



An
Bord
Pleanála

Inspector's Report ABP-300673-18

Development	90 bedroom residential care home/nursing home. (Protected Structure).
Location	Lands at the former Sea Mills Hosiery Factory, Baths Road, Balbriggan, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F17A/0295
Applicant(s)	Colm and Sinead Mohan.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	<ol style="list-style-type: none">1. Iarnrod Eireann2. Tony Murphy3. Mary and Martin Mc Namara4. Lambeecher Residents Association5. Michael Halligan.

Observer(s)

None.

Date of Site Inspection

01st of May 2018.

Inspector

Karen Hamilton

1.0 Site Location and Description

- 1.1. The subject site is located along the coastline to the north of Balbriggan town centre, County Dublin. The site (c. 0.58ha) is accessed through via a local road, Bath Road, which runs through a residential area and under the Dublin – Belfast railway line. The site runs parallel to this railway line, separated by a small access laneway off Baths Road. There is a row of four semi-detached dwellings at the end of the laneway, to the south of the site, beside the coastline.
- 1.2. To the east of the site is a public park which contains a walkway and gym equipment and the site drops down away from the park toward the railway line. There are football pitches to the north of the site along the coastline with a large carpark. The site contains an 18.5m high red bricked chimney which forms part of the former Sea Mills Hosiery Factory and is a protected structure.

2.0 Proposed Development

- 2.1. The proposed development would comprise of:
 - Construction of a four storey (1,416m²) (part 2 storey/ part 3 storey/ part four storey) 90 bedroom residential care home/ nursing home and associated facilities,
 - 23 no surface level car parking spaces, set down area and 16 no. bicycle parking spaces (8 no surface spaces and 8 no. secure covered spaces),
 - A new vehicular access to the north and 2 no. pedestrian entrances along Baths Road,
 - The site is located within the curtilage of a protected structure.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 16 no conditions of which the following are of note:

C 2- The development shall be amended as follows:

- i) The floor to ceiling height of each storey reduced so as to ensure the height of the top storey (measures from the upper floor surface of the top to ground level) is less than 10 metre above ground level, such that the development shall only be required to be accessed by fire brigade pump appliances in lieu of fire brigade “high reach” appliances, which are currently designed in a manner to facilitate direct site access.
- ii) The fenestration of the building and overall building height shall be amended commensurately with the requirements of Condition 2 (i).

Revised drawings demonstrating compliance with these requirements shall be submitted and agreed.

Reason- To ensure appropriate fire service access to the development, with reference to 7.8.3 of the Development Management Guidelines for Planning Authorities, issued under Section 28 of the Planning and Development Act 2000.

C 3 - Traffic Management

- i) Additional road traffic signage shall be provided along the public road, at the expense of the developer, informing road users of the height restriction associated with the underpass to the west of the site (Railway Bridge UBB59). The signage shall comply with the latest edition of the Traffic Signs Manual and the specification, number and location of signs to be provided as agreed.
- ii) Prior to commencement of development the height restricting metal barrier over the public road, east of Railway Bridge UBB59, shall be removed or relocated as agreed with the planning authority.

- iii) The developer and operator of the development shall ensure that service vehicle operators are informed of height restrictions at the bridge
- iv) Submission of a mobility management plan
- v) Provision of no more than 23 no spaces
- vi) Submission of details of a pedestrian management system for shared surface under the railway bridge
- vii) All underground and overhead service and poles relocated

C 4- Submission of waste management plan and inform all operators of the height restriction at the bridge.

C 7- Implementation of the recommendations of the “Resonate Acoustics” “Planning Stage Acoustics Report”

C 10- Submission of a detailed methodology for the repair of Protected Structure No 19- “Chimney of Former Sea Mills Hosiery Factory”.

C 11- Additional landscaping details to be submitted and an Invasive Management Pan for the control and prevention of the spread of Japanese Knotweed.

C 12- Submission of an archaeologist report and associated licencing for works.

Four notes where included with the grant of permission relating to the following:

1. Compliance with Building Regulations
2. Advise in relation to title on the land (Section 34)
3. Connections for Irish Water
4. Requirement for a Foreshore Licence.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of additional information as summarised below:

Further Information:

- Additional information in relation to vehicular access, sightlines and car parking was requested, in particular the provision of emergency service vehicles, revised sightlines and full details of all staffing levels.
- Submission of a noise assessment including mitigation measures and reference to the adjoining Dublin- Belfast railway line.
- Alterations to the design of the building in order to address the impact on the protected structure on the site.
- Submission of a detailed technical methodology and confirmation of works to be undertaken to the protected structure as part of the proposed development.
- Additional information in relation to appropriate landscaping at the coastal location and design details of boundary treatment along the site.

Clarification of further information:

- Submission of a report from a Fire Safety Engineer in relation to compliance with Building Regulations requirement B5: Access and Facilities for the Fire Service and clarification on waste collection.
- Alterations required for the use of brick on the elevations and the impact on the protected structure.
- Details on protection of the chimney during construction.

Reference to Table 5.1 and Table 5.2 “Section B5- Access and Facilities for the Fire Service” of Building Regulations Technical Guidance Document (TGD) Part B and the role of planning when considering compliance with other legislative codes. It was considered a reduction in the height of the building to comply with TGD would be sufficient to ensure compliance and allow pump appliances to be utilised in the case of a fire.

The planning application was accompanied by the following supplementary information:

- Acoustic Report
- Architectural Design Statement

- Planning Support Statement
- Appropriate Assessment Screening Report
- Engineers Method Statement (protected structure)
- Traffic Assessment
- Archaeological Report
- Landscape Report
- Flood Risk Assessment

3.2.2. Other Technical Reports

Built Environment Section- Concern in regard to access for High Reach Fire Services vehicle.

Conservation Officer- No objection subject to conditions.

Architects Department- No objection to proposal.

Water Services Section- No objection subject to conditions.

Parks Section- No objection subject to conditions.

Transport Section- No objection subject to conditions.

3.3. Prescribed Bodies

Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs- No objection subject to conditions.

Commission for Railway Regulations- No objection subject to conditions.

Iarnrod Eireann - Recommend a refusal based on the restricted access to the site under the railway bridge.

Dublin Fire Brigade Department- Full access to the site in accordance with Technical Guidance Document (TGB) B5 (i.e. access for a high reach appliance for buildings over 10m).

Irish Water – No objection to the proposal.

3.4. **Third Party Observations**

- 3.5. A number of third party submissions were received from residents in the vicinity and others including a local councillor and a signed petition and the issues raised are summarised in the grounds of appeal.
- 3.6. A number of observations were received in relation to the further information and clarification of further information, which was not deemed significant, from those who made submissions on the initial application and the issues raised reiterated the original submissions.

4.0 **Planning History**

F16A/0300

Permission refused for a mixed use development with 1 no. 114 bedroom nursing home, 1 no 2 storey restaurant/ café , 6 no. 2 and half storey, 4 bedroom terrace house and all associated works.

The reason for refusal related to the (i) overdevelopment on a sensitive landscape and Objectives CT04, CT05, CT11, (ii) the impact on the protected structures and Objective AH13, (iii) overdevelopment leading to substandard design of each aspect, substandard car parking and (iv) insufficient detail in relation to foul drainage disposal and water supply. This site included both the subject site and additional lands to the south.

5.0 **Policy Context**

- 5.1. Urban Design Manual- A Best Practice Guide and the Design Manual for Urban Roads and Streets (2013)
- 5.2. Urban Design Manual – A Best Practice Guide (2009)
- 5.3. Building Regulations Technical Guidance Document (TGD) Part B
- 5.4. Architectural Heritage Guidelines for Planning Authorities, 2004. Development guidelines for Protected Structures and Areas of Architectural Conservation.

5.5. Fingal County Development Plan 2017-2023

The site is located on lands zoned as MC, Major Town Centre, where it is an objective *“to protect, provide for and/or improve major town centre facilities.”*

Residential Care Home/ Retirement Home is permitted in principle.

Function: Main town centres of the County which offer a range of services and facilities to a large hinterland

Vision: densification of appropriate commercial and residential developments ensuring a mix of commercial, recreational, civic, cultural, leisure, residential uses, and urban streets, while delivering a quality urban environment which will enhance the quality of life of resident, visitor and workers alike.

Balbriggan Town Centre

Objective PM 05- Develop a hierarchy of high quality vibrant and sustainable urban and village centres including the continued sustainable development.

Objective PM31- Promote the 12 urban design principles set out in the Urban Design annual- A Best Practice Guide (2009).

Ballbriggan is a Level 3 centre (large town).

Nursing Home

Objective PM48 & DMS46- Require that residential care homes, retirement homes, nursing homes, retirement villages and sheltered accommodation be located in towns and villages for reasons of sustainability, accessibility, social inclusion, and proximity to the availability of services, except where a demonstrated need to locate in a rural environment because of the nature of the care required can be clearly established.

Objective PM49- Consider the existing (and anticipated) character of the area in which a proposed residential care home, retirement home, nursing home or sheltered accommodation is to be located and the compatibility of the use to such an area.

Objective DMS47

Require that applications for residential care homes, retirement homes, nursing homes, retirement villages and sheltered accommodation consider and demonstrate the following:

- The potential impact on residential amenities of adjoining properties.
- Adequate provision of open space.
- Provision of adequate parking facilities.
- The design and proposed materials.
- The size and scale of the proposal must be appropriate to the area.
- A location within close proximity of high quality public transport links and the site should be well served by good footpath links.

Objective DMS48 – A reduction in open space standard is acceptable where other suitable open space is available.

Carparking

Table 12.8 Car parking Standards- Nursing Home: 1 space per 4 bedrooms

Appendix 6 : Map Based local objectives

Local Objective 1 - Promote and facilitate the development of the disused factory site, to the north of the beach/harbour as a mixed residential, hotel, leisure and entertainment precinct with shops, cafes and restaurants overlooking the coastal park and the sea.

Greater Dublin Area (GDA) Cycle Network.

The route follows the private laneway along the west of the site and through other lands in the applicant's ownership to the south of the site. The indicative route is not affected by the proposed development.

Protected Structure

Protected Structure No 19 is located on the south of the site "Chimney of Former Sea Mills Hosiery Factory- Late 19th century freestanding red brick chimney stack with stepped brick cornice (NIAH- Regional)

There are two recorded monuments located c. 130m north of the site DU002-017 (Mound) and DU002-004 (Martello Tower), the alter is also a protected structure RPS No. 17.

Objective CH21- Ensure the form and structural integrity of the Protected Structure is retained.

Objective CH20- Ensure the sensitive design of developments which are compatible with the special character of the Protected Structure.

Objective CH27- Best practice in relation to the management and care of Protected Structures.

Green Infrastructure Map

The site is located in a coastal location identified as a “*Highly Sensitive Landscape*”

Objective NH36- Provides guidance for development in highly sensitive areas where they should not cause unacceptable visual harm, be incongruous with the landscape elements nor cause disturbance or loss to the local distinctiveness.

Balbriggan Public Realm Plan 2011

The site forms part of the harbour and seafront strategic project/node.

Objective Ballbriggan 2- encourage regeneration of identified potential development sites within the town centre.

5.6. Natural Heritage Designations

The site is located 6.7km to the north of Skerries Island SPA and 4.5km south of the River Nanny Estuary and Shore SPA.

6.0 The Appeal

6.1. Grounds of Appeal

There are four grounds of appeal are submitted from a residents association, an individual resident, a signed petition, Iarnod Eireann and a local councillor which have been summarised within common themes below:

Emergency Access and Bridge Strike

- It has been established that it is necessary for a high reach appliance to reach the building which requires a height of 4m, the railway line is only 3.8m (as per report G. Sexton & Partners Ltd).
- The compensation for not being able to accommodate a high reach appliance (dry riser) is inadequate as they are not included in Section B5- Fire Brigade access.
- Reference to the use of a pump appliance for a single storey club house is not comparable as the nursing home is 4 storey.
- Reference within the report to a “small section” is actually 50%.
- The insertion of Condition No. 2 is not sufficient to address the fire safety and should have been addressed during the additional information.
- The proposed development does not comply with Fire Safety or Building Regulations.
- There is a serious risk of bridge strike occurring both during construction and operation of the development which can disrupt train services.
- The height restricting barrier should be located to the west of the Railway Bridge and be sized so as to replicate the clearances of the bridge and be fully independent to take the full vehicle impact of a laden truck.
- If the underpass is closed due to a bridge strike there will be serious consequences for the elderly residents of the nursing home as supported by Iarnod Eireann.

Planning History

- The site is only c.0598 ha which c. 2/3rds of the previous refusal is and the nursing home still represents over development.
- The proposed development will still have a negative impact on the protected structures.
- F16A/0300 was refused as the vehicular access and site car parking was substandard.
- The reasons for refusal are still applicable to this application. Although the number of bedrooms in the nursing home has been reduced the height still remains the same.
- PL06F.247928 was refused permission by the Board for a development on a sensitive coastal location.

Overdevelopment

- The subject site is a highly sensitive site.
- Previous refusal referred to overdevelopment. A comparison of the areas/ heights between the proposals indicates a 6% increase in site coverage. The significance and scale of the building remain the same.
- The scale and bulk of the building leads to excessive density on the site as illustrated in the CGI images.

Infrastructure

- The site is accessed under a railway bridge where only one car can be accommodated. There is no footpath provided, no signalised junction and the proposal does not comply with urban design guidance where pedestrians and cyclists are prioritised.
- The drainage layout shows the sewer immediately adjacent to the site and capacity for the system to take the load has not been addressed.
- The submitted consultant engineer report does not address the serious lack of capacity in the treatment system and merely reports it will flow by gravity to the existing fowl sewer on Baths Road.

Traffic

- The Traffic Impact Assessment (TIA) report fails to address the issues that there is only one access into the site.
- The trip generation in the TIA should state 1 vehicle every 5mins instead of every 10mins.
- The TIA does not address the treatment of traffic at the junction with Bath Road and Drogheda Street.
- The increase in the volume of traffic would be high in comparison to the existing traffic.
- The traffic survey was undertaken in mid-January 2017 which does not account for the beach goers or the use of the playing fields (illustration submitted).
- There is not sufficient car parking on the site to accommodate all the visitors and the staff, therefore there will be an overflow of parking in the surrounding area.
- The traffic assessment does not consider the uses currently beside the site.
- There is a conflict between pedestrian and traffic activity under the bridge.
- The carriageway under the bridge is with the ownership of Iarnród Éireann and the pedestrian management system cannot operate over railway property.
- There is a possibility of a bridge strike through the tunnel, which could disrupt the main line.

Construction Management Plan

- The plan is contradictory as it is stated the concrete will be lifted over the rail line (Section 4.1) and then estimations of vehicles accounts for concrete pumping activities (Section 4.2).
- There needs to be a waiting area for concrete lorries.
- A full construction management plan should be submitted.
- The use of 12 deliveries per day over a 14 month period via Bath Road is unacceptable.

- The submission of a CMP does not adequately address the significant issue of a bridge strike

Waste Management Plan

- There was no waste management plan submitted even though the nursing home has hazardous waste.

Architectural Design Statement (ADS)

- The ADS references a previous permission rather than the correct development.
- Buildings within the vicinity of the site are not included in the photomontages
- There is information on the surrounding area omitted from sections of this statement.
- The CGI views depict a very dominant impact on the nursing home and is inappropriate on a historic, exposed, prominent, headland location.

Fingal Development Plan 2017-2023

- Extracts from the development plan are submitted including, The Green Infrastructure mapping, EPA water quality, Section 9.4 Landscape and Section 9.5 Coast.
- The proposed development is a material contravention and does not comply with the zoning on the site.
- The proposal contravenes a Special Local Objective as they are clearly targeted towards leisure in the context of the coastal setting.
- The proposal would remove the potential to enhance the tourism amenities of Balbriggan.
- The development of the site would remove the potential to increase the retail function of Balbriggan town as this is the only remaining site for expansion. The proposal is against the County Retail Strategy.
- The site is identified as a green space in the Public Realm.

Residential Amenity

- The residential amenity will not be protected or improved.
- There is a designated play area immediately beside the underpass which will be impacted by construction.
- There will be noise disturbance due to delivery, service and ambulance traffic.
- There will be serious impact on the residents of the nursing home due to the proximity to a rail line.
- There is a serious vibration impact on the residents due to the location of the site.

Protected Structures

- The overall scale and layout of the proposal will have a negative impact on north the 19th century red brick chimney and the Martello Tower.

Site Suitability

- The site is unsuitable for a nursing home and those in the vicinity are set off main roads, within woodlands and on the outskirts of Drogheda which are more appropriate.
- A Site Suitability Report should have been submitted indicating energy efficiency options.

Japanese Knotweed

- The removal of the Japanese Knotweed should have been undertaken before approval.

6.2. Applicant Response

An agent on behalf of the applicant submitted two responses, one in relation to Iarnrod Eireann and the other in relation to the appeals submitted from the residents in the vicinity of the site, both of which have been summarised below.

1. Response to the Residents

- **Development plan:** The proposed development complies with the zoning on the site and nursing home is a permissible use. The Local Objective 1 is applicable to the entire site and the appeal site is only part of the site and the planning authority have confirmed the proposal is in compliance with the local objective.
- **Overdevelopment:** The proposed development has been reduced significantly from the previous application (16A/0300), is sensitively sited and the height has been reduced to 2 storeys beside the chimney. Condition No. 2 includes a reduction in the height of the building to no more than 10m.
- **Traffic and Parking:** A traffic survey has been undertaken by an independent body at the recommended time and a Traffic Impact Assessment was prepared. The parking proposed is at the maximum permitted. There is high quality public transport to Balbriggan town.
- **Access:** A pedestrian access is available along the coastline to the train station. The vehicular access is sufficient for the proposed development. Bath Street can accommodate two way traffic. A refuse vehicle and fire tender can drive safely under a railway bridge.
- **Water Services:** The appeal statement that Irish Water have concern over the connection is incorrect and it is not a requirement that the entire water network across Balbriggan is illustrated.
- **Compliance with Building Regulations:** The building has been designed by registered architects and reviewed by expert Fire Safety Consultants. The building complies with Part B5 of the Building Regulations (Access and facilities for the Fire Service). Condition No. 2 requires the building to be reduced to 10m in order to only require a standard pump appliance in the case of an emergency which can be accommodated under the bridge. Dublin Fire Brigade are satisfied with this proposal. Condition No. 3 (iii) requires the relocation of a height restricting barrier to the western side of the bridge, therefore there would be no risk of a bridge strike.
- **Impact on Residential Amenity:** The proposed development is located on lands zoned Major Town Centre. Nursing home would be determined as relatively low impact on residential amenity with low volumes of traffic. The

railway line acts as a barrier for any visual impact on the residents in the Lambeecher Estate.

- Impact on Visual Amenity: The site, although at a coastal location, is not affected by any preserved or protected views.
- Impact on the Coastline and habitats: The site is separated from the coastline by a park. A screening for Appropriate Assessment was submitted to state there will be no significant negative impact on any Natura 2000.
- Impact on Protected Structure: The submitted Method Statement confirms the protected structure will be repaired and upgraded as part of the construction activity and the proposed development will safeguard this structure.
- Construction Management Plan: A preliminary CMP was submitted. Condition No. 5 requires the submission of a detailed CMP for the agreement of the planning authority. The construction works are temporary and will be undertaken in a safe manner.
- Vibration from the Railway line: The site does not directly adjoin the railway line and as part of an additional information request an Acoustics assessment was submitted to state the noise and vibration from the rail line would not affect the proposed development.
- Japanese Knotweed: There is a common method for removal of such species from the site prior to commencement of development.

2. Iarnrod Eireann

- The main area of concern is the bridge strike.
- The access has been carefully included within the overall design.
- The applicant engaged the service of a Fire Consultant to prepare a report on how the proposed development complies with Part B of the Building Regulations.
- Standard fire tender vehicles can safely access the site via the railway bridge
- Condition No 2 was attached to reduce the overall height of the building to 10m which will not necessitate the use of high-reach appliance.

- A high reach vehicle is not located within the closest fire station in Balbriggan.
- Condition No 3 (ii) requires the relocation of the height restricted barrier to the west of the bridge.
- Clarification from the planning authority indicate that the road is within the control of the Local Authority (map included).
- It was confirmed, in the submission of additional information that the bridge can allow a waste collection vehicle to drive through the railway bridge. Condition No 4 requires that future waste operators are appropriately informed of the height restrictions
- The submitted CMP assessed how the site could be constructed and it took into consideration the location and height restriction of the bridge.

6.3. Planning Authority Response

Two responses have been received from the planning authority and the issues raised in each are summarised below:

1. Response to the residents appeal

- The Planners assessment, the request for further information and clarification of further information indicate that all the issues raised in the grounds of appeal were considered in full.
- The proposal is an acceptable commercial use with the zoning, having regard to the local objective and siting and location.
- The proposal represents a high quality, plan-led development of a vacant site.
- It is requested that the Board uphold the decision and conditions on the permission, in particular Condition. No 2.

2. Iarnrod Eireann

- The principle concern is in relation to the bridge strike and conditions No, 2, 3, 4 and 5.
- Iarnrod Eireann had no objection to the previous application Reg Ref F16A/0300

- The applicant's initial drawings depicted incorrect clearance distances for Railway Bridge UBB59 and the planning authority measured and found it to be c. 3.8m high and c 3.5-3.6m wide.
- Fingal County Council's statutory road schedule indicate the road under the railway bridge is public road L11533 and in charge by the Local Authority.
- Condition No 2 required the reduction in height so that "high reach" vehicles would not be required to access the site (TGD Part B).
- Bridge Strikes are legislated under Section 138 of the Railway Safety Act 2005 and are not a sound basis for refusal.
- The risk of a bridge strike by an oversized vehicle can be addressed by signage and the relocation of the restricting metal gateway to the west of the bridge.
- The site access and transportation element are subject to detailed consideration of the Transportation Planning and Built Inspectorate Sections and Dublin Fire Brigade.
- The concerns raised by Iarnrod Eireann have been carefully considered and appropriately addressed.

6.4. **Observations**

None received.

6.5. **Further Responses**

A further response was received from a resident along Baths Road in support of the grounds of appeal and may be summarised below:

- Bridge Strike: The carriageway is owned by Iarnrod Eireann therefore upgrade works cannot be undertaken by the developer. Condition No 2 is of no value as a High Reach Fire Vehicle can accidentally attempt to access under the bridge. The proposal to crane lift a concrete batch over the line is unsuitable

- Traffic and Parking: The underpass is not wide enough and there is conflict between pedestrians and vehicles. There is already traffic backed up at the signalised junction at Bath Road and Drogheda Street.
- Overdevelopment: The site coverage is of concern at a coastal location.
- Residential Amenity: The traffic generated will have a significant impact on the amenity of those residents along Bath Road.
- Planning History: The present site is 2/3^{rds} of previous site and that developmetn omitted will undoubtley be subject of a further application.
- Visual amenity: The precedent for refusal by the Board (PL06F.247928) is for refusal on highly sensitives sites.
- Local Objective No 1: is for a mix of residential, hotel, leisure and entertainment.
- Fire Safety: Condition No 2 is a flawed attempt to resolve a flaw that the site is suitable for development.
- Construction Management: Additional signage for construction as per Condition No 3 is not appropriate. The lifting of concrete over the line is subject to agreement with Iarnrod Eireann who have appeal this proposal.
- Protected Structure: the proposed development puts the chimney at risk.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:-

- Principle of Development
- Planning History
- Traffic and Access
- Building Regulations
- Built Heritage
- Urban Design and Visual Amenity
- Other

- Appropriate Assessment

Principle of Development

- 7.2. The proposed development is for a 90 bed nursing home located along the coastline of Balbriggan on lands zoned for MC, Major Town Centre, in the Fingal County Development Plan 2017-2023, where it is an objective *“to protect, provide and/or improve major town centre facilities”*. Residential Care Home is permitted in principle.
- 7.3. There is a site specific objective (1) which states, *“Promote and facilitate the development of the disused factory site, to the north of the beach/ harbour as a mixed residential, hotel, leisure and entertainment precinct with shops, cafes and restaurants overlooking the coastal park and the sea.”*. The grounds of appeal argue the proposed nursing home does not comply with the local objective designation on the site, therefore the proposed development is a material contravention of the development plan. The response from the applicant, to the grounds of appeal, refers to a previous planning application (Reg Ref 16FA/0300), detailed below, which was refused permission for a mixed use scheme for five reasons and the use of the nursing home was permitted in principle.
- 7.4. I note the site specific zoning does not specifically promote a nursing home, rather it refers to a mix of uses. It is also of note the subject site include only c. 2/3rds of the site included for the Local Objective No.1, where the remainder will be available for future development. The local objectives are illustrated on the zoning map and listed in Appendix 6 of Fingal County Development Plan 2017-2023 which states they are to be read in conjunction with the Development Plan Maps. Notwithstanding the site specific zoning objective that pertains to the appeal site, I consider that the proposed development complies with the permissible uses of the MC, town centre zoning and Objectives PM48 and DMS46 of the development plan which seek to direct residential care homes to towns and villages. Therefore, subject to complying with other planning requirements as addressed in the following sections, I consider the principle of development acceptable.

Planning History

- 7.5. Reg Ref 16FA/0300, mixed use development including 11 be nursing home, 6 no. terrace dwellings and restaurant/café, was refused permission for 5 no. reasons 1)

overdevelopment of a highly sensitive site, 2) detrimental impact on the protected structures, 3) design and substandard accommodation 4) unsatisfactory access proposals, and 5) unsatisfactory information on foul drainage and water supply. The grounds of appeal submit there is little difference between the proposed development and the previous refused permission and the reasons for refusal are still applicable.

- 7.6. The report of the area planner includes a breakdown of the comparisons of the proposed development and the previous refusal on the site and it is of particular note that the size of the site has been reduced by 0.28 ha, the gross floor area has been reduced by 3,603m² as has the parking provision and scale of the building. Having regard to the significant differences between the applications I do not consider the previous reasons for refusal must be applicable and I consider the proposed development should be assessed on its individual merits.

Traffic and Access

- 7.7. The proposed development includes a new vehicular access to the north of the site along Baths Road, adjoining the public park and the provision of 23 no. car parking spaces. The only access road to the subject site is via Bath Road, a local access road (L11533) which radiates east from the main Drogheda St, runs through Lambeecher residential estate and currently provides access to recreational pitches, playground and a carpark used for coastal walkway. Baths Road runs under railway bridge (UBB59), the main Dublin- Belfast line which is c.3.8m in height and c. 3.5m wide and can accommodate one car. The grounds of appeal argue that both the use of Baths Road and the need to go under the railway bridge severely restricts access to the site during construction and for the operation of the care home and therefore the proposed development is a traffic hazard. In addition, Iarnrod Eireann raise concern on the possibility of a bridge strike during construction and operation of the site.
- 7.8. Following the submission of further information in relation to sightlines, access for construction traffic and emergency vehicles and proposed staffing levels, a trip distribution model was submitted to state that nursing homes generate very little pedestrian activity, included the submission of amended sightlines to comply with a 2.4m set-back and unrestricted envelope of visibility of 45m and detailed employees

to state there would be no more than 30-35 on shift at any one time. The Transportation Section had no objection to the proposal subject to the submission of a Mobility Management Plan to include both existing pedestrian and vehicle activity to mitigate additional parking demand and include signage along the main road.

- 7.9. I note the provision of 23 car parking spaces comply with the development plan standards and the planning authority require this as a maximum, which I consider reasonable. It is of note that there was pedestrian activity under the bridge during site inspection and having regard to the traffic slowing due to speed ramps along Bath Road and the width of the bridge, I consider the interaction between pedestrians and vehicles was acceptable. Condition No. 3 included a list of traffic management requirements of which one vi) required the submission of a pedestrian management system for shared surface under the bridge. Iarnrod Eireann state they own these lands whilst the applicant submits information from the Local Authority that they have been subject to taking in charge (local road L11533). As section 34(13) of the Planning and Development Act 2000, as amended, states, a person is not entitled solely by reason of a permission to carry out any development, I consider the onus on the applicant to be certain under civil law that they have all necessary rights in the land to exercise the grant of permission and retention permission. The planning authority includes a note referring to the requirement on the applicant, which I consider reasonable.
- 7.10. The applicant refers to a preliminary Construction Management Plan which accompanied the application. The grounds of appeal do not consider the information submitted with the application is sufficient to address their concerns on the impact on the residents in the vicinity in particular the 14 construction trucks proposed daily and I note the report of the Transport Section did not include any concerns in relation to Construction Traffic. Condition No. 5 requires the submission of a Construction Management Plan prior to the commencement of development on the site, which I consider reasonable and taken in conjunction with the requirement for a Mobility Management Plan, discussed above, and the temporary nature of the construction on site, I consider the impact on the surrounding area would be mitigated and I do not consider the proposed development would have a significant negative impact on the residential amenity.

- 7.11. In addition to the above, Iarnród Éireann have serious concerns over the possibility of a bridge strike. There is currently a height restricting barrier on the east of the bridge, towards the coastline. Condition No 3 (ii) requires the removal or relocation of the barrier although the condition does not specify where the barrier is to be relocated. I consider the inclusion of the height restricting barrier, in addition to signage, before the bridge at the west would ensure prevention of a bridge strike.
- 7.12. Having regard to the speed restrictions along Baths Road and the traffic generated by the proposed development, I do not consider the proposed development would cause a traffic hazard or have a significant negative impact on the surrounding area.

Building Regulations

- 7.13. The access to the site under the railway line restricts access to large vehicles, in particular high reach fire engines. Following the submission of further information and clarification of further information in relation to compliance with Building Regulations requirement B5: Access and Facilities for the Fire Service, the planning authority was not satisfied the proposed development could comply with the minimum standards and included Condition No. 2, reduction in the floor to ceiling height of each floor to ensure the top storey of the building is less than 10m above the ground level.
- 7.14. Section 7.8.3 of the Development Management Guidelines or Planning Authorities states that “fire safety can only be considered where it is relevant to the primary purpose of the Acts, namely the proper planning and sustainable development of the area” which includes fire service access for proposed developments. Guidance for appropriate fire access is provided in Table 5.1 and Table 5.2 of the Building Regulations Technical Guidance Document (TGD) Part B Vol 1. Section 5.2 of this guidance states that access requirements increase with building size and height. The proposed building is 14.1m in height and c. 60, 000m³ the fourth floor is used for staff facilities. Table 5.1 states that a pump appliance is required for 50% of a building up to 10m in height and a high reach appliance for a building higher than this. Table 5.2 states that the minimum width of a road to accommodate a pump and high reach vehicle is 3.7m. The bridge is c.3.8m in height and c. 3.5m wide.
- 7.15. The applicant's fire safety consultant responded to a further information request stating a standard pump appliance can access the site as the width of the appliances

are 2.55m wide. The width under the railway bridge, as measured by the local authority, is c.3.5m. A response from Dublin Fire Brigade refers to the need to provide access for a high reach vehicle over 10m with a minimum width of 3.7m for access and compensatory measures included in the Fire Safety Consultant Report, are not acceptable in lieu of full access in accordance with TGDB. The Built Environment Inspectorate of the Local Authority state that the access does not allow compliance to the site for high reach vehicles. Condition No. 2 requires the reduction in the floor height of the nursing home to less than 10m so the site may be accessed by fire brigade pump appliances in lieu of fire brigade “high reach” appliances to facilitate direct site access. I consider this condition reasonable to ensure compliance with both the building regulations and the requirement for access as per development management guidelines. It is of note the applicant is required to comply with fire safety standards for new buildings as governed under the Building Control Legislation and the planning authority included a note on the grant of permission reminding the developer of this requirement, which I consider reasonable.

- 7.16. Therefore, having regard to the inclusion of Condition No. 2 in relation to the restriction on the height of the building in order to remove the necessity for access for a high reach vehicle and the report of the Fire Safety Consultant, I consider access to the site for fire service is acceptable.

Built Heritage

- 7.17. The site includes a redundant red bricked industrial chimney (c. 18.5m high) associated with the former Sea Mills Hosiery Factory and is one of two protected late 19th / early 20th century red bricked chimneys in Balbriggan. The site is also located c.100m from Martello Tower, a protected structure along the coastline.
- 7.18. A detailed archaeological report accompanied the application which recommends archaeological monitoring of the site and I note the Department of Arts, Heritage, Regional, Rural and Gaeltacht concurred with this recommendation, which I consider reasonable.
- 7.19. A structural engineers report on the condition of the chimney accompanied the application which concluded that the chimney was generally in good condition and the minor defects could be fixed, the applicant did not propose to implement the

works as part of the application which the Conservation Officer is not consider satisfactory and recommended the inclusion of a condition for the appropriate upgrade of the protected structure. Objective CH 21 of the development plan requires the form and structural integrity of the protected structure to be retained during construction. Following the submission in relation to the horizontal emphasis and the range and colour of the brick, the Conservation Officer and County Architect where satisfied with the overall design of the building subject to final confirmation on the use of the brick type.

- 7.20. Having regard to the height of the chimney c. 8.5m above the proposed building (c. 10m), the use of the red brick on the elevations and the separation distance of c. 5m, I do not consider the proposed development would have a negative impact on the character and setting of the protected structure. In addition, having regard to the location of the protected structure within the subject site and the integration into the overall setting of the proposed nursing home and the objectives of the development plan, I consider it reasonable that any proposed development on the site would also integrate the upgrade of the chimney.

Urban Design and Visual Amenity

- 7.21. The subject site is located along the coastline of Balbriggan and is designated as a “Coastal Character Type” landscape in the development plan which is highly sensitive. The proposed nursing home comprises of a part two storey (7.75m), part three storey (11.35m) and part four-storey (14.1m) red brick building with an L-shaped floor plan facing east toward the coastline. The building is 4,034m² of which 354m² is located on the fourth floor (6.3%). The grounds of appeal argue the site is located in a highly sensitive location and the design of the proposal is appropriate.
- 7.22. Objective BALBRIGGAN 2 of the development plan refers to the facilitation of an Urban Design Framework Plan and Balbriggan Public Realm Plan for the town centre to encourage the regeneration of the identified development site within the town centre. Section 12.3 of the development plan provide design criteria for urban development and refers to the use of the national guidelines *Sustainable Residential Development in Urban Areas -Guidelines for Planning Authorities* and *Best Practice Urban Design Manual* (DoECLG 2009) for the provision of high quality urban design. These Guidelines advocate high quality sustainable development that

are well designed and built to integrate with the existing or new communities and the design manual provides best practice design criteria such as context, connections, inclusivity, variety, efficiency, layout etc.

- 7.23. The proposed development includes a staggered height, is set alongside the main railway line, which is c. 4m above the site and the ground floor levels of the site and the adjoining dwellings, are c. 2m lower than park along the east of the site. An Architectural Design Statement includes the context drawings illustrating the adjoining embankment. I note the embankment is approximately 4m higher than the site and although the building will extend over the railway line it is of note that it is 10m to the east. Objective NH36 of the development plan provides guidance for development in highly sensitive areas where they should not cause unacceptable visual harm, be incongruous with the landscape elements nor cause disturbance or loss to the local distinctiveness. Having regard to the location of the embankment along the west of the site and the staggered design of the building, the majority of the proposed development will not be visible from the Lambeecher estate. The semi-detached dwellings to the south of the site are c. 25m from the edge of the building, where the building is two storeys in height. Therefore, having regard to the location and design of the proposed and design I do not consider the building will cause any overbearing on the surrounding area will not have a significant negative impact on the amenities in the vicinity.
- 7.24. An extensive landscaping plan has been submitted which the Parks Section is satisfied subject to the extension of the hedgerow mix along the eastern and southern boundary on the site. In addition, the Parks Section also require the treatment of an invasive species, Japanese Knotweed, as detailed below.
- 7.25. Having regard to the location of the site set alongside the railway embankment and the overall design of the building, I consider the proposal complies with the design criteria in the urban design manual and I do not consider I would have a negative impact on the surrounding area.

Other

- 7.26. Noise: An Acoustics Report, submitted as part of a further information request, assessed the noise intrusion of the railway line on the proposed development. The recommendations of the report included proposed standards for glazing, ventilation,

wall and roof construction. Condition No 9 requires the implementation of the recommendations of the report to protect the residential amenities of the occupants of the care home, which I consider reasonable.

Appropriate Assessment

- 7.27. The site is located 6.7km to the north of Skerries Island SPA and 4.5km south of the River Nanny Estuary and Shore SPA. The proposal includes connection to the public water and waste water system. An Appropriate Assessment Screening was submitted with the application which includes the Conservation Objectives of all those Natura 2000 sites within a 15km radius of the site and concluded that the proposed development will not have a significant effect on any Natura 2000 site based on the location, connection to the foul sewer and use of SuDS and petrol interceptors. I consider the screening assessment submitted reasonable and I note Condition No. 11 (iii) requires the submission of an Invasive Species Management Plan for the control of Japanese Knotweed on the site, which I consider reasonable to prevent the spread along the coastline.
- 7.28. Therefore, having regard to the nature and scale of the proposed development and the provision of services for the site and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the MC, Town Centre zoning, the policies and objectives of Fingal County Development Plan 2017-2023, in particular PM48 and DMS46 which direct the location of care homes to towns and villages, the location of the site along the east of a railway line, the overall profile of the building and the pattern of

development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not have negative impact on the character and setting of the protected structure on the site or in the vicinity and would be acceptable in terms of traffic safety. 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 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. The development shall be amended as follows:
 - i. The floor to ceiling height of each storey reduced so as to ensure the height of the top storey (measures from the upper floor surface of the top to ground level) is less than 10 metre above ground level, such that the development shall only be required to be accessed by fire brigade pump appliances in lieu of fire brigade “high reach” appliances, which are currently designed in a manner to facilitate direct site access.

- ii. The fenestration of the building and overall building height shall be amended commensurately with the requirements of Condition 2 (i).
- iii. Revised drawings demonstrating compliance with these requirements shall be submitted and agreed.

Reason- To ensure appropriate fire service access to the development, with reference to 7.8.3 of the Development Management Guidelines for Planning Authorities, issued under Section 28 of the Planning and Development Act 2000.

- 3. Prior to commencement of development the applicant shall submit the following information to the planning authority for written confirmation.
 - i. Additional road traffic signage shall be provided along the public road, at the expense of the developer, informing road users of the height restriction associated with the underpass to the west of the site (Railway Bridge UBB59). The signage shall comply with the latest edition of the Traffic Signs Manual and the specification, number and location of signs to be provided as agreed.
 - ii. The height restricting metal barrier over the public road, east of Railway Bridge UBB59, shall be relocated to the west of Railway Bridge UBB59.
 - iii. The developer and operator of the development shall ensure that service vehicle operators are informed of height restrictions at the bridge and include these measures in the Construction Management Plan.
 - iv. A Mobility Management Plan shall be submitted.
 - v. The provision of 23 car parking spaces shall be a maximum provide on the site.
 - vi. Details of a pedestrian management system for shared surface under the Railway Bridge UBB59.
 - vii. All underground and overhead service and poles relocated

- viii. No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm.

Reason: In the interest of traffic safety.

4. Prior to the commencement of development the applicant shall submit an Invasive Management Species Action Plan for the written approval of the planning authority which shall include full details of the eradication of the Japanese Knotweed from the site before construction on the site.

Reason: In the interest of nature conservation and mitigating ecological damage associated with the development.

5. Prior to commencement of development, the developer shall provide for the following:-

- i. The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
- ii. The submission of details of all finishes.
- iii. Details of the proposed interventions and finished to the “Chimney of Former Sea Mills Hosiery Factory” shall be submitted for the written agreement of the planning authority.
- iv. Repair works shall be completed before occupation of the proposed development.
- v. All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:-
 - i. notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - ii. employ a suitably-qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- i. the nature and location of archaeological material on the site, and
- ii. the impact of the proposed development on such archaeological material.

A report containing the results of the assessment shall be submitted to the planning authority with any application for permission consequent on this grant of outline permission. Details regarding any further archaeological requirements, including, if necessary, archaeological excavation, prior to the commencement of construction work, shall be determined at permission consequent stage.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation, in-situ or by record, and protection of any archaeological remains that may exist within the site

7. Details indicating the proposed methods of compliance with the

recommendations of the “Resonate Acoustics” “Planning Stage Acoustics Report” shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of protecting the residential amenities of future occupants of the nursing home.

8. The landscaping of the development shall incorporate the hedgerow mix proposed along the eastern boundary to the southern boundary.

Reason: In the interest of residential and visual amenity

9. 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

10. 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.

11. Water supply and drainage arrangements, including the [attenuation and] disposal of surface water, shall comply with the requirements of the

planning authority for such works and services.

Reason: In the interest of public health

12. 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.

Advice Note: The applicant is advised that the onus is on them to comply in full with the requirements of the Building Control Regulations.

Advice Note: Section 34(13), A person shall not be entitled solely by reason of a permission under this section to carry out any development.

Karen Hamilton
Planning Inspector

30th of May 2018