



An  
Bord  
Pleanála

## Inspector's Report ABP-301265-18

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Development	16 houses and 52 apartments. Demolition of 4 existing houses
Location	No's. 778-784, Howth Road, Raheny, Dublin 5
Planning Authority	Dublin City Council Nth
Planning Authority Reg. Ref.	4648/17
Applicant(s)	MKN Property Group
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	1. Gráinne Walsh 2. Gregory Duggan 3. Geraldine Walsh & others 4. John Scahill 5. Suzanne Dooley & Patrick Kane
Observer(s)	1. Thomas P. Broughan T.D. 2. Seán Haughey T.D. 3. Geraldine Walsh 4. Gráinne Walsh
Date of Site Inspection	10 <sup>th</sup> September 2018
Inspector	Donal Donnelly

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## 1.0 Site Location and Description

- 1.1. The appeal site is located at no's. 778-784 Howth Road, Dublin 5 to the east of Raheny and approximately 8.3km north-east of Dublin city centre. This section of Howth Road (R105) forms part of the coast road from Clontarf to Sutton. The coast road is dominated on its landward side by detached residential dwellings in a notable mix of styles. The seaward side of the coast road comprises a continuous pedestrian and cycle path recently extended between the bridges to Bull Island to the south-west of the site. The site benefits from views to the sea and Bull Island and further east to Howth Head.
- 1.2. The site comprises four detached residential properties, three of which are currently in a vacant and dilapidated condition. The dwellings at either end are 2-storeys and the middle two dwellings are single storey structures. The set back from the road edge is approximately 40m and there is mature/ overgrown planting in front gardens. There are 3 no. houses on a similar building line to the west of the site and to the east the building line steps forward. Detached dwellings along St. Margaret's Avenue back onto the northern boundary of the site.
- 1.3. The site is a rectangular shape with stated area of 8,931 sq.m. The frontage onto Howth Road measures approximately 110m. Levels rise by approximately 2.4m towards the rear of the site. On-street parking for cars is available along this stretch of Howth Road and the speed limit is 60 kph.

## 2.0 Proposed Development

- 2.1. The proposed development is for the demolition of 4 no. houses and associated outbuildings and the construction of 68 no. units consisting of 16 no. houses and 52 no. apartments made up of the following:
  - Two blocks to rear of site comprising 12 no. 2-storey 3-bed terraced dwellings and 4 no. 3-storey including attic 4-bed terraced dwellings;
  - 2 no. 4-storey apartment blocks to front of site comprising 8 no. 1-bed units, 34 no. 2-bed units and 10 no. 3-bed units;

- Lower level parking (79 no. spaces), bin store and plant room beneath road, 2 no. in-curtilage car parking spaces for each house and 6 no. visitor parking spaces;
- 1 no. vehicular entrance, 1 no. vehicular exit for fire truck and 1 no. pedestrian gate onto Howth Road;
- All associated site development works including paths, roadways, vehicular ramps, stairs and pedestrian ramps, bicycle stands, landscaping and boundary treatments.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Dublin City Council issued notification of decision to grant permission subject to 22 conditions.
- 3.1.2. Condition 6 states that the rear balconies of Apartments 6, 7, 3, 14, 20 & 21 in each block may be deepened by projecting them further outwards.
- 3.1.3. Conditions 10 & 11 require the completion of a bat survey before any demolition takes place on site and an archaeological assessment before any site clearance/ construction work commences.
- 3.1.4. Condition 14 requires the provision of an additional pedestrian entrance alongside the main vehicular entrance. A revised parking layout is also required for units 15 & 16 to address conflicts with the access road.

#### **3.2. Planning Authority Reports**

- 3.2.1. The recommendation to grant permission in the Planner's Report reflects the decision of the Planning Authority. The main points raised under the evaluation of the application are as follows:
- Residential permitted under Z1 zoning and noted that Inspector had no substantive issue beyond flood control measures.

- Revised scheme largely similar to that refused previously apart from finished level of apartments increased by 400mm – 1 in 1000-year tidal event is 2.24m below FFL and 1.91m below crest of sea wall.
- Side elevations to apartments have been revised to reduce overlooking.
- 68-unit scheme as before will provide a density of 76 units per hectare and 300 bedspaces. Plot ratio will be 0.8 and site coverage 32% (both accord with Development Plan).
- As before, the principle of a consolidated redevelopment approach is generally acceptable and represents a more efficient use of brownfield urban lands.
- 4-storeys proportional to the horizontal cross-section of the public road and promenade area.
- Both building lines largely aligned with the two main existing building lines.
- Preferable for Block B to be set further back from the frontage but this arrangement was accepted by the Board.
- House 16 was set further back from neighbouring dwelling and daylight/sunlight study indicates there will be no significant impacts upon 3<sup>rd</sup> party amenity.
- Development may set precedent but there may be a need to add some variety to avoid overly repetitive and regimented streetscape.
- Applicant has submitted an audit of local educational, recreational and community facilities in the area. There is sufficient capacity within existing childcare facilities.
- All apartments will exceed DCC's now superseded larger minimum apartment floor area standards.
- Balconies exceed required minimum depths and houses will have adequate private open space. Combined communal open space also exceeds minimum and 80% of this space will receive 2 hours of sunlight on 21<sup>st</sup> March. Contribution in lieu of public open space can be conditioned.

- Front boundary detail can be agreed at compliance stage. Proposed solid screens should not exceed 2m above 3<sup>rd</sup> party ground level – resultant lower walls can be topped with railings with planting provided for screening.
- Shadow, daylight and sunlight studies have been updated to account for 400mm increase in apartment finished floor levels.
- It was previously considered that the proposed setbacks from 3<sup>rd</sup> parties and between units, along with obviation measures, would limit undue overlooking.
- Planting buffers around ground floor apartments provides increased screening of habitable rooms therein.

3.2.2. The Drainage Division has no objection to the proposal subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

3.2.3. The Roads and Traffic Planning Division has no objection subject to conditions. It is noted that the current application now provides for 117 no. car parking spaces.

3.2.4. The Waste Regulation Section recommended conditions to be attached to any grant of permission.

### 3.3. **Third Party Observations**

3.3.1. A number of observations on the appeal were received by Dublin City Council. Issues raised are largely repeated in appeal submissions. In addition, the following points are of note:

- Proposed 1200mm plus 650mm railing front boundary treatment will have a negative impact upon visual amenity and sense of place of traditional sea front – application uses same 1.8m boundary wall as before.
- Flooding – measures proposed not adequate and will be visually unsightly. Historical pluvial and potential fluvial/ tidal flooding is not recognised.
- While the apartment levels are raised, basement will still be vulnerable to localised flooding.
- Basements/ development will displace flooding impact beyond the site itself.

- Existing four houses were presumably located at the back of their sites to avoid flooding.
- The accuracy of levels in the flood risk assessment are queried.

## 4.0 Planning History

Dublin City Council Ref. Ref: 2917/16 (PL29N.247709)

- 4.1. The Board overturned the Council's decision and refused permission for the demolition of four houses, construction of 16 no. houses split into 4 no. blocks to rear of site, construction of 2 x 4-storey apartment blocks to front of site, total of 52 apartments and all site development works. The reason for refusal stated as follows:

*"The proposed site is situated in an area prone to flooding. Having regard to the original and the revised design proposals submitted to the Board under section 132 of the Planning and Development Act, 2000, it is considered that the proposal to substantially lower the ground levels at the seafront side of the site, and across the site, fails to work with the existing topography, and has increased flood risk at this location. The Board is not satisfied that the demountable barriers constitute an appropriate or feasible flood risk mitigation measure given the residential nature of the scheme and the proposed finished floor levels.*

*Furthermore, it is considered that this active mitigation measure would set an undesirable precedent for similar developments in the area. The proposed development would, therefore, be contrary to the "The Planning System and Flood Risk Management Guidelines for Planning Authorities" and the associated "Technical Appendices" as issued by the Office of Public Works and the Department of Environment, Heritage and Local Government in November, 2009 and would be contrary to the proper planning and sustainable development of the area."*

- 4.2. The Board considered in its Direction that the principle of development at this residentially zoned site was acceptable and based on appropriately adjusted/ increased floor levels and the removal of active flood management measures and their replacement with passive measures, the proposed development may be in accordance with the proper planning and sustainable development of the area.



Dublin City Council Reg. Ref: 1784/08 (PL29N.232118)

4.3. The Board overturned the Council's decision and refused permission in June 2009 at No. 784 Howth Road for the demolition of the existing residence and the construction of 2 no. apartment blocks comprising a total of 29 no. apartments and 39 no. basement parking spaces.

4.4. The reason for refusal related to the scale and bulk of the proposed development.

Dublin City Council Reg. Ref: 3747/07

4.5. Permission refused for demolition of 3 no. dwellings at no's. 778. 780 & 782 and construction of 55 no. apartments.

4.6. Reasons for refusal related to design, scale and materials being out of character; substandard mix and floor area of apartments; incoherent layout of buildings; and overlooking of dwellings and overshadowing.

*Nearby site:*

Dublin City County Reg. Ref: 2824/17 (ABP-300358-18)

4.7. Proposal currently on appeal for demolition of existing garden centre buildings; construction of a two-storey replacement garden centre building including ancillary cafe and office use; construction of a new four-storey (13.275 meters in height) apartment building consisting of 30 no. apartment units and communal landscaped open space.

4.8. This development was amended at further information stage to include omission of the garden centre.

## **5.0 Policy Context**

### **5.1 Dublin City Development Plan, 2016-2022**

5.1.1. The appeal site is zoned "Z1" where the objective is "to protect, provide and improve residential amenities."

5.1.2. Development standards for residential development are set out in Section 16. This includes standards for public open space, density, plot ratio, site coverage, building height, and car parking.

5.1.3. Policies and objective for quality housing are included in Section 5.

## 5.2. **The Planning System and Flood Risk Management – Guidelines for Planning Authorities**

5.2.1. These Guidelines state that development should preferentially be located in areas with little or no flood hazard, thereby avoiding or minimising the risk. Development in Flood Zone C is appropriate from a flood risk perspective.

## 5.3. **Natural Heritage Designations**

5.3.1. The North Dublin Bay SAC (site code: 000206) and the North Bull Island SPA (site code: 004006) are both located approximately 15m from the site boundary.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. A total of 5 no. appeals were submitted to the Board against the Council's decision. The grounds of appeal and main points raised in each submission are summarised as follows:

#### Gráinne Walsh, 65B St. Margaret's Avenue, Raheny

- High density scheme not appropriate to the environment or built heritage of this coastal Dublin Bay road.
- Density of development represents overdevelopment once true road capacity and traffic counts are considered.
- Pluvial flooding has occurred twice in recent years and cannot be claimed to be a 1 in 100-year event.
- Front gardens of existing dwellings provide a natural flood defence. Block B's underground car park will be only 6m from coast road and 1150mm boundary brick wall will offer no flood defence.
- DCC recorded drains run through front gardens of no's. 778-784 – no recognition of this.

- 16 houses at the rear will be overlooked and overshadowed by the apartment blocks.
- Block B should be set back from the frontage and Block A is too large, bulky and high.
- Proposal would result in overshadowing, loss of daylight and overlooking of adjoining property.
- Play area will be overshadowed and beside ramp and vents to car park. There is a lack of communal open space.
- Some residents will have small, cold and dark balconies and almost a third face north-west.
- Apartment blocks due to their bulk, artificial lighting, surface water run-off and glazing have not been appropriately assessed for implications on the SAC, SPA and Biosphere designations.
- To date, none of the statutory agencies or other conservation bodies have been invited to give direction on the proposed development. EPA could be asked to examine the issue of pluvial flooding on Howth Road.
- Proposal will strip the site of its natural biodiversity and heritage. There is a mature tree on site worthy of protection.
- Proposal would constitute overdevelopment and will not facilitate integration with the Dublin Bay Biosphere.

Gregory Duggan, Narrow Water, 776 Howth Road

- DCC acknowledges that the proposal will have significant detrimental impacts on the appellant's dwelling to the south-west.
- Proposed development does not reflect the character of this section of Howth Road and does not integrate with existing housing stock.
- There is no similar scale of building or development in the locality – apartment blocks completely overwhelm houses on either side.
- Height of apartment blocks have been increased even further in the latest application.

- Proposal will give applicant approval for a land grab of 1m or more of appellant's property on which his hedge is planted. Retaining wall should be built on applicant's side.
- There is no technical content as to how excavation for the attenuation tank will take place.
- Construction works will make it impossible for appellant and his wife to work from home.
- Block A would be ruinous to the visual amenities of the appellant's house and will offer its occupants views downwards from the front and side into most of the rooms in appellant's house.
- Appellant sees sunrise every day of the year – apartments will block sunrise and lead to loss of sunlight and solar gain.
- Proposal will increase traffic hazard and congestion.
- Full survey of existing drain system should be undertaken before construction and there should be continuity of service to adjoining dwelling to south-west and no. 778.
- Applicant has not given consideration to Guidelines that *"higher densities must not be achieved at an unacceptable amenity cost to surrounding dwellings and the residents of the proposed development."*
- Application would seriously devalue the applicant's dwelling through loss of privacy and outlook and quiet enjoyment of their home.

Geraldine Walsh and 17 others, 45 St. Margaret's Avenue

- Proposal is excessive in scale and out of character with adjacent housing and the site's capacity, and environmental and visual sensitivity.
- Proposal will adversely impact of residential and visual amenities.
- Proposal will adversely impinge on biodiversity and ecological value of the adjoining Natura 2000 sites and the Dublin Bay Unesco Biosphere.
- Board should fully assess application and appeal de novo.

- Raised floor area of 400mm will add further to the original incongruous scale and overbearing aspect of the proposal.
- There is no substantial or useful public amenity space for this 300 bedspace scheme.
- Applicants have again failed to appreciate that pluvial flooding is the main risk at this location – there remains the real risk that the basement will flood in a major flood event.
- Surface water run-off from construction activity may enter the adjoining estuary area and may pollute and impact on the ecological integrity of the mudflats.
- Residents support good quality less dense redevelopment of site.

John Scahill, 786 Howth Road

- Due to radical ground alteration, houses would be built from a ground level 2m higher than appellant's house to the north-east – appellant's ridge level is 11.2m and housing will have ridge level of 17.33m.
- Elevated ground will thus necessitate raising the boundary wall from appellant's front garden down the entire length of the back garden – proposed 2-3 storey housing will be closer to 3-4 storeys.
- Apartments would have the effect of appellant living down a concrete tunnel. Block B would leave appellant's home completely isolated.
- Sole access for residents, visitors and services will be provided adjacent to appellant's driveway.
- Balconies to rear of Block B will overlook appellant's back and front garden and into living room.
- Proposed development would have a profound effect in terms of overshadowing and loss of light to appellant's property.
- Stepping forward of Houses 15 & 16 will reduce sunlight to rear of appellant's home. Raising of boundary wall may not have been included in shadow analysis.

- Photomontage from appellant's property bears no relation to reality – most of the trees and vegetation are under the control of the applicant.

Suzanne Dooley & Patrick Kane, 23 St. Margaret's Avenue

- Within the area along the seafront, there is no precedent for 4-storey apartments with a basement – there are 4-storey apartments nearby inland.
- New apartment development at Sybil Hill has 4-storey building opposite.
- Board should ensure that design solutions are employed to reduce the significant overshadowing imposed by the new development on existing properties on St. Margaret's Avenue.
- Basement car park/ plantroom remains at risk of flooding.
- Height of lift overruns/ headroom is not indicated on plans submitted.

## 6.2. Applicant Response

6.2.1. The applicant's agent responded to the third party appeals with the following comments:

- Current proposal is similar in design, form and density to the previous application on site, which the Planning Authority approved, and the Board and the Board's Inspector assessed and considered to be acceptable, other than the previously proposed flood mitigation measures.
- Proposed development is now fully protected by permanent and passive measures with no requirement for flood defence barriers.
- Finished floor levels have been increased to ensure they are above the maximum flood level and are higher than most other approved schemes in the wider area.
- Drainage Division recommended that all flood mitigation measures proposed by the consulting engineer's justification test and flood risk assessment shall be implemented.

- Nearby Sheiling Square development (PL29N.220871) is surrounded by 2-storey dwellings and has a density of approximately 87 units per hectare (current proposal is 78 per hectare).
- Current proposal does not form part of a wider statutory masterplan for the surrounding area – earlier designs for additional development on adjoining backland sites to the north-east were indicative only.
- Subject site does not provide for a full basement requiring large excavation.
- Proposed building line is correct and maintains established building lines.
- Proposed development will only be seen at an obtuse angle from the adjoining dwelling to the south-west.
- Current proposal has further sought to ensure that the proposed development does not adversely overlook neighbouring dwelling through measures such as repositioning and redesign of windows, opaque glazing to certain windows and balconies and raising the heights of proposed balcony glazing.
- Since planning application was lodged, the new ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’ have been issued – minimum floor areas for apartments and open space requirements have now been reduced.
- There will be negligible noise, boundary, lighting and traffic impacts on the adjoining property at No. 786.
- Proposal has been subject to a thorough analysis, including overshadowing, daylight and sunlight analysis, as well as a number of verifiable photomontages.
- Internal site levels will be 700mm above the maximum combined tidal and pluvial flood level – surface water will still be able to overtop the sea wall in a 1 in 1000-year tide level.
- Majority of the grounds of appeal have been raised in the appellants’ previous appeals – these were addressed by the applicant and fully considered by the Board. Previous decision gave a clear blueprint for applicant to address reason for refusal and other items raised by the Inspector and Board.

### 6.3. Planning Authority Response

- 6.3.1. In response to the submitted grounds of appeal, it is stated that the reasoning for the Planning Authority's decision is set out in the Planner's Report, which comprehensively deals with the relevant issues raised and justifies its decision.

### 6.4. Observations

- 6.4.1. A total of 4 no. observations on appeals were received by the Board. Additional points raised in these submissions are summarised as follows:

Thomas P. Broughan T.D.

- Site layout and building design constitutes overdevelopment and does not address the loss of residential amenity for this locality.
- Constituents have grave concerns about traffic access and egress to the proposed new development and about parking.
- There are major concerns about drainage and flood risks at the proposed development. Failure to provide some sort of flood defence barrier is a huge flaw.
- Scale of development will create constant artificial light and surface water run-off, and this could have major implications on the protected areas.
- Affordable housing scheme should be a requirement for all larger housing developments.

Seán Haughey T.D.

- Supports residents of Howth Road, St. Margaret's Avenue, Kilbarrack Road, Greendale Road and Island View who oppose proposed development.
- Proposal not in keeping with existing houses and building line on the road.
- Flooding has been a problem in the past and a development link this will make the situation worse.
- Proposals constitute overdevelopment.



Gráinne Walsh, 65B St. Margaret's Avenue, Raheny

- Highlights potential impacts on adjoining properties either side of the proposed development.
- Development would increase the number of residential units along this part of the seafront by 329%.
- Proposal is more fitted to the Docklands or industrial part of the inner city.
- There are no double rows of houses on this portion of the Dublin Bay coast road.
- Traffic assessment takes no account of tourist amenity.

## 6.5. Further Responses

- 6.5.1. Third party appellants were invited to comment on the applicant's response to their appeals. The following is a summary of any additional matters raised:

Suzanne Dooley & Patrick Kane, 23 St. Margaret's Avenue, Raheny

- Recent developments on Howth Road and seafront consisted of fully detached houses more in keeping with the area, whilst also achieving the goal of increasing density.
- Board should consider cumulative strain of multiple large scale development on existing infrastructure and amenities.
- Building line, ridge heights and general design appear largely unchanged from previous development – justification for large scale development at this location is yet to be explained.
- Design has not been altered in any way to reduce the significant overshadowing and daylight impact.
- All surveys, calculations and reports should be reviewed as they were carried out almost two years ago.
- Significant amounts of earth are to excavated to accommodate structures that are impervious in nature.
- Subject site will have topographical levels altered.

John Scahill, 786 Howth Road

- Implication by applicant seems to be that this application is predominantly an issue of assessing if the previous reason for refusal has been rectified.
- Many of the issues raised previously are worthy of reappraisal and re-examination.
- First party appeal response barely acknowledges appellant's points pertaining to the raising of the natural ground level at the upper side adjacent to his home.
- Report neglects to mention that any future boundary may be over 4m high and would run for 5m front to back of appellant's house.

Gráinne Walsh, 65B St. Margaret's Avenue, Raheny

- A full Appropriate Assessment is required to examine the effects of the removal of 20,000 cu.m. of seashore substrata and natural vegetation.
- None of the statutory bodies or other conservation bodies have given direction on the proposed development.
- There are no conditions to protect the biodiversity of this Dublin Bay Unesco Biosphere site.
- It was residents' objections that identified pluvial flooding risks and the presence of two watercourses. Effects of flooding need to be addressed in a full Appropriate Assessment.
- Proposed development will remove all natural flood defences and new low boundary wall 1150mm will offer no pluvial flood defence to basement.
- Applicant has not identified specific date for traffic surveys and there are other concerns with the transport assessment.

Geraldine Walsh and others

- A realistic density of 50 dwellings per hectare would have helped to absorb the development into the surrounding area.
- Issue of raised height of the apartment blocks by 400mm was not critically analysed in the Planner's Report.

- BRE Guidelines are for minimum standards only and these are very low and somewhat irrelevant for an outer suburban site.
- Setting, character and aspect of adjoining houses will be seriously eroded.
- Imposition of a high density gated community, which is contrary to the Development Plan on grounds of inclusivity and integration, is a poor and insensitive response to a site context that is deserving of a more balanced approach to placemaking and new housing

Gregory Duggan, 776 Howth Road

- Panorama provided with submission shows that observer will lose c. 50% of the view from his house.
- Applicant has not made any effort to taper the corner of the development and it presents as a continuous, solid obstruction as seen from appellant's house.
- Applicant site survey is deficient if it did not identify a shared drain along the front of No's. 772 to 786. Board should instruct the applicant to carry out a survey to establish what impact the proposal will have.

## 7.0 **Assessment**

- 7.1. Planning permission is sought for the demolition of 4 no. detached dwellings and the construction of 16 no. terraced houses and 52 apartments in two blocks. This application follows an earlier refusal on site (PL29N.247709) for a largely similar development for reasons relating to flood risk. The Board noted in its Direction that the principle of development at this residentially zoned site is acceptable and considered that based on appropriately adjusted/ increased floor levels, together with the removal of active flood management measures and their replacement with passive measures, the proposed development may be in accordance with the proper planning and sustainable development of the area. It was considered, however, that the design changes required would be material and a further Section 132 request or the imposition of conditions would not be appropriate.
- 7.2. Notwithstanding the above, under Section 37(b) of the Planning and Development Act, 2000 (as amended), where an appeal is brought against a decision of a planning authority, the Board shall determine the application as if it had been made to it in the

first instance and the decision of the Board shall operate to annul the decision of the planning authority. The current proposal shall therefore be determined *de novo* under the headings below and paying particular attention to any differences between the current and previous applications.

- Development principle
- Flood Risk
- Visual impact
- Impact on residential amenity
- Quantum of development
- Traffic impact
- Open space
- Appropriate Assessment

### 7.3. Development principle

- 7.3.1. The appeal site is zoned “Z1” where the objective is “*to protect, provide and improve residential amenities*”. The proposal to provide an increased density of residential development on this site would therefore be acceptable in principle subject to an assessment of the impact of the proposal on surrounding amenities. The proposal would also be consistent with Development Plan policies which seek to promote a variety of house and apartment types, and to encourage the physical consolidation of the city through sustainable densities that will promote public transport.
- 7.3.2. I would be satisfied with the proposed unit mix, floor areas and accommodation standards, which appear to be in compliance with relevant Development Plan standards/ statutory guidance. The Planning Authority has attached a condition stating that balconies to certain apartments maybe deepened. However, these balconies are of an area and depth that exceeds minimum requirements set out in Guidelines.

#### 7.4. Flood Risk

- 7.4.1. The Inspector reporting on the previous application had concerns that flooding events have taken place immediately to the front of the site in recent times and the applicant's proposals to lower ground levels on the seafront side of the site could create a highly vulnerable development where mitigation measures may not be feasible (1.8m high wall and dismountable flood barriers), or where floodwaters may be displaced onto neighbouring lands.
- 7.4.2. Following on from this, the Board invited the applicant under Section 132 of the Planning and Development Act, 2000 (as amended) to explore a more passive solution to the flood risk in line with Section 28 Guidelines on flood risk management. The applicant was also asked to identify risks of a combined pluvial and tidal event and to demonstrate that an adequate solution/ strategy can be designed to allow for such a combined event. In addition, the applicant was invited to consider a revised design approach to the seafront boundary.
- 7.4.3. In response, the applicant clarified that the front boundary would comprise of a 1150-1200mm wall with 650mm railing above. A cross section showed the top of the front boundary wall at 5.65m OD which is above the level of the seawall (5.35m) and therefore also above the maximum level of pluvial flooding before overtopping and discharging to the Irish Sea. The coastal defence level at 4.25m OD, which includes a high tide level, a 400mm allowance for climate change and 300mm for wave action, would also have been below the actual lowest floor level of 5.25m OD. It was proposed to use demountable flood defence barriers for the vehicular and pedestrian entrances to be erected prior to any flood event taking place. An attenuation tank was proposed for run-off contained on site before being diverted away from the buildings via overland flow routes created in site landscaping.
- 7.4.4. The above proposals were unacceptable to the Board and permission was refused. The main amendment with the current proposal is an increase in the finished floor levels of the apartment blocks and the inclusion of passive measures to ensure that there is no requirement for flood defence barriers.
- 7.4.5. The new finished floor level of 5.65m OD will be 350mm above the existing sea wall and 200mm above the top of the proposed boundary wall to the front of the site. Section drawing C061 shows the 1 in 1,000-year tide level as per Irish Coastal

Protection Strategy Study at a level of 3.14m OD. This is 1.92m below the level of the sea wall meaning that surface water could still overtop the wall during extreme tidal and pluvial flood events.

- 7.4.6. Having regard to the above, it would appear that the Board's previous concerns regarding ground levels, finished floor levels and the use of demountable barriers have been addressed.
- 7.4.7. The previously proposed ground level to the front of the site was to be 5.1m OD, which is 0.2m below the level of the sea wall. The finished floor levels of the previously proposed apartments were to be 5.25m OD, also below the level of the sea wall. To the rear of the apartments, the lower part of the site was also to be at a level of 5.1m OD. These levels would therefore have required the use of demountable barriers at entrances to the site to prevent the intrusion of flood water in the event of an extreme pluvial event.
- 7.4.8. The current proposal sees the ground levels around the apartment block at 5.4m which is above the sea wall height. Thus, flood water would overtop the sea wall rather than entering the site in an extreme pluvial event. As noted, the finished floor levels of the apartments have also been increased to 5.65m OD. Flood water may enter the site at the vehicular and pedestrian accesses; however, these pathways ramp up-gradient and therefore floodwater would be contained up to 5.3m OD and the use of demountable flood barriers at accesses would not be necessary.
- 7.4.9. I note that the access to the basement would be at a level of 5.4m OD, which is also above a potential pluvial flood level. It is recommended in the Flood Risk Assessment that flooding of the basement should be further mitigated by ensuring that it is sealed and that no vents or other ingress routes exist below the vehicular access ramp level. There would appear to be a gap in the wall between upper and lower levels for ventilation and natural light to the basement car park as shown on the proposed contiguous elevation. This appears to be at a minimum level of 5.4m OD. Should the Board be minded to grant permission for the proposed development, it may wish to attach a condition to any grant of permission to ensure that there are no potential basement car park ingresses below 5.4m OD.
- 7.4.10. Finally, it should be noted that the proposed finished floor levels for the apartment blocks at 5.65m OD are more consistent with finished floor levels of existing

dwellings on site, which vary between 5.7m and 6.9m OD from north-east to south-west.

## **7.5. Visual impact**

- 7.5.1. Appellants have raised concerns regarding the visual impact on the proposed development, in particular the apartment blocks sitting forward of the existing building line and the relative bulk and massing of these structures when viewed along a sensitive coastal location.
- 7.5.2. The applicant has responded to all grounds of appeal by submitting that the current proposal is similar in design, form and density to the previous application on site, which the Planning Authority approved, and the Board and the Board's Inspector assessed and considered to be acceptable, other than the previously proposed flood mitigation measures. It is stated that the majority of the grounds of appeal have been raised in previous appeals and these were addressed by the applicant and fully considered by the Board. The applicant considers that the previous decision gave a clear blueprint to address the reason for refusal and other items raised by the Inspector and Board.
- 7.5.3. From the outset, it should be noted that the main physical difference between the previous and current proposals is the raising of ground levels by 400mm at the front of the site. The apartment blocks will therefore be 400m higher than those structures previously assessed. Having regard to the overall scale of these structures, I consider that the increase in height in the order of 2.25% will be imperceptible when viewed from immediate and wider surroundings.
- 7.5.4. The new proposal will also include a number of other minor amendments to address certain issues with the last application. The previous Inspector had concerns in relation to potential overlooking, and in response, balconies and windows on the south-western elevations of both blocks have been repositioned and redesigned. The redesign is now more consistent with the north-eastern elevations of the apartment blocks and in my opinion does not altered the appearance of the apartments in any significant way.
- 7.5.5. The Board had serious concerns with the previous application regarding the visual impact of the 1.8m high wall to the seafront boundary and its incompatibility with

good urban design and the creation of a vibrant and active streetscape. It was clarified under the previous application that a drawing error illustrated the front boundary wall to such a height. It is clearly shown in the current application that the front boundary comprises a 0.75m wall with 1.05m railing (total 1.8m above footpath level to the front). In my opinion, this is a more satisfactory boundary treatment that allows for both a visible internal landscaped edge and privacy for ground floor apartments.

- 7.5.6. Overall in terms of visual impact, I would have no objection to the scale and positioning of the apartment blocks at this coastal location. Subject to improved surfacing/ reduced car parking, the proposal will also provide for an attractive internal street as illustrated in photomontages. As noted by the previous Inspector, the scheme addresses both building lines applicable to the site and the proposed maximum height of the apartments is well within Development Plan guidance. I also consider that the proposed development will improve the variety of built forms along this coastal frontage.

## **7.6. Impact on Residential Amenity**

- 7.6.1. As noted above, the south-western elevation of apartment block A has been amended to reduce impacts of overlooking of the property to the south-west. The previous Inspector had concerns that balconies would impact on the development potential of No. 776. The amended elevation proposes high level windows and balconies which do not continue around the side elevation of the same degree as previously proposed. I consider this to be an improvement and one which would allow for a similar relationship as that between proposed apartment blocks A and B should a similar development take place in future to the south-west.
- 7.6.2. The other main impact on residential amenity concerns No. 786 to the north-east of the appeal site. The resident of this property stated within an appeal that the proposed houses would be built from a ground level 2m higher than his dwelling. In this regard, it is submitted that the appellant's ridge level is 11.2m and the proposed housing will have a ridge level of 17.33m. It is also submitted that the stepping forward of Houses 15 & 16 will reduce sunlight to the rear of the appellant's home and the elevated ground level will necessitate raising the boundary wall from the appellant's front garden down the entire length of the back garden.



- 7.6.3. In my opinion, there is a lack of detail with respect to the boundary with No. 786 and this property has the potential to be most affected by the proposed development. I would be in agreement with the appellant that the boundary wall appears to be at a level of more than 3m above the ground level at the proposed development side. The appellant's property appears to sit at a lower level, and as submitted, this would give rise to the creation of an overbearing boundary with the potential to overshadow the appellant's amenity space to the rear. I would therefore be of the view that a condition should be attached to any grant of permission requiring the applicant to submit details of the boundary treatment to the north-east for written agreement with the Planning Authority. Options may include a reduction of the boundary height to maximum 2m on the lower side or the inclusion of a permanently planted strip on the development side of an adequate width and height to prevent overlooking of adjoining property.
- 7.6.4. Overall, I would have no other objections with the proposed development in terms of impact on residential amenity. I note that proposed House 16 will be situated 4.285 back from the boundary with No. 786 and Apartment Block B will be set back further from the boundary to allow adequate sunlight/ daylight access to the front of No. 786.

## 7.7. Quantum of Development

- 7.7.1. A density of 78 dwellings per hectare is proposed. The site is located on a bus route and approximately 1.1km walk to Kilbarrack Dart station. The *"Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area"* recommend a minimum net density of 50 dwellings per hectare on public transport corridors.
- 7.7.2. As noted under the previous Inspector's assessment, the proposal is comfortably within plot ratio and site coverage Development Plan guidance. I would be in agreement that the proposal will give rise to an efficient quantum of development on a well-connected site in proximity to surrounding amenities. The proposal also manages to significantly increase the density of development on an under-utilised site without impacting on adjoining residential amenities to a significant degree.

## 7.8. Car Parking and Transport Impact

- 7.8.1. The previous Inspector had concerns regarding the provision of 111 no. car parking spaces to serve a total of 68 dwelling units. The maximum Development Plan provision for this location (Zone 3) is 1.5 spaces per unit and the previous proposal equated to 1.6 spaces per units. However, the Inspector considered that the exceedance did not warrant a refusal of permission.
- 7.8.2. The current proposal provides for a total of 79 no. spaces at basement level, 6 no. visitor spaces and 32 no. spaces to serve the 16 no. dwelling houses. This is a total of 117 no. spaces and a provision of 1.72 spaces per unit. It is stated in the Development Plan that parking provision in excess of the maximum standards shall only be permitted in exceptional circumstances, e.g. boundary areas, or where necessary for the sustainable development of a regeneration area. It is also stated that *“parking provision below the maximum may be permitted provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety. In addition, the planning authority may require the maximum number of car parking spaces specified in Table 16.1 to be further reduced where it is considered that the surrounding road network is not sufficient to cater for the volume of traffic likely to be generated by the proposed development.”*
- 7.8.3. In my opinion, car parking provision on site should be reduced. Dwelling houses are each provided with 2 no. spaces, which is excessive and encourages car ownership and usage. An absolute maximum of 102 no. spaces should serve the proposed development. The 79 no. spaces at basement level and the 6 no. visitor spaces are acceptable, in my opinion. The remaining 17 no. spaces (max) can be provided at surface level between the apartments and houses, possibly in two lots. This will allow for provision of a much needed area of communal open space in the centre of the site that has better access to sunlight than the area proposed at lower level.
- 7.8.4. The Board may wish to seek further information from the applicant in this regard; however, I would be satisfied that the amended car parking and communal open space layout can be agreed between the applicant and Planning Authority prior to commencement of development. I would also be of the view that the internal carriageway should be reduced in width to 4.8m so as to encourage more of a

shared surface arrangement and better integration with the communal open space. The proposed road and surface parking layout is too car dominant at the expense of a more people-friendly internal environment.

7.8.5. I note that the scheme is to be developed as a gated community. Development Plan Policy QH10 seeks *“to support the creation of a permeable, connected and well-linked city and discourage gated residential developments as they exclude and divide established communities.”* I consider this policy to be reasonable and would therefore recommend that the proposed gates to the front of the development are omitted.

7.8.6. In terms of the wider transport impact, the proposed development is very well served by the adjoining coastal walking and cycle route. There are also bus stops in close proximity on Howth Road and a Dart station within walking distance. Appellants have expressed concern regarding the impact of the proposed development on existing traffic conditions. As noted by the previous Inspector, the site has viable alternatives to the private car. Congestion can sometimes have the effect of encouraging residents to seek out these alternatives. Notwithstanding, the transport assessment submitted with the application indicates that there is sufficient capacity on the road network to accommodate the traffic generated by the proposed development. Furthermore, the reduction in car parking as suggested above, can discourage potential householders with multiple car ownership and usage demands.

## 7.9. **Open Space**

7.9.1. As noted above, I am of the opinion that the quality of proposed communal open space provision is inadequate to serve future residents of the scheme. These spaces are either too narrow or overshadowed, and are remote from one another or not accessible by all residents of the scheme. My recommendation to omit a total of 15 no. car parking spaces should have the effect of releasing approximately 180 sq.m. of surface space for use as a small communal pocket park that can be both sheltered and have good access to sunlight.

7.9.2. I agree that the open space provision will be communal in nature and not genuinely accessible to the general public. Having regard to the layout and access arrangements to the site, and to the presence of nearby public open spaces, I would

be satisfied that contribution in lieu of public open space would be acceptable in this case.

#### 7.10. **Appropriate Assessment**

7.10.1. The EU Habitats Directive (92/43/EEC) requires competent authorities to review planning applications and consents that have the potential to impact on European designated sites, i.e. Special Protection Areas (SPA's) and Special Areas of Conservation (SAC's). To assist this process, the applicant has prepared a Natura 2000 Screening Report.

##### *Stage 1: Screening*

7.10.2. The first stage of the Appropriate Assessment process is the screening exercise where it should be decided if the effects of a development on a European site are likely and whether or not the effects are significant in light of the Conservation Objectives for the site. It should also be determined if there are cumulative effects with other projects. The precautionary principle should apply if there are significant effects that cannot be excluded, or where the likelihood is uncertain.

7.10.3. The first step of this stage is to identify all European sites which could potentially be affected using the Source-Pathway-Receptor model. According to the Natura 2000 Screening Report submitted with the planning application, there are 17 European Sites within 15km of the appeal site. Of these, the North Bull Island SPA, the North Dublin Bay SAC, Howth Head SAC, Howth Head Coast SPA, Baldoyle Bay SPA and Baldoyle Bay SAC are in close proximity.

7.10.4. Having regard to the nature and scale of the proposed development, impact pathways would be restricted to hydrological pathways. Using the source-pathway-receptor risk assessment principle, the European sites that could potentially be affected by the proposed development are those listed above in close proximity to the site. The distance to all other European Sites is in excess of 4km. It can be reasonably concluded that the proposed development would not have a significant effect individually or in combination with other plans or projects on European sites in excess of 4km from the site having regard to the conservation objectives for these European Sites, the nature of discharge from the development site, and the source-pathway-receptor risk assessment principle.

- 7.10.5. The nearest European Sites to the appeal site are the North Dublin Bay SAC and the North Bull Island SPA, which are located on the opposite side of Howth Road. A description and the conservation objectives of these sites and the four other European Sites that could potentially be affected by the proposed development using the Source-Pathway-Receptor model are set out in the Natura 2000 Screening Report. Annex I habitats and/ or Annex II species for which these sites have been selected are also set out in the Screening Report.
- 7.10.6. The assessment criteria of the Screening Report describes the likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the Natura 2000 sites by virtue of site size and scale, land take, distance from European Site or key features of the sites, resource requirements, emissions, excavation requirements, transportation requirements and duration of construction, operation, decommissioning, etc.,
- 7.10.7. The main potential for likely and significant effects on European sites from the development of the appeal site is from water run-off and contamination during the demolition and construction phase. It should be noted, however, that there is no watercourse within the site that provides a direct link to any European Site.
- 7.10.8. The Screening Report includes a planning search of the surrounding area to determine if there are other projects or plans that, in combination with the proposed development, could have significant effects on European Sites. Reference is made to an apartment proposal at 754 Howth Road (Ref: ABP-300358-17) and to a permission for 16 no. dwellings approximately 450m to the west (Reg. Ref: 3910/15).
- 7.10.9. In terms of the assessment of the significance of effects of the proposed development (alone or in combination) on European Sites, it proposed to use a SuDS approach to stormwater management and foul water will be discharged to the existing foul water main. Removal of topsoil during excavation will be carefully managed and monitored and demolition and construction works will be agreed with Dublin City Council and, according to the Screening Report, will be carried out sensitively to ensure that there will be no impact on European Sites in terms of noise, dust, vibration and general disturbance.
- 7.10.10. Having regard to the nature and scale of the proposal to redevelop an existing residential site within the city boundary, to the limited and controlled discharge from

the site, and to the distance between the site and the nearest designated sites, it is likely that there will be no significant direct or indirect effects on the conservation status of the habitats, species or bird species within any European Site.

7.10.11. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites No's: 000206, 004006, 000199, 004016, 000202 and 004113 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

### **7.11. EIA Screening**

7.11.1. Having regard to the nature and scale of the proposed development and the fact that the development will not result in the production of any significant waste, or result in emissions or pollutants, 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.

7.11.2. The site is as close as 15m from an SPA and SAC. However, an Appropriate Assessment Screening determined that it is likely that the proposed development is unlikely to have significant effects on any European Site.

## **8.0 Recommendation**

8.1. It is considered that the proposed development should be granted for the reasons and considerations hereunder.

## **9.0 Reasons and Considerations**

Having regard to the zoning objective for the site, the planning history and pattern of development in the area, together with the design, layout and density and proposals to address the risk of flooding on site, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the

visual amenities of the area or residential amenities of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. 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, 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 interests of clarity.

2. The proposed development shall be amended as follows:
  - No more than 102 no. car parking spaces shall be provided to serve the proposed development;
  - At least 15 no. surface car parking spaces shall be omitted from the front of the proposed houses to the rear;
  - Car parking to the front of the housing shall be reconfigured and the c. 180 sq.m. (min.) area vacated by the omitted car parking shall be redesigned as communal open space;
  - Internal roads shall be no wider than 4.8m in width and shall comprise of shared surfacing;
  - No gates shall be permitted at the entrances to the site.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of residential amenity.

3. The internal road network and external access junctions serving the proposed development, including turning bays, junctions, kerbs, parking areas, footpaths, pedestrian crossings, pedestrian entrances, emergency vehicle access and cycle parking shall otherwise comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

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

**Reason:** In the interest of visual amenity.

5. 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. No open ingresses to the basement car park for access, ventilation, natural lighting, etc. shall be located below 5.4m OD.

**Reason:** To reduce the potential for flooding and in the interest of public health.

6. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting



fixtures and seating;

- (d) details of retaining wall structures including the basement ramp access;
- (e) details of the children's play area;
- (f) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes. No boundary wall onto a 3rd party site shall be any higher than the existing boundary or not more than 2m above the adjoining ground level whichever is higher. Solid screens may be topped with railings to a maximum cumulative height of 2.0m in relation to the adjoining ground level within the site. Planting may be used to supplement screening to site boundaries.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme and implemented in the first planting season following completion of the development, and any trees and shrubs which die or are removed within 3 years of planting shall be replaced in the following planting season.

**Reason:** In the interest of ecology and visual amenity.

- 7. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of planning permission.

**Reason:** To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general.

- 8. Prior to demolition of any structure on site in association with this permission, the applicant shall undertake a bat survey and discuss any findings with the National Parks & Wildlife Service. The applicant shall submit for the written agreement of the planning authority details of the survey, along with any discussions with the NPWS and any subsequent recommended precautionary, mitigation and/or compensatory displacement measures that would minimise impact on habitat in the future as set out in

the 'Bat Assessment' submitted with this application.

**Reason:** In the interests of orderly development.

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) 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;
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

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

11. Proposals for an estate/street name, house/ block numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be

based on local historical or topographical features, or other alternatives acceptable to the planning authority and shall be in both Irish and English. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

12. A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

14. 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 cleaning of adjoining public roads.

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

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

. **Reason:** To ensure the satisfactory completion of the development.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

. **Reason:** To ensure the satisfactory completion and maintenance of this development.

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and

section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

18. The developer shall pay the sum of €4000 per residential unit (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2) (c) of the Planning and Development Act 2000, as amended, in respect of public open space. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer.

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

19. 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.

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Donal Donnelly

Planning Inspector

17<sup>th</sup> September 2018