have no objection to the proposals and to the landscaping plan subject to conditions. They considered the proposed planting along the southern boundary would ameliorate the impact to an extent. They recommended that a condition be attached to the permission requiring the protection of the retained trees and hedges during construction works and that a tree bond be lodged prior to the commencement of the works. They noted the Board refusal for the site to the east (PL06F.248317 refers) and the differences between this and the subject application. They concluded the subject proposal to be acceptable and recommended permission subject to conditions.

3.3. Other Technical Reports

Fingal County Council

Transportation Planning Section

They had concerns about visibility and that adequate sightlines are not shown at the proposed entrance, and advised that revised drawings be submitted showing such. In response to the F.I they considered that the sightline drawing was inaccurate, but that with suitable amendments to the front boundary of the proposed development adequate sightlines could be achieved and recommended that appropriate conditions be included.

Water Services Section

They have no objection subject to recommended conditions.

Parks Planning Section

They requested that a complete tree survey including an Arboricultural Impact Assessment be submitted. In response to the F.I they provided that to fully assess the impact of this development on the vegetation of this site, a complete tree survey be included and further Arboricultural Assessment Reports. Subsequently they noted that a number of trees were to be felled and considered the replacement planting as shown on the Landscaping Plan to be acceptable and recommended a number of conditions.

Architects Department

The Conservation Officer noted that the site is located within the boundaries of the ACA for Malahide Historic Core. They have regard to Planning History in the area. They note that consideration has been had to a sensitive design, but are concerned that it will impact adversely on the building line and is not an appropriate proposal considering its impact on the building line and location in the ACA.

3.4. **Prescribed Bodies**

Irish Water

They have no objections subject to recommended conditions.

3.5. Third Party Observations

A number of Submissions have been received from local residents including the subsequent third parties and while their concerns are noted and further discussed relative to the appeal, a brief summary of issues raised includes the following:

- They note the number of refusals for similar type development in the area.
- The difference between a two storey or single storey house on this site is immaterial given the limited site area and the proposed plot area.
- Inaccuracies in the drawings submitted.
- The proposed house is out of character with the surrounding houses and could not be viewed as a mews house.
- It is out of character with the ACA. It would set an undesirable precedent for such development.
- The proposed vehicular access in this location will present a traffic hazard.
- The proposal does not comply with the policies and objectives in the Fingal CDP.
- It will impact adversely on the character and amenities of the existing house 'Silverdale' and future occupiers of the proposed development.

4.0 Planning History

PL06F.245533 / F15A/0321 (Silverdale)

Permission refused for two storey dwelling to the rear of the existing dwelling at 'Silverdale' The Mall.

F94A/0220

Permission refused for alterations and change of use from residential to medical consultancy, at 'Silverdale' The Mall.

92A/1704 (Silverdale)

Permission refused for bungalow to the rear of the existing dwelling at 'Silverdale' The Mall.

PL06F.204936 / F03A/1096 (Somerton)

Permission granted for construction of a two storey dwelling to rear of ‘Somerton’ The Mall, on a site to the south west of the appeal site. Decision upheld on appeal to An Bord Pleanála.

PL06F.201997 / F02A/1623 (Somerton)

Permission granted for construction of two storey dwelling to the rear of ‘Somerton’ The Mall, on a site to the south west of the appeal site. Decision overturned on appeal to An Bord Pleanála.

PL06F/123721 / F00A/1189 (Somerton)

Permission granted for construction of two storey dwelling to rear of ‘Somerton’ The Mall, on a site south west of the appeal site. Decision overturned on appeal to An Bord Pleanála.

PL06F.248317 / F16A/0461 (7 The Mall)

Permission refused for construction of detached single storey mews to rear of no.7 The Mall, minor external boundary wall alterations with new vehicular access to off-street parking and ancillary site works (on opposite side of the road to the subject site). Decision upheld on appeal to An Bord Pleanála.

PL06F.243493 / F14A/0131 (7 The Rise)

Permission refused for dwelling to rear of no. 7 The Rise on a site to the south of No.7 The Mall. Decision upheld on appeal to An Bord Pleanála.

5.0 Policy Context

5.1. Development Plan

The Fingal County Development Plan 2017-2023 is the relevant statutory plan.

The development strategy for Malahide contained in Chapter 4 of the Plan seeks to promote the planned and sustainable consolidation of the existing urban form and the sensitive promotion of amenities. This includes Objective Malahide 3 which seeks to retain the existing centre with its mixed use and varied architectural character as the heart and focal point of Malahide.

A number of Development Plan objectives and standards are also relevant including:

- The appeal site is zoned TC: “Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.”
- Objective PM44 encourages the development of underutilised sites in existing residential areas subject to the protection of amenities, privacy and character, while objective PM45 promotes contemporary and innovative design in such areas.
- The appeal site is located in the Malahide Historic Core ACA and adjoins The Rise ACA. Objective DMS157 seeks to ensure that any new development within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design including: scale, mass, height, proportions, density, layout, materials, plot ratio and building lines. Objective DMS158 requires all planning applications in ACA’s to have regard to the information contained in Table 12.11. (Direction for Proposed Development in ACA’s)
- Objective DMS39 provides that new infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.
- Objective DMS44 seeks to protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.
- Objective CH32 seeks to avoid the removal of structures and distinctive elements (such as boundary treatments, street furniture, paving and landscaping) that positively contribute to the character of an Architectural Conservation Area.

5.2. National Policy Context

Architectural Heritage Protection – Guidelines for Planning Authorities 2004

These guidelines outline the responsibility of the Planning Authority to preserve the character of conservation areas within their functional area. Chapter 3 refers specifically to Architectural Conservation Areas. The Guidelines state that in relation to conservation areas that “the protection of architectural heritage is best achieved by controlling and guiding change on a wider scale than the individual structure, in order to retain the overall architectural or historic character of the area”.

5.3. **Natural Heritage Designations**

None

6.0 **The Appeal**

6.1. **Grounds of Appeal**

Two separate Third Party Appeals have been submitted, both requesting that the proposal be refused and these are summarised separately below:

6.1.1. Deirdre Rochford

Evan Duggan Associates has submitted a third party appeal on behalf of local resident Deirdre Rochford. This includes the following:

- Regard is had to planning history of appeals, including Board reasons for refusal relative to this site and to the immediate area. They consider that the differences relative to the subject proposal are in-material and that there is a precedent for refusal of such applications. They refer to recent Board refusals and include copies of decisions.
- The proposal is completely out of context with the existing 1950's properties, the street-scape and the character of the area.
- The proposed development, including plot size does not meet the requirements or objectives as set out in the Fingal DP. They quote a number of policies including relevant to ACA's and the previous 2011-2017 plan.

- It will break the existing historic building line of the properties on The Rise and is, in conflict with Objectives which seeks to protect the character of the designated ACA.
- They are concerned with screening proposals given the limited control the Planning Authority has over trees in planning terms.

6.1.2. Ann Charleton & Others

These local residents have submitted a third party appeal which includes the following:

- They refer to the Architectural Heritage Protection Guidelines and consider that they have not been adhered to in the Council's permission.
- They consider the proposal would contravene the Fingal CDP objectives as it will not enhance the character of the ACA 'sandwiching' a development between two houses in a back garden and hiding it behind screening is not sustainable.
- The entrance to the house would be on The Rise, which would expose it and have a negative impact on the road.
- If permitted it will set an undesirable precedent for such houses on these large gardens on this road, to the rear of the houses on both the East and West side of The Rise.
- The note previous refusals in the area including Board refusal PL06F.248317, for a proximate site recently refused. Also, the previous refusal on the subject site PL06F.245533. They consider that the criteria for this refusal still stand.
- The proposed development site will be prominent in that it is forward of the building line of other properties on this side of The Rise.
- They note that the Conservation Officer did not appear in favour and their comments have not been cited.
- They refer to a number of objectives, in the Fingal CDP and consider that this proposal would not be in compliance with these.

- They provide that this proposal would have a material effect on the ACA contrary to the terms of the Planning and Development Act 2000 (as amended).
- The proposal would have an irreversible and irreparable change on the area, set an undesirable precedent in the ACA for the Historic Core of Malahide and The Rise for financial gain. The lasting damage to both trees and landscape and the visual amenity would be immense.

6.2. Applicant Response

6.2.1. The applicants Bernard and Jaci McDonagh have submitted a First Party response to the Third Party Appeals to include the following:

- The proposed development would be set back from the eastern boundary of the rear of Silverdale and would not breach the building lines of the host house on The Mall.
- By reason of the laneway access to 'Somerton', which provides a separation of the site to the rear it will not breach the building line of The Rise.
- The proposed design is a single-storey dwelling with a low flat roof profile. They note the comments of the Conservation Officer and consider the visual impact will be minimal.
- The privet hedging on the southern and eastern boundaries of the site will be maintained and will provide effective screening from public view on The Rise.
- It is in accordance with the Architectural Heritage to facilitate development, so long as it is in a manner that is harmonious with and/or unobtrusive to the established character of the ACA.
- They have also included a revised house design in respect to the proposed height and this would ameliorate potential impacts on the ACA.
- They note that they responded to the Planning Authority's request for F.I and C.F.I and that a survey on trees and hedgerows including a detailed landscaping plan have been submitted. The proposal was considered by the Council's Parks and Green Infrastructure Division and met with approval.

- Appropriate conditions have been attached to the Council's permission relative to screening and the height of the dwelling.
- They note the previous refusal on the subject site PL06F.245533 and consider that proposal was materially and significantly different in that it then concerned a two storey dwelling.
- They contend that the Appellant's appeal is unfounded taking into account, the position and size of the proposed dwelling together with the condition requiring hedging be provided to screen the proposed dwelling from the public realm.
- They have regard to the Fingal DP Objective DMS157 and consider that the proposal as conditioned by the Planning Authority will not detract from the character of the ACA.
- They have regard to the recent Board refusal, PL06F.248317, and submit that the proposals are materially different. There is a greater set back from the eastern boundary facing the ACA available in the current proposal. They also note the more modest dimensions and screening of the subject proposal.
- It is also materially different to that refused by the Board at the rear of No.7 The Rise (PL06F.243493 refers).
- They consider that the context of the subject site is relatively unique and that the proposal will not set an undesirable precedent for future development.
- They note a similar type development (dormer style bungalow) to the rear of the premises known as No.1 The Mall at the junction of The Mall and the northern end of Grove Road.
- The proposal in view of proposed house type and screening will not impact adversely on the physical character of the area and will not be contrary to Objectives DMS39 and DH32 of the Fingal DP.
- By reason of the conditions imposed the proposed development will not impact upon the architectural character of the local area, including Malahide village.

- They provide that by reason of the natural break in the building line provided by the laneway providing access to 'Somerton', that it will not impact on the building line of The Rise.
- The site is in the immediate vicinity of Malahide village and its attendant amenities. The proposal provides a suitable residential infill development and plot size in this location. They provide that this modest well screened infill development will not impact adversely on the character and amenities of the area including the ACA. They include photographs with their response.

6.3. Planning Authority Response

They consider that the matters raised in the appeal have been addressed within their assessment to the original submission and in the responses to the Additional Information and Clarification of Additional Information. The Planning Authority remain of the view that the proposed development is in accordance with the proper planning and sustainable development of the area. If the Board upholds their decision they request that conditions nos. 7(b) and 11 are included in the Board determination.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. It is proposed to sub-divide an existing residential property 'Silverdale' and to construct a new single storey dwelling in the rear garden area. The application site is at the eastern edge of the area zoned TC -Town and District Centre where the objective seeks to: *Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities*. It is adjacent to: RS – Residential where the objective seeks: "To provide for residential development and protect and improve residential amenity". This also seeks to: *Ensure that any new development in existing area would have a minimal impact on and enhance existing residential amenity*'. I am satisfied that the proposed residential development is acceptable in principle within the TC zoning category however, the issue relative to impact on the special physical and social character of the town and on existing residential amenity and whether it would enhance this needs to be explored.

- 7.1.2. The proposed development is within the Architectural Conservation Area and it is within Malahide Town Centre and adjoins the Malahide Historic Core ACA. Therefore, it is important that regard is had to compliance with the relevant Objectives of the Fingal Development Plan 2017-2023 including DMS157 which relates specifically to new development within or adjoining an ACA. Chapter 3 of the Architectural Heritage Protection Guidelines refers to Architectural Conservation Areas. Section 3.3 refers to Identifying the Character of the Area and has regard to Architectural Interest and includes: *The volume or massing, plot size, boundary alignments and street-frontage alignment of the built environment can be part of the heritage of an urban area.*
- 7.1.3. The third parties are concerned that as both The Rise and The Mall are in the ACA that the proposed development is contrary to the provisions of this designated status. Also, that the proposed modern development will be further forward of the building line and visible from and is not in character with the existing house types on The Rise. They consider that the proposal will diminish the character of the ACA and the Historic Core of Malahide. Also, that there will be lasting damage to both trees and landscape to the detriment of the visual amenities of the area.
- 7.1.4. The First Party contend that by reason of the modest nature of the proposed single storey development together with the screening measures that will be retained/employed and compliance with the Council's conditions that the proposal, will be visually unobtrusive and will not set an undesirable precedent or impact adversely on the character of the established residential area, the ACA or Malahide Historic Core. Regard is had to the details submitted including the modifications made in the Further Information and Clarification of F.I submitted.
- 7.1.5. In the Assessment below, regard is had to the issues raised including relative to the planning history, the merits of the design and layout and changes between the current proposal and that previously refused, the impact on the character and amenities of the area, including the ACA, landscaping/screening, access and the issue of precedent.

7.2. Regard to Planning History

- 7.2.1. It is noted that there has been a history of refusals relative to the subject site and in the immediate area. While each case is considered on its merits, the reasons for refusal in these history cases have been raised by the third parties.
- 7.2.2. The most relevant to the subject site is PL06F.245533 where permission was refused by the Board for the construction of a proposed mews and vehicular entrance to the site located at the rear of 'Silverdale', The Mall, with site frontage and vehicular access from The Rise. In that case permission was sought for a proposed two storey three bedroom detached mews dwelling house of a modern architectural idiom and palette of materials with a stated gross floor area of 202sq.m and a vehicular entrance to the rear of the existing dwelling house with a g.f.a of 320sq.m. Therefore, this dwelling was substantially larger and higher than the current proposal. The Board refused permission in December 2015, in summary for reasons of its design and layout and discordant architectural character poorly addressing the site and contravening materially the development plan objective for this designated ACA and that it would also detract from the visual and residential amenities of the surrounding area.
- 7.2.3. Also of note is a more recent refusal relevant to the rear of no.7 The Mall, Malahide (PL06F.248317 refers). In this case it was proposed to construct a single storey mews in the rear garden of this property which is on the opposite side of the road to the subject site. The proposal would subdivide the existing plot into two separate plots of c. 0.0894ha and with a stated site area of 0.046ha. The Inspector considered that this would be at variance with the plot sizes of c.0.1ha plus along The Mall. The proposed dwelling was a square flat roofed structure with a stated floor area of 144sq.m. However the issue was that while the site is screened by planting including a roadside boundary hedge, it would be further forward of the building line, including to the north that of The Mall, and The Rise to the south. The Inspector had concerns in relation to the extent to which the proposed dwelling breached the established building lines and in particular its proximity to the western site boundary. They also considered that views of the proposed dwelling cannot be screened in full and that it would be visible on approach from The Mall through the vehicular entrance. This application was refused by the Board in October 2017, including, by reason of its

building line relative to surrounding buildings and the limited setback off the western site boundary, being inconsistent with the pattern of development in the area, would adversely affect the character of the ACA's and thereby seriously injure the visual amenities of the area. The Board also considered that it would contravene Development Plan Objective DMS157.

- 7.2.4. Also referred to by the third parties is PL06F.243493 where permission was refused by the Board for the erection of single two bedroom dwelling house and associated works at the rear of no.7 The Rise. The proposal was to include two car parking spaces to the front with an entrance way onto the existing laneway. This was refused by the Board for reasons of design and layout and would constitute haphazard and piecemeal development and conflict with Policy AH17 of the Fingal CDP 2011-2017 relative to adverse impact on the ACA. It must be noted that this application presents a different scenario is that it is further down The Rise to the south west of the subject site, with access to a laneway at the rear.
- 7.2.5. Another application of note was for the demolition of garage, construction of house and all associated works at 'Somerton' The Mall Malahide (PL06F.204936 refers). While the Inspector recommended refusal, the Board granted permission subject to conditions. This has now been constructed. The two storey house is located to the south west of the subject site and views of it are currently screened by existing planting. The access route to this mews house from The Rise, is to the south of and adjoins the subject site at the rear. It is of note that this house is further set back and does not project further forward of the building line of The Rise.

7.3. **Design and Layout**

- 7.3.1. The current proposal is to construct a contemporary design single storey flat roofed three bedroomed modern dwelling with a floor area of 105sqm. As shown on the Site Layout Plan submitted the plot size of the subject site is c.0.05ha and of the subdivided 'Silverdale' c. 0.09ha. i.e the existing plot size of the undivided site is c.0.14ha. The plans show that this subdivision will leave a private rear garden area of 200sq.m for 'Silverdale' and similarly for the subject site.
- 7.3.2. In response to the Council's F.I request it is noted that the revised plans indicate that the contiguous elevation has been revised, in order to be consistent with the Site

Layout Plan. This shows that there would be a separation distance between the existing dwelling and the proposed dwelling of c.12 metres. The Council's permission provided for the partition of the site by way of a 2m high fence between the rear of Silverdale and the proposed dwelling (Condition no.7(e) refers), and in view of screen planting this will not be visible from The Rise.

- 7.3.3. In response to the Council's F.I request the house type has been revised. While they have retained the original floor area, they have reduced the height of the building to no greater than 3.8m. As shown on the elevations the height varies from 3.8m to 3.3m for the lower section. It is considered that as an entity in itself the low profile nature of the proposed house type is acceptable provided quality external finishes are used and it will appear subordinate to the host dwelling.

7.4. Trees and Landscaping

- 7.4.1. This is an important issue on this site, relative to the impact of the proposal on existing planting, including mature trees and hedgerows and the need to retain and augment landscaping to provide screening and to retain the character of the site in the streetscape in the ACA. A Tree Survey and Tree Survey Document was submitted with the original application. However, the Council's Parks Planning Section was concerned that as shown the majority of the vegetation on the proposed mews site would potentially be adversely affected by construction works. The further information response included an updated Tree Care Report and Survey which indicates the trees which are to be removed prior to any construction works, including the area of hedge to be removed around the proposed vehicular entrance and having regard to sightlines.
- 7.4.2. The Report from the Council's Parks Planning Section notes that 10no. trees are to be felled and a section of the existing dense hedgerow would have to be removed to facilitate the new driveway. In response to the concerns of the Parks Planning Section, the Council requested a Clarification of F.I to include a complete tree survey including an Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement in accordance with the relevant standards by a suitably qualified arborist/landscape professional. They also requested that a detailed landscape plan be submitted to outline augmentary planting to the existing hedgerows, use of internal planting as further screening to

the impacts of the proposed vehicular entrance and replacement planting measures if required.

- 7.4.3. The First Party response included a complete Tree Survey which they provide is in accordance with standards, prepared by a suitably qualified arborist/landscape professional (Arbeco). A detailed landscape plan prepared by a landscape architect has also been included, which outlines the existing and proposed hedging and trees and how they will impact on the public footpath. It is noted that the layout plan includes details of the up to date house type. The Parks Planning Section considered the landscaping plan including the proposed replacement planting to be acceptable and recommended conditions. These include relative to protection measures during construction works and a tree bond. Condition no.7 including 7(b) of the Council's permission refers.
- 7.4.4. While there are some concerns regarding the merits of the proposal in the ACA, taking into account the impact on trees and landscaping on this prominent corner site to facilitate the proposed development, and also relative to impact of the proposed opening of the access relative to the screening provided along The Rise, I would recommend that if the Board decides to permit that such conditions be included.

7.5. **Access and Parking**

- 7.5.1. There is concern that the proposed entrance onto The Rise will cause additional traffic congestion to the existing traffic and parking problems on The Rise due also to the proximity of local school traffic. Also, that the proposed access is too close to the junction at the bottom of The Rise. The width of the road at the end of The Rise is narrower than further south along The Rise, with double yellow lines either side, which would need to be retained, and that the proposed access would be a danger to both vehicles, traffic and pedestrians. When on site, I noted that this narrower section of The Rise, close to the junction of The Mall does not have any existing vehicular entrances, so this will be the first in this stretch. Also, the proposed entrance will be further forward of the existing vehicular accesses to 'Somerton' and no. 1 The Rise. An area of dense roadside boundary hedge planting will need to be removed and a telegraph pole will also have to be relocated to facilitate the entrance.

7.5.2. The Council's Transportation Section had concerns that adequate sightlines had not been shown and that the width of the proposed entrance should be minimised. In response to the Council's F.I request the site layout plan has been amended to indicate hedging to be removed and reduced to achieve adequate sight lines for the new entrance. The First Party also confirm that the entire site is within the control of the applicant. They have reduced the proposed width of the entrance from 4.5m to 3m in width and have regard to similar height of 1.8m to existing vehicular entrance of the applicant's house 'Silverdale' The Mall and similar in design to no.10 The Rise. While the Transportation Planning Section considered that the information provided did not fully address the F.I request and that the sightline drawing is incorrect, they considered that with suitable amendments to the front boundary of the proposed development adequate sightlines can be achieved. They recommended a number of conditions. This included a reduction in heights of the hedge and boundary wall shown at a height of 1.2m on the drawings provided to 900mm to provide sufficient sightlines at the entrance. Condition no.9 of the Council's permission relates. It is recommended that a condition to have regard to these issues be included should the Board decide to permit.

7.6. Impact on the Character and Amenities of the Area

- 7.6.1. There is third party concern that this modern development would be out of context with the character of the area and the ACA. Also, that the visual amenity of the area would not be enhanced and would display unnecessary clutter in that this would entail the subdivision of what is now a landscaped rear garden area. The First Party response considers that this proposal is for an infill development, and that, if retained the eastern and southern hedges would provide effective screening from the public.
- 7.6.2. The Council's Conservation Officer's concerns are noted. One of the main concerns is that this proposal will be further forward of and break the building line of The Rise to the south. In response the First Party provides that by reason of the break provided by the access way to 'Somerton', that this is not the case. They contend that this forms a natural break along the south-western site boundary and that therefore no.1 The Rise is separated from the rear of the subject site.

7.6.3. While it is noted that the house type has been revised and reduced in height and floor area since the previous Board refusal PL06F.245533 and that the applicant has submitted detailed Tree Surveys and Landscape Plans I would be concerned that the screening of this proposal which is forward of the building line of The Rise depends entirely on retention of landscaping. I would also question whether the design and layout of this proposal taken in context with the existing build would enhance the character of Malahide Historic Core and the ACA. While the proposal is less obtrusive than that previously refused and is set back c.5.6m from the roadside boundary and the building line of 'Silverdale' facing The Mall, it is still c.8m further forward of the building line set by no.1 The Rise. There would also be views of the proposal from the proposed vehicular entrance which would be the first in this narrower northern section of The Rise, which is currently defined by boundary walls, trees and hedgerows. Therefore, I would consider that this proposal would not positively enhance the ACA and would set an undesirable precedent and be contrary to Objective DMS157 of the Fingal CDP 2017-2023.

7.7. Drainage

7.7.1. The site is in a serviced urban area and it is proposed to connect to the existing foul drain. The applicants confirm that they are providing a domestic water harvesting system to utilise roof water. Also, the drive both new and existing is to consist of permeable gravel drive. It is noted that Irish Water and the Council's Water Services Section has no objection subject to recommended conditions. It is recommended that if the Board decide to permit that appropriate drainage conditions be included.

7.8. Screening for Appropriate Assessment

7.8.1. Having regard to the minor nature of the development and its location in a serviced urban area, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

1. The proposed development by reason of its siting, removal of mature trees and hedgerows including to facilitate the access and being set further forward of the building line of No.1 and the established dwellings on the western side of The Rise, would be inconsistent with the pattern of development of development in the area and adversely affect the character of the 'Malahide Historic Core' Architectural Conservation Area and the adjoining 'Malahide The Rise' Architectural Conservation Area and would thereby injure and not positively enhance the visual amenities of the area. The proposed development would therefore set an undesirable precedent and contravene Development Plan objective DMS 157 which seeks to ensure that any new development within or adjoining an Architectural Conservation Area positively enhances the character of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Angela Brereton,
Planning Inspector

15th of March 2018