



An  
Bord  
Pleanála

## Inspector's Report ABP-301145-18

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<b>Development</b>	81 houses and a creche.
<b>Location</b>	North of Baskin Lane, Kinsealy (also ref. to as Kinsaley), Malahide Road, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F17A/0757
<b>Applicant(s)</b>	Alhans Ltd. (In Receivership).
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Alhans Ltd (In Receivership).
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	2 <sup>nd</sup> August 2018.
<b>Inspector</b>	Karen Kenny

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## 1.0 Site Location and Description

- 1.1.1. The site is located in Kinsealy, a rural village located approximately 6 kilometres south east of Swords, 3.5 kilometres south west of Malahide and 3 kilometres west of Portmarnock.
- 1.1.2. The Malahide Road runs north south through the village and intersects with Chapel Road and Baskin Lane in Kinsealy. The village is centred on a parish church (Church of St. Nicholas of Myra), workers cottages and a neighbourhood centre (St. Olave's) that are located to the east of the Malahide Road. In recent years, residential development has also occurred to the east of the village core off Chapel Road and Chapel Lane.
- 1.1.3. The appeal site is located to the west of the Malahide Road (R107) and north of Baskin Lane, opposite the church and local centre. Lands to the immediate north, south and west are undeveloped. The site, with a stated area of approximately 4.3 hectares, is an open grass field. It is bounded to the north and south by a dense hedgerow with trees and to the east by a historic limestone wall. There is no boundary marking on the western site boundary, as the field extends westward beyond this boundary. The Sluice River runs along the northern site boundary and the Abbeville Demesne is located immediately north of the site.
- 1.1.4. There are three protected structures and an ACA in the immediate vicinity of the site. The Abbeville Demesne, to the immediate north of the site, is designated as an Architectural Conservation Area and contains Abbeville House, a Protected Structure (RPS: 0452). The Church of St. Nicholas of Myra, located at the junction of the Malahide Road and Chapel Lane, is a Protected Structure (RPS: 454). Kinsealy Bridge, on the R107 to the north east of the site, is also a Protected Structure (RPS: 913).

## 2.0 Proposed Development

2.1. Permission is sought for a residential development of 81 no. 2 storey residential houses (4 no. 2-bed units, 52 no. 3-bed-units and 25 no. 4-bed units) and a creche.

The proposed development includes the following:

- Vehicular access onto the Malahide Road with a secondary emergency access to Baskin Lane;
- Pedestrian / cyclist access points to the Malahide Road and Baskin Lane;
- Upgrade works to the Malahide Road and Chapel Road junction to provide for an additional lane and revised traffic signalisation and associated works;
- SuDS attenuation ponds in the north of the site;
- Associated landscaping, public open space, boundary treatments and site infrastructure (including internal roads, storm and foul sewers, SuDS and connection to the public systems).

2.2. The application was accompanied by the following reports:

- Planning Report
- Housing Quality Assessment
- Architectural Design Statement
- Engineering Services Report
- Traffic Impact Assessment
- Flood Risk Assessment
- Landscape Design Report
- Conservation Report
- Inward Noise Impact Assessment
- Screening Report for Appropriate Assessment
- Part V Proposal

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse permission for four reasons. The reasons for refusal are as follows:

1. In the absence of an approved Local Area Plan the development in its proposed form on a centrally located site proximate to the Malahide Road and between existing commercial areas would contravene materially the RV zoning objective for the area, which seeks to 'Protect and promote the character of the Rural Village and promote a vibrant community in accordance with an approved Local Area Plan, and the availability of physical and community infrastructure'. The proposed development would be premature pending the approval of a Local Area Plan and associated Village Design Framework Plan which will determine the pattern of development of the wider village centre, the location of commercial and community and civic facilities, public open space and street layout to allow for the cohesive growth of the village into the future and the development of a sense of place and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development could prejudice the ability of Fingal County Council to carry out the findings of a comprehensive transport study for the South Fingal Area which will produce a strategic framework for the proper planning and sustainable development of the study area. Any such findings will be used to inform the preparation of Local Area Plans. The development in its proposed form would materially contravene the requirements of Objective MT07 of the Fingal Development Plan 2017-2023 and is therefore considered to be premature pending the detailed study of the land requirements needed to facilitate the strategic transport requirements for the area.
3. It is an objective of the Fingal Development Plan 2017-2023 to implement Road Improvement Schemes throughout the County, within which Table 7.1 includes the R107 Malahide Road Realignment, Balgriffin Bypass. To permit development of the subject lands would be premature pending the outcome of the South Fingal Transport Study and would contravene materially Objective

MT41 'Seek to implement the Road Improvement Schemes indicated in Table 7.1 within the Plan period, subject to assessment against the criteria set out in Section 5.8.3 of the NTA Transport Strategy for the GDA and which requires the reservation of the corridors of the proposed road improvements free of development'. The proposed development is premature pending the outcome of the South Fingal Transport Study which could prejudice the delivery of the identified piece of infrastructure.

4. The proposed development is piecemeal and would be contrary to the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The key issues raised in the Planning Officer's Report can be summarised as follows:

- The proposed development is considered premature in the absence of an adopted Local Area Plan (LAP) and Village Development Framework Plan (VDFP). It is anticipated that a Draft LAP would be prepared before the end of 2019.
- The Report states that there is a material difference between this application and other recent grants of permission in Kinsealy due to the sites position within the village. Key matters to be addressed by an LAP include the sites position relative to commercial developments to the east (St. Olaves Neighbourhood Centre) and south (approved craft centre), building line, streetscape, mix of uses and movement and connectivity.
- The Development Plan shows an indicative alignment for the Malahide Road Realignment. The South Fingal Transport Study will consider this road scheme and the reservation could be subject to change, and as such the proposed development is considered premature.
- Concerns raised in relation to the design of the scheme. Issues raised include the absence of an urban edge to the Malahide Road, location of open

space and creche, the lack of connectivity within the layout, failure to address Baskin Lane and potential for visual impacts on Abbeville Demesne.

- The scheme fails to meet minimum Development Plan standards in relation to open space provision and car parking.
- Issues raised in relation to the scale of Dwelling Type A, internal storage space, overlooking and car parking.
- The Report states that the submitted details in relation to the upgrade of the junction of the Malahide Road and Church Lane are inadequate.

### 3.2.2. Other Technical Reports

Water Services:	No objection.
Transportation Section:	Recommends Refusal. The proposed development is premature pending a more detailed study of the land requirements needed to facilitate the Malahide Road Realignment. Report also raises concerns in relation to car parking, creche set down facilities, emergency access and upgrade of the Malahide Road / Chapel Lane junction.
Parks and Green Infrastructure:	Requests additional information. Open Space below Development Plan standard. Issues raised in relation to drainage, landscaping, playground, boundary treatments.
Conservation Officer:	No report on file.
Community Archaeologist:	No objection. Pre-development archaeological testing recommended.
Forward Planning:	Development premature pending the preparation of a Local Area Plan for Kinsealy.



### 3.3. Prescribed Bodies

Irish Water:	No objection.
EHO:	No objection.
Inland Fisheries Ireland:	No objection. Recommends that a Construction Environmental Management Plan is prepared.
Dublin Airport Authority:	Site located within the Outer Noise Zone of Dublin Airport. Recommend that noise mitigation measures in Noise Impact Assessment Report are required by way of condition.
Fingal Childcare Committee:	No Objection.

### 3.4. Third Party Observations

None.

## 4.0 Planning History

- 4.1.1. There has been a substantial planning history associated with Kinsealy Village and its immediate environs. These are set out in the Planning Officer's Report and those of most relevance are summarised as follows:

### 4.2. Subject Site:

#### **ABP Ref. PL06F.227835 / P.A. Ref. F07A/1460:**

Application for 30 no. houses on the appeal site. Permission refused by the Planning Authority. An Bord Pleanála refused permission on appeal for one reason relating to deficiencies in the sewerage and sewage facilities serving the area.

### 4.3. Lands to the West to the rear of Ashgrove:

#### **ABP Ref. PL06F.247545 / P.A. Ref. F16A/0152**

Application for 46 no. dwellings with access from the Ashgrove development. Permission granted by the Planning Authority. An Bord Pleanála upheld the decision

of the Planning Authority and granted permission on appeal. The Planning Authority subsequently granted permission for amendments under P.A. Ref. F17A/0350.

#### 4.4. **Lands to the East off Church Lane**

##### **P.A. Ref. F18A/0041:**

Application for wastewater pumping station on a site of 0.19 ha within the curtilage of Kinsaley House, a protected structure (RPS No. 464). Decision pending.

##### **ABP Ref. PL06F. 248584 / P.A. Ref. F16A/0511**

Application for demolition of dwelling and construction of 82 no. residential units, a childcare facility and all associated site works on a site to the south of Church Lane. Permission granted by the Planning Authority. An Bord Pleanála upheld the decision of the Planning Authority and granted permission on appeal.

##### **ABP Ref. PL06F.248515 / P.A. Ref. F16A/0464:**

Application for development at Kinsealy House, a Protected Structure that is located to the east of the appeal site. The development includes refurbishment and extension of Kinsaley House, refurbishment of a store shed and change of use to residential, demolition of an apartment building and agricultural buildings and the construction of 101 no. dwellings and a childcare facility. Permission granted by the Planning Authority. An Bord Pleanála upheld the decision of the Planning Authority and granted permission on appeal.

##### **FL06F.235291 / F09A/0436:**

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

#### 4.5. **Abbeville Demesne**

##### **ABP Ref. PL06F.214992 / P.A. Ref. F05A/0167**

Application for development at Abbeville House and Demesne (on a site of 93 ha) to include a 70-bedroom hotel, 18 hole championship golf course with club house, 32 no. detached dwellings and 14 no. tourist dwellings and associated site development and infrastructural works. Permission granted by the Planning Authority. An Bord Pleanála upheld the decision of the Planning Authority and granted permission on

appeal. Permission for extension of duration of the permission refused under P.A. Ref. F05A/0167/E1.

#### **4.6. Lands to the South of Baskin Lane**

##### **P.A. Ref. F16A/0491**

Application for a Craft Centre incorporating 14 no. craft units on a site located immediately to the south of Baskin Lane and immediately west of the Malahide Road. Permission granted by the Planning Authority. Condition no. 2 of this permission restricts the retail use of the site to goods primarily manufactured by the occupiers of the units.

### **5.0 Policy Context**

#### **5.1. National and Regional Policy**

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

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

#### **5.2. Development Plan**

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

- **Zoning** - Rural Village 'RV' with an objective to 'protect and promote the character of the Rural Village and promote a vibrant community in accordance with an approved Local Area Plan, and the availability of physical and community infrastructure. The adjoining lands to the west and north are zoned 'GB' with an objective to 'protect and provide for a Greenbelt'.
- **Chapter 2 Core Strategy** – In the Metropolitan Area growth in villages will be managed to ensure that these centres do not expand rapidly, putting pressure on services and the environment and creating the potential for unsustainable travel patterns (p46).
- **Chapter 3 Placemaking** – Chapter 3 sets out Design Criteria for Residential Development including mix of dwellings, density and open space provision.
- **Chapter 5 Rural Fingal** - Kinsealy is identified as a 'Commuter Village' within the Metropolitan area (as defined by the RPGs). The Village Settlement Strategy states that the level of growth in villages will be managed through the Core Strategy and the Local Area Plan process.
- **Chapter 5 Objective RF04:** Manage the development of each village, within the existing RV boundaries, having regard to the Sustainable Residential Development in Urban Areas Guidelines (2009), the settlement strategy for rural villages set out in the RGP's, and, the Core Strategy of the Development Plan.
- **Chapter 5 Objective RF05:** Ensure that a suitable mix of housing type and tenure is available in villages.
- **Objective RF16:** Ensure Rural Villages are developed in accordance with adopted Local Area Plans and accompanying Village Development Framework Plans.
- **Objective RF17:** Promote local distinctiveness and character through Village Development Framework Plans prepared as part of the Local Area Plan for each of the Rural Villages. The VDFPs will set out comprehensive guidelines for the urban design for all the villages.
- **Objective MT07:** Carry out a comprehensive feasibility study of the South Fingal area to produce a strategic 'vision' and overall strategy for the proper planning and sustainable development of the study area, based on a sustainable transport and smarter travel approach, planning for all transport

modes and needs, whilst also being reflective of road network capacity and modal split assumptions. This will be carried out within two years of adoption of the Development Plan and will be used to inform the preparation of statutory Local Area Plans and Masterplans in the area. The preparation of the study will include implementation recommendations and will involve: Consultation with key statutory stakeholders including TII and the NTA, public consultation and engagement with relevant statutory bodies.

- **Objective MT40:** Implement a programme of road construction and improvement works closely integrated with existing and planned land uses, taking into account both car and non-car modes of transport whilst promoting road safety as a high priority. Major road construction and improvement works will include an appraisal of environmental impacts.
- **Objective MT41:** Seek to implement the Road Improvement Schemes indicated in Table 7.1 within the Plan period, subject to assessment against the criteria set out in Section 5.8.3 of the NTA Transport Strategy for the GDA, where appropriate and where resources permit. Reserve the corridors of the proposed road improvements free of development. The “R107 Malahide Road Realignment, Balgriffin Bypass” is listed in Table 7.1.
- **Chapter 12 Development Management Standards:** Sets out standards for residential development including design criteria and quantitative standards relating to dwelling size, separation standards, public and private open space provision, car parking, etc.
- **Sheet No.9 (Malahide and Portmarnock):**
  - The site is in the Outer Airport Noise Zone.
  - Indicative Road Proposal for the “R107 Malahide Road Realignment, Balgriffin Bypass” runs through the northern section of the site.
  - Map Based Local Objective 67: ‘Facilitate a traffic impact assessment of the junction of Chapel Lane with the Malahide Road and, subject to an identified need and resources being available, carry out improvement works to same’.
  - Map Based Local Objective 69: ‘Facilitate a traffic impact assessment of the junction of Baskin Lane with the Malahide Road and, subject to an

identified need and resources being available, carry out improvement works to same’.

- The Abbeville Demesne to the immediate north of the site is designated as an Architectural Conservation Area. Abbeville House is a Protected Structure (RPS Ref. 452) and is described as an 18<sup>th</sup> century nine bay two storey house, stables, outbuildings and walled garden.
- Church of St. Nicholas of Myra to the immediate east of the site is a Protected Structure (RPS Ref.454) and is described as a mid-19<sup>th</sup> century catholic church, tower and school building.
- The Road Bridge to the north of the site is a Protected Structure (RPS Ref. 913) and is described as a mid-18<sup>th</sup> century triple arch masonry road bridge over river.

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

### 5.3. Natural Heritage Designations

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

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. A first party appeal has been received by An Board Pleanála. The grounds of appeal are summarised as follows:

#### **Reason for Refusal No. 1**

- A recent High Court judgement in the case of Element Power Ireland LTD v ABP holds that planning decisions must be based on existing policy in place, which in this case is the underlying zoning of the site. Development should

not be premature pending publication of policy or guidance. The Development Management Guidelines also recommend that prematurity pending a plan is not used as a reason for refusal where there is no specific timeframe for publication of the policy.

- FCC and ABP recently granted permission for residential developments in Kinsealy without a Local Area Plan, setting a precedent (ABP Ref. PL06F.248584 / P.A. Ref. F16A/0511 and ABP Ref. PL06F.248515 / P.A. Ref. F16A/0464). On appeal ABP granted permission for both developments, with the Board Orders referring to the zoning, the provisions of the Development Plan, the pattern of development in the area and the nature, scale and design of the proposed development. Under ABP Ref. PL06F.248515 the Board Order states that it was satisfied that the proposed development represented a natural extension to the village core.
- The site is a natural extension of the village and has been zoned for a significant period of time. The zoning objective supports residential development. A reservation has been provided to accommodate the road scheme listed in Table 7.1 and the application includes upgrades to the Malahide Road and Chapel Road junction in line with local objectives of the Development Plan.
- It is submitted that the development does not constitute a material contravention of the Development Plan.

#### **Reason No. 2**

- There is no certain timeline for the South Fringe Transport Study and it is unlikely to provide any greater certainty for the Malahide Road.

#### **Reason No. 3**

- Due cognisance has been taken of the proposed Malahide Road realignment through the provision of a conservative road corridor. There are no advanced designs for the road. A wider reservation than provided in the Development Plan has been provided having regard to the possible future requirements.
- ABP have determined previously in the Belcamp area that developments were not premature where adequate provision was made for the future road (ABP

Ref. PL06F.245710 / P.A. Ref. F15A/0093, ABP Ref. PL06F.248052 / P.A. Ref. F15A/0609 and ABP Ref. PL06F.245710 / F15A/0093).

- Areas proximate to the indicative road will accommodate surface water detention ponds. These may reasonably be relocated without significant works.

#### **Reason No. 4**

- The reason for refusal does not provide clarity in relation to why the development is considered to be piecemeal.

#### **Other**

- Revised plans and particulars are submitted to response to design issues raised in the Planning Authority's assessment. Should the Board share the concerns the development could be amended by condition in accordance with the revised plans and particulars.
- The applicant would be open to a condition requiring additional screen planting along the Abbeville Demesne boundary.

## **6.2. Planning Authority Response**

The response of the Planning Authority can be summarised as follows:

- Development premature in the absence of an LAP and a detailed design for the Malahide Road Realignment.
- The preparation of the Kinsealy LAP commenced with a view to issuing a draft Plan in November 2018. LAP is crucial to guide future development of the subject village centre lands.
- The application, as proposed, does not engage with the Malahide Road or aid the creation of a sense of place for the village and as such, the proposed development should be refused.
- It is requested that conditions are applied in the event of a grant of permission, similar to conditions no. 2, 19 and 20 applied under ABP Ref. PL06F.248584, in relation to agreeing the design and financing of the junction works at Malahide Road / Chapel Road.



- Revised plans noted. Concerns remain regarding height of unit type A. Issues relating to connectivity to open space and use of attics for storage are not addressed. Concerns remain in relation to the availability of sun light at unit no. 73. Parking arrangements appear more practical, but provision for 10 no. units is more commercial in nature. The amended proposals for the creche are a significant improvement.
- The substantive issue is the proposed Malahide Road realignment. This realignment has been a longstanding objective of the County Development Plan. The South Fingal Transportation Study is currently being undertaken and will identify the infrastructure required to facilitate the future growth of the County, including the growth of the Airport. The study involves traffic modelling and will be completed by the end of June. The study will clarify the demand for the Malahide Road realignment and will identify when it should be implemented. There are a number of constraints with regard to the final alignment of this road, such as the ACA for Abbeville to the north and the method of intersection with the existing Malahide Road at Kinsealy Village. The PA consider the proposed development to be premature pending clarity on the final design of the proposed realignment of the R107.

### 6.3. Observations

None.

## 7.0 Assessment

7.1. I consider that the main issues in this case are as follows:

- Compliance with Planning Policy
- Traffic Impacts
- Overall Context, Density and Design
- Residential Amenity
- Conservation
- Other Issues

- Appropriate Assessment
- EIA

## 7.2. Compliance with Planning Policy

- 7.2.1. The Fingal County Development Plan 2017-2023 is the relevant statutory plan for the area. There are three key matters that arise in respect of policy compliance, firstly, the principle of residential development, secondly the issue of development being premature pending the preparation of a Local Area Plan and thirdly the issue of the development being premature pending the determination of a road layout for the area. I will address each in turn.
- 7.2.2. The appeal site is located within the zoning boundary of Kinsealy Village which is defined by the Core Strategy as a 'commuter village' within the Dublin Metropolitan area. The site is zoned Rural Village (RV) with an objective to 'protect and promote the character of the Rural Village and promote a vibrant community in accordance with an approved Local Area Plan, and the availability of physical and community infrastructure'. The RV zoning of the site was carried forward from the 2005-2011 and 2011-2017 Development Plans.
- 7.2.3. Residential development is '*permitted in principle*' in the RV zone and I am therefore satisfied that the principle of residential development on the appeal site, is acceptable.
- 7.2.4. The first reason for refusal states that the development is premature in the absence of an approved Local Area Plan and associated Village Design Framework for Kinsealy Village and that it would materially contravene the RV zoning objective. Objective RF04 of the Development Plan is to 'manage the development of each village, within the existing RV boundaries, having regard to the Sustainable Residential Development in Urban Areas Guidelines (2009), the settlement strategy for rural villages set out in the RGP's and the Core Strategy of the Development Plan'. The appeal site is within the RV zoning of Kinsealy and is part of the residential land allocation for 'Other Settlements' in the Core Strategy of the Development Plan (Table 2.8 refers). I consider that the appeal site represents a natural expansion to the village by virtue of its position relative to existing housing and community facilities and its frontage onto two key streets in the village (Malahide

Road and Baskin Lane). I do not agree that the proposed development would be premature pending the preparation of a Local Area Plan or that it would materially contravene the RV zoning objective, as the lands have been zoned for a number of Development Plan periods and the site is effectively, in principle terms, an extension to the existing village and is not dependent on matters of principle which may be determined by a Local Area Plan. I am also satisfied that the development of the appeal site would not, of itself, affect the delivery of a comprehensive Local Area Plan for the area. Matters raised by the Planning Authority in relation to design, streetscape, urban edge, layout and connectivity, while relevant, can be addressed within the existing policy framework, in my view, and do not render the application premature.

- 7.2.5. The second reason for refusal states that the proposed development is premature pending the outcome of the South Fingal Transport Study, while the third reason states that the development would contravene materially Objective MT41 of the Development Plan which seeks (inter alia) “to implement the Road Improvement Schemes indicated in Table 7.1 within the Plan period” and to “reserve the corridors of the proposed road improvements free of development”.
- 7.2.6. In relation to Objective MT41, I would note that the “R107 Malahide Road Realignment, Balgriffin Bypass” is a proposed road scheme listed in Table 7.1 of the Development Plan. Map 9 details a route corridor extending to the west of the existing R107 from north of Kinsealy Village to the R139 to the south. This road scheme was carried forward from the 2011-2017 Development Plan and replaces a more localised realignment in Kinsealy Village in the 2005-2011 Development Plan. The indicative line of the proposed road scheme runs through the northern section of the appeal site. The site layout incorporates a reservation for this road based on the route corridor detailed in the Development Plan. However, the response of the Planning Authority states that this line is indicative only and may change. The response highlights design constraints arising from proximity to the Abbeville Demesne ACA and the need to tie-into the existing road.
- 7.2.7. In relation to Objective MT07 and the carrying out of a Transport Study, the Planning Authority state that the South Fingal Transport Study is being undertaken and that this study will identify the infrastructure required to facilitate the future growth of the

county and will provide clarity in relation to the demand for the Malahide Road realignment.

- 7.2.8. I consider that the substantive issue in this instance is the proposed road scheme. The appeal site encroaches onto the route corridor of a proposed road scheme and the proposed development is proximate to the route corridor detailed in the Development Plan. I am of the view that the proposed development has the potential to prejudice the delivery of this road scheme and that it is, therefore, premature pending the determination of a road layout for the area. I do not accept the applicant's argument that adequate provision is made for this roadway as it is not clear how the alignment shown would address the ACA or tie-into the existing road. On the basis of the foregoing, I recommend that permission is refused.

### **7.3. Traffic Impacts**

- 7.3.1. It is proposed to access the proposed development from the existing Malahide Road / Chapel Road junction and to provide an emergency access onto Baskin Lane to the south. The application is accompanied by a Traffic Impact Assessment, which assesses the capacity of the Malahide Road / Chapel Road and the Malahide Road / Baskin Lane junctions to cater for the proposed development, using the NRA approved TRICS Trip Database. The TIA concludes that the existing junction of the Malahide Road (R107) / Chapel Road is operating above its design capacity and that improvements would be required to facilitate the proposed development. The TIA concludes that the development would have a minor impact on traffic levels at the Malahide Road / Baskin Road junction.
- 7.3.2. The Malahide Road / Chapel Road junction is a 3-arm priority-controlled junction with single lanes in each direction. At time of inspection the junction was being upgraded within the existing road space to include signalisation of the junction. It is proposed to increase the capacity of the junction by providing a 4-arm signalised junction, with 3 no. lanes on the northern approach and two lanes on the southern approach. The realigned junction would involve the setting back of the historic stone wall along the eastern site boundary. The Report of the Transportation Section notes the general layout submitted with the application and states that more information is required in relation to lane widths and signalisation.

- 7.3.3. I am satisfied on the basis of the submitted TIA that the provision of a 4-arm junction with 3 no. lanes on the northern approach and 2 no. lanes on the southern approach would improve the capacity and safety of this junction to an acceptable degree, and that detailed design matters could be agreed prior to the commencement of development. However, I consider that the proposed road junction would have an adverse impact on the historic character of the village and the setting of the St. Nicholas and Myra Church (Protected Structure), due to its scale. These impacts are not referenced or addressed in the Architectural Design Statement or the Architectural Impact Assessment. I would note that the proposed Malahide Road realignment would address capacity constraints at this junction, further reinforcing the view that the proposed development is premature pending the determination of a roads layout for the area.
- 7.3.4. I would note that the grounds of appeal refer to the precedence set by two recent grants of permission in Kinsealy that include works to the Malahide Road / Chapel Road junction. However, I would draw to the Boards attention the fact that the approved upgrade is materially different to that proposed under the subject application, as the works are within the existing road space. Concerns in relation to the design of the scheme and conservation impacts are discussed further in Section 7.4 and Section 7.6 below.

#### **7.4. Overall Context, Density and Design**

- 7.4.1. Permission is sought for the construction of 81 no. dwellings at a net density of 25 units per hectare. The Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (DECLG 2009) provide guidance in relation to density in Small Towns and Villages (Chapter 6). In respect of centrally located sites, Section 6.10 states that there can be a marked variation in the development context which affect the density of development and that the emphasis should be on achieving good quality development that reinforces the existing urban form, makes effective use of centrally located land and contributes to a sense of place by strengthening for example the street pattern or creating new streets.
- 7.4.2. I consider that the overall design and layout of the proposed housing scheme is suburban in character. The development comprises a series of two storey housing clusters that are set within cul-de-sacs and roads that run parallel to the primary road

network, with no direct frontage provided to the Malahide Road and Baskin Lane. In my view the scheme fails to respond to its context or to build on the existing urban form of the village. In addition, the layout fails to strengthen the street pattern of the village and to provide key connections for pedestrians, cyclists and vehicles with vehicular access from the Malahide Road only. While some improvements could be achieved within the existing road and services layout I do not consider that the substantive design issues in relation to urban form and connectivity can be adequately addressed by condition and I recommend that permission is refused on this basis.

### **7.5. Residential Amenity**

- 7.5.1. Concerns raised in the Planning Authority's assessment in relation to residential amenity and the design of individual units have been addressed, in my view, in the revised plans and particulars submitted with the appeal. One unit is omitted to address the concerns raised by the Planning Authority in relation to the shortfall in public open space to ensure that the minimum Development Plan Standard of 10% of the site area is provided as public open space and I consider the revised scheme to be adequate in this respect.
- 7.5.2. Having regard to the nature and scale of the proposed development, which is primarily two storey, the pattern of development in the area and the set back from adjacent residential properties, I am of the view that the proposed development would not be injurious to the amenity of properties in the vicinity.

### **7.6. Conservation**

- 7.6.1. The application is accompanied by an Architectural Impact Assessment. The village of Kinsealy developed around the St. Nicholas of Myra Church, a school and workers cottages that date from the 19<sup>th</sup> century. The submitted assessment concludes that the expansion of the village to the west would not affect the Church on the basis that, it was envisaged historically that such settlements would develop around the church and school.
- 7.6.2. The Abbeville Demesne to the immediate north of the site is visually separated from the village by historic planting that shields the demesne from view. I am satisfied

that the proposed development would not, therefore, have an adverse impact on the Abbeville ACA or associated built heritage features. While I would note that the potential impact on Kinsealy Road Bridge, to the immediate north of the site (RPS 913) is not considered in the submitted assessment, I am satisfied that the proposed development would not have an adverse impact on this structure.

- 7.6.3. Concerns in relation to the potential impact of the proposed junction upgrade on the historic character of the village and the St. Nicholas of Myra Church are discussed in Section 7.2 above. I am of the view that the proposed road junction would significantly alter the character of the village core and the setting of the Protected Structure and I am not satisfied, on the basis of the submitted information, that the proposed development would not materially and adversely affect the character and setting of the Protected Structure. However, having regard to the substantive reason for refusal in relation to the overall design of the scheme, I do not consider it necessary to include a further reason for refusal in relation to the impact on architectural heritage.

## 7.7. Other Issues

### Archaeology

- 7.7.1. The application is accompanied by an Archaeological Impact Assessment. The assessment states that there are no known archaeological features within the appeal site but that the surrounding landscape has proven to be rich in previously unrecorded features and deposits of an archaeological nature. The assessment recommends archaeological testing (geophysical survey and target trench testing) prior to the commencement of works. In the event that the Board is minded to grant permission for the proposal, I would suggest that a condition is attached to this effect.

### Water Services and Flood Risk

- 7.7.2. The details submitted with the application, are considered to satisfactorily address foul drainage, water supply and flood risk in my view. I would note that the Report of the Water Services Section refer to the proposal to attenuate surface and stormwater from the site to attenuation tanks under open space no. 2 and recommend that a revised surface water drainage proposal is submitted for agreement, prior to the

commencement of development, that follows the principles of Sustainable Drainage Systems. I would concur with this view and in the event that the Board is minded to grant permission for the development I recommend that a condition is included to this effect.

### **Childcare Facility**

- 7.7.3. A childcare facility of 164 square metres is proposed. I consider the proposed facility to be well designed and to meet the requirements for childcare provision under the ‘*Childcare Facilities Guidelines for Planning Authorities*’ DoEHLG (2001). I would note that the Guidelines recommend a minimum provision of one facility per 75 no. dwelling units. On this basis, I recommend that a phasing condition is included in the event of a grant permission, requiring the provision of the childcare facility prior to the occupation of the 75<sup>th</sup> dwelling. I would note that concerns raised by the Planning Authority in relation to parking and drop off arrangements at the creche have been addressed in the revised layout received with the appeal to the satisfaction of the Planning Authority.

### **Dublin Airport Public Safety and Noise Zones**

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

## **8.0 Appropriate Assessment (AA) Screening**

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

- Baldoyle Bay SAC (000199) & SPA (004016);
- Malahide Estuary SAC (000205) & SPA (004025);
- Ireland’s Eye SAC (002193);
- Ireland’s Eye SPA (004117)



- North Dublin Bay SAC (000206);
- North Bull Island SPA (04006);
- Rockabill to Dalkey Islands SAC (003000);
- South Dublin Bay and River Tolka Estuary SPA (04024);
- South Dublin Bay SAC (000210);
- Rogerstown Estuary SAC (000208) & SPA (004015);
- Howth Head SAC (000202) & Howth Head Coast SPA (004113);
- Lambay Island SAC (000204) & SPA (004069).

8.1.2. An Appropriate Assessment Screening Report (December 2017) prepared by Scott Cawley Ecological Consultants, was submitted with the Planning Application.

8.1.3. There are limited relevant pathways between the development and the European sites listed in Section 8.1.1 above. All of the sites are located within the Irish Sea. There is potential for hydrological connectivity to these sites as the area drains to the Irish Sea via the River Sluice (which flows along the northern site boundary). In addition, foul waters generated during the operational phase will be treated at the Ringsend WWTP before being discharged to Dublin Bay. The potential for existing and proposed projects having the potential to act cumulatively to reduce water quality in Dublin Bay and affect European sites therein is noted in the Report.

8.1.4. In relation to surface water, no significant adverse effects are predicted at any of the sites due to the distance between the site and the designated areas of the listed sites and the potential for dilution in the drainage network. In addition, the range of storm and surface water drainage measures that form part of the development, will reduce the volume of waters being discharged from the site and ensure that discharges from the site do not contain hydrocarbons or any other pollutants.

8.1.5. In relation to foul waters generated on site, no significant adverse effects from discharge arising from the proposed development are predicted at any of the sites. The report refers to scientific data that exists in relation to the impact of current discharges and Irish Waters commitments in relation to the upgrade of wastewater treatment facilities.

8.1.6. I am satisfied that adequate information is provided in respect of the baseline condition, that potential impacts are clearly identified and that the conclusions are based on sound scientific information and knowledge and I agree with the conclusions of the Report.

#### 8.1.7. **Screening Conclusion**

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

### 9.0 **Environment Impact Assessment**

9.1.1. Having regard to the nature and scale of the proposed development of housing on zoned and serviced land and nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### 10.0 **Recommendation**

10.1.1. I recommend that planning permission be refused for the reasons set out below.

### 11.0 **Reasons and Considerations**

1. It is an objective of the Fingal Development Plan 2017-2023 to implement the Road Improvement Schemes that are listed in Table 7.1 of the Development

Plan within the Development Plan period and to reserve the corridors of the proposed road improvements free of development (Objective MT41). This objective is considered reasonable. The route corridor of a proposed road scheme, the R107 Malahide Road Realignment, Balgriffin Bypass, runs through the appeal site. The proposed development, by reason of its proximity to the indicative route corridor, has the potential to prejudice the delivery of this road scheme. The proposed development is, therefore, premature pending the determination by the planning authority of a road layout for the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. It is an Objective of the Fingal County Development Plan 2017-2023 to manage the development of each village, within the “Rural Village” boundaries, having regard to the Government guidance contained in the “Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities” (Objective RV04). It is also an objective of the Development Plan to have regard to the guidance contained in the Design Manual for Urban Roads and Streets in the provision of good urban design (Objective PM32). Having regard to the prominent location of the site within a “Rural Village” and to the established built form and character of the area, it is considered that the proposed development would fail to reinforce the existing urban form of the village, due to its suburban layout, and that it would represent an incongruous form of development that that would detract from the amenities and character of the area. The proposed development would, therefore, be contrary to the guidance contained in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and the Design Manual for Urban Roads and Streets and would be contrary to the proper planning and sustainable development of the area.

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Karen Kenny

Senior Planning Inspector

28<sup>th</sup> September 2018