



An
Bord
Pleanála

Inspector's Report ABP – 302991 – 18.

Development

Permission is sought for the subdivision of the garden at Lissadell Lodge and the construction of a dwelling house on this subdivision together with all associated works.

Location

Lissadell Lodge, Strand Road, Portmarnock, Co. Dublin, D13 WK50.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F18A/0505.

Applicants

David and Roseanna Terry.

Type of Application

Planning Permission.

Planning Authority Decision

Refused.

Type of Appeal

First Party

Appellants

David and Roseanna Terry.

Observer

Dublin Airport Authority.

Date of Site Inspection

20th March, 2019.

Inspector

Patricia-Marie Young.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy and Context.....	7
5.1. National Planning Policy Provisions	7
5.2. Local Planning Policy Provisions.....	7
5.3. Natural Heritage Designations	7
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	9
6.3. Observations.....	10
7.0 Assessment.....	10
8.0 Recommendation.....	21
9.0 Reasons and Considerations.....	21

1.0 Site Location and Description

- 1.1. The appeal site which has a stated 0.244ha area and it forms part of larger c0.415ha parcel of land that contains 'Lissadell Lodge', a detached 2-storey dwelling. The site is set back c65m from the eastern side of Strand Road(R106) and is located c0.1km as the bird would fly to the east of the Strand Road's T-junction with Blackberry Lane.
- 1.2. Currently access to the site is via a shared entrance and driveway that serves 'Lissadell Lodge' and the neighbouring properties to the north including Lissadell House. To the south west of Lissadell Lodge there is an attractive c3m high period brick wall that contains an arch as well as an open section. Views to the site and Lissadell Lodge are limited from the Strand Road due to their setbacks, tall period walls and mature vegetation. In addition, to the west and south west there are a number of 2-storey properties in a variety of built forms. This includes St. Columba's Cottage which adjoins the western side of the proposed subdivision.
- 1.3. The eastern boundary of the site adjoins part of the Portmarnock Hotel and Golf Links (Note: RPS No. 0917 – which relates to the 19th Century House only which is a designated Protected Structure) golf course with the land between it and the coastline consisting of exposed grassed dunes with meandering paths through them. The eastern boundary of the proposed subdivision also contains a line of mature Leyland Cypress.
- 1.4. The southern boundary contains a small section of historic stone wall with a covering of Ivy. Part of it adjoins the St. Marnock's Graveyard and Church Ruins complex. This historic complex of built heritage benefits from several national and local built heritage protections.
- 1.5. The site area is relatively flat though the ground levels of the proposed subdivision are slightly lower than the finished ground floor level of Lissadell Lodge.
- 1.6. The eastern side of the R106 forms part of coastal and estuarine landscape. It is not as built up as the western side which has a denser suburban character.

2.0 Proposed Development

- 2.1. Planning permission is sought for the subdivision of the side garden of Lissadell Lodge and planning permission is also sought for the construction of a 2-storey 3-bedroom detached contemporary in design, materials and finishes dwelling house with a stated 204.6m². It is proposed to locate the dwelling house to the south-west of Lissadell Lodge, a detached 2-storey dwelling, and to provide a new vehicular and pedestrian entrance onto the Strand Road. This access would be via a private common access road which currently opens onto the Strand Road and serves Lissadell Lodge and Lissadell House. In addition, permission is also sought for all boundary treatments and site development works.
- 2.2. This application is accompanied by the following documentation '*Proposed detached dwelling at Lissadell Lodge, Strand Road, Portmarnock, Co. Dublin*'; '*Visual Impact Assessment – Impact on Protected Structure and Integration into Sensitive Environment*'; '*Archaeological Desk Top Assessment – in advance of the Proposed Development at Lissadell Lodge, Strand Road, Portmarnock, County Dublin*'; '*Screening Report for Appropriate Assessment of Development at Lissadell, Strand Road, Portmarnock, Co. Dublin*'.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to **refuse** permission. The reasons for refusal read as follows –

“1. *The subject site is zoned under Objective HA-High Amenity within the Fingal Development Plan 2017-2023. Applicants who wish to provide for a dwelling on lands zoned under the HA-High Amenity objective must demonstrate a genuine rural housing need and as such must comply with the Rural Housing Policy as set out within Table RF03 of the Fingal Development Plan 2017-2023. The applicants have an existing house in the rural area and have not demonstrated to the Planning Authority that they have a genuine rural housing need and therefore do not comply with the rural housing policy. The proposed development for a new house on the subject site would materially contravene*

Objective RF32, Objective 34 and Objective RF39 of the Fingal Development Plan 2017-2023.

2. *The additional built form, scale and scope of the proposed development together with the non-subordinate width cumulative with the size and scale of Lissadell would be detrimental to the open landscape character at this location. As such to permit such a development would give rise to a significant negative visual impact on the surrounding landscape and would materially contravene Objective NH51 and NH36 of the Fingal Development Plan 2017-2023 and is therefore contrary to the proper planning and sustainable development of the area.*
3. *The subject site is located between the road and the sea on lands which are zoned under Objective HA-High Amenity and as such to permit permission for the provision of a dwelling and would materially contravene Objective RF49 of the Fingal Development Plan 2017-2023.*
4. *The proposed development, if permitted, would set an undesirable precedent on HA-High Amenity zoned lands due to the visual impact and the lack of compliance with the Rural Settlement Strategy 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 Planning Officer’s report was the basis for the Planning Authority’s decision.

3.2.2. Other Technical Reports

- **Conservation:** No objection.
- **Transportation Planning:** No objection subject to conditions relating to the proposed entrance.
- **Planning & Strategic Infrastructure:** No objection.
- **Water Services:** No objection.
- **Parks:** No objection subject to revisions to the landscaping and proposed layout. In addition, a tree protection scheme was also sought.

3.3. Prescribed Bodies

Irish Water: No objection.

DAA: The main concerns raised correlate with those contained in their observation to the Board (Section 6.3 below).

3.4. Third Party Observations

- 3.4.1. A single observation was received raising similar concerns to those set out by the Planning Authority in their reasons for refusal.

4.0 Planning History

P.A. Reg. Ref. No. F17A/0222:

Planning permission was **refused** for a development consisting of the subdivision of the garden at Lissadell Lodge and the construction of a 2-storey detached 3-bedroom dwelling of c225m² to the south-west side of Lissadell Lodge together with new vehicular and pedestrian access from Strand Road via the private common access road, the creation of a new access arrangement to serve the proposed dwelling, all boundary treatments and on-site development works on a site of c0.224ha. The reasons for refusal can be summarised as follows –

- Failure to demonstrate compliance with the settlement strategy.
- Substandard development and negative impact upon landscape setting.
- Insufficient archaeological information provided thus materially contravening Objective CH07 of the Development Plan.
- Undesirable precedent for similar developments that cumulatively would undermine the character of lands zoned High Amenity.

P.A. Reg. Ref. No. F09B/0071:

Planning permission was **granted** for a development consisting of the construction of a single storey detached garage with attic storage space, with a total floor area of

90.2m² and a ridge height of c5.5m to the south west of Lissadell Lodge (a Protected Structure).

5.0 Policy and Context

5.1. National Planning Policy Provisions

- **Sustainable Rural Housing Development Guidelines:** These guidelines require a distinction to be made between ‘*Urban Generated*’ and ‘*Rural Generated*’ housing need. Several rural area typologies are identified. Including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns.
- **National Planning Framework – Project Ireland 2040:** National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities. This will also be subject to siting and design considerations.

5.2. Local Planning Policy Provisions

- 5.2.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The site lies within an area zoned ‘HA’ which has an aim to: “*protect and improve high amenity areas*”. The stated vision for such lands is to “*protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored*”. In land zoned ‘HA’ residential development is permissible subject to demonstrating compliance with the Development Plans Rural Settlement Strategy.

5.3. Natural Heritage Designations

- Baldoyle Bay SAC and SPA (Site Codes: 0199 and 4016 respectively) are situated c1km to the south and south east of the site.

- Malahide Estuary SAC (Site Code: 000205) is situated c0.8km to the north of the site.
- Malahide Estuary SPA (Site Code: 004016) is situated c1.5km to the north of the site.

5.4. Environmental Impact Assessment

Having regard to nature of the proposed development which consists of the subdivision of an existing mature garden and the construction of a detached dwelling thereon, the serviced nature of the lands, the distance between the site and lack of any connectivity to any sensitive location, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development if permitted. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows -

- Reference is made to the planning history of the site. In particular P.A. Reg. Ref. No. 17A/022 which was refused and which this current application seeks to address each of the reasons cited for refusal.
- The proposed development represents an urban infill development. As such it is consistent with planning policy which seeks densification in existing urban areas.
- The site is located within an urban area, would use an existing road frontage and vehicular access, is well screened from surrounding development and would be well served by public transport as well as other services that are present in the surrounding area.
- The applicant has not previously obtained planning permission for an additional dwelling.

- The proposed dwelling is required in connection with the applicant's medical condition.
- The site does not form part of a family farm.
- The site is not situated on land zoned 'RU' or 'GB' zoned land.
- The proposed dwelling would not detract from the landscape value of the high amenity coastal landscape.
- Reference is made to the conclusions of the Parks Department.
- At this location the land between the sea and the coast road already contains residential development.
- It is not accepted that the proposed development would establish undesirable precedent as it is infill development.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows –

- The proposed development would materially contravene the zoning objective and vision for this High Amenity zoned area and the Rural Settlement Strategy as set out in the Development Plan.
- The Board is asked to have regard to several incorrect interpretations of local planning policy provisions presented by the applicant in their documentation.
- The site is located outside the settlement boundary of Portmarnock and is not located within the Portmarnock Urban Settlement Strategy. The land use zoning and the rural settlement strategy have been correctly applied to this application.
- No sworn affidavits have been provided by medical professionals as is required.
- The appellants are currently living in a dwelling located on 'HA' zoned lands and they are not considered to have a genuine rural housing need.
- Further information was not sought as the Planning Authority had a fundamental objection to the proposed development.

- The Board is requested to uphold its decision but in the event of a grant of permission a financial contribution in accordance with the Councils Section 48 Development Contribution Scheme is requested to be imposed.

6.3. Observations

6.3.1. Dublin Airport Authority observation can be summarised as follows -

- The proposed development is located within the Outer Airport Noise Zone and the Outer Public Safety Zone. Therefore, reference is made to Objectives DA07, DA13 and DA14 of the Development Plan.
- Further information should be provided. In this regard the observer seeks that an assessment of the existing and predicted noise environment of the site be provided; demonstration that appropriate internal noise levels can be achieved and maintained; and, that appropriate noise mitigations measures be provided.
- Regard should be had to the recommendations set out in the ERM Report – Public Safety Zones, 2005, for development within the Outer Public Safety Zones.

7.0 Assessment

7.1. Introduction

7.1.1. The proposed development is for the subdivision of the side garden of 'Lissadell Lodge', a detached 2-storey dwelling house, and the construction of a 2-storey 3-bedroom detached dwelling house with a stated 204.6m² total gross floor area and the provision of vehicular access that would link into an existing shared entrance that would provide the proposed dwelling house with access onto the public road network via the Strand Road(Regional Route R106). The design and siting of the proposed access are generally considered appropriate and I am satisfied that the development would have no material adverse impacts on users of the public road network from which access is proposed further to any grant of permission including the recommendations for improvements to the entrance as recommended by way of condition by the Planning Authority's Transportation Department in their report. Further, no objections have been raised by the private owners of the existing lane

which currently serves the applicants Lissadell Lodge and the neighbouring property to the north (Lissadell House).

7.1.2. I am also satisfied that the design resolution of the proposed dwelling and its placement on site relative to the existing adjacent dwelling house 'Lissadell Lodge' and neighbouring dwellings between it and the Strand Road to the west is generally acceptable. Further I raise no objection to use of a light weight contemporary approach as it would result in a legible built layer that is of its time. I consider that despite the high sensitivity of the appeal sites setting which contains rich natural and built heritage the insertion of a contemporary in design would add to the variety that is present particularly in the immediate vicinity of the site and to the east of the Strand Road.

7.1.3. I consider that the main issues in this appeal, are those raised in the grounds of appeal. I consider that there are no other substantive issues arising but the matter of 'Appropriate Assessment' also needs to be addressed in the context of my assessment below. The issues can be dealt with under the following headings -

- Compliance with Settlement Strategy
- Design and Visual Amenity
- Appropriate Assessment
- Other Matters Arising

7.2. **Compliance with Settlement Strategy**

7.2.1. Fingal County Development Plan, 2017 to 2023, is the applicable plan governing the site and its environs. Under which the site forms part of a larger parcel of 'HA – High Amenity' zoned land. The overarching theme for such lands is to protect these highly sensitive and scenic locations from inappropriate development, reinforce their character, distinctiveness and sense of place. Objective RF39 of the Development Plan states that the Planning Authority will "*permit new rural dwellings in areas which have zoning objectives RU, or GB, on suitable sites where the applicant meets the criteria set out in Table RF03*". In addition, Objective SS02 of the Development Plan states that the Planning Authority will "*ensure that all proposals for residential development accord with the County's Settlement Strategy*".

- 7.2.2. Table RF03 sets out the criteria for eligible applicants from the rural community for planning permission for new rural. According to Table RF03 the provision of housing on 'HA' zoned land is restricted to applicants with a defined essential housing need based on their involvement in farming or exceptional health circumstances. Under Part (iii) it states that *"a person who is an immediate member of a rural family who has not been granted permission for a rural dwelling, since the 19th October 1999, and is considered to have a need to reside adjacent to the family home by reason of that person's exceptional health circumstances. The application for a rural dwelling must be supported by two sworn affidavits from relevant and qualified professionals, with at least one from a registered medical practitioner. A qualified representative of an organisation which represents or supports persons with a medical condition or disability may supply the other"*. This is considered under the Development Plan to be verifiable documentary evidence required to demonstrate compliance with Objective RF39.
- 7.2.3. The Planning Authority as part of their first reason for refusal have concluded that the applicants have an existing house in the rural area and have not demonstrated to them that they comply with the rural housing policy. To permit the proposed development would in their view materially contravene Objective RF32; Objective RF34 and Objective RF39 of the Development Plan.
- 7.2.4. In relation to Objective RF32 of the Development Plan, I note that it states that the Planning Authority will *"permit houses in areas with zoning objective HA, only to those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances"*. The criteria for demonstrating exceptional health circumstances as set out under the Development Plan includes that the application must be supported by two sworn affidavits from relevant and qualified professionals, with at least one from a registered medical practitioner. A qualified representative of an organisation which represents or supports persons with a medical condition or disability may supply the other. Having regard to the information on file I consider that the applicant has not provided this documentation to support of their application for the provision of an additional dwelling house at this location.
- 7.2.5. In relation to Objective RF34 of the Development Plan, I note that it states that the Planning Authority will *"permit up to two additional dwellings per farm family in areas*

with the zoning objective, RU, and one additional dwelling per farm family within areas with the zoning objective GB or HA, where the applicant demonstrates their direct participation in running the family farm and is considered to have a demonstrated need related to the working of the farm to reside on the family farm.” I consider this cannot be demonstrated as the applicant and the land that this subject appeal relates too does not form part of an agricultural landholding. Further, the applicants have not demonstrated any tangible connection to an agricultural landholding or the running thereof in this area or otherwise. In my view it is unreasonable to include compliance with this objective in the grounds of refusal.

- 7.2.6. In relation to Objective RF39 I note that the central argument put forward by the appellant in their grounds of appeal is that because of one of the applicant's health circumstances Lissadell Lodge, their existing residence, is no longer suitable for them to reside in. As part of their application they have included a letter from a local GP surgery. This letter indicates that one of the applicants has several ailments and indicates that her present living conditions which include a stair is unsuitable. The criteria for demonstrating exceptional health circumstances is clear and it requires such an application be supported by two sworn affidavits from relevant and qualified professionals, with at least one from a registered medical practitioner. This has criteria has not been demonstrated in relation to the purported exceptional health circumstance of one of the applicants.
- 7.2.7. Having reviewed all the document on file it is my opinion that the local planning policy provisions in relation to the provision of housing on 'HA' zoned land is clear and in this case the appellants have not satisfactorily demonstrated compliance with the settlement strategy for a dwelling house at this location as required under the Fingal Development Plan, 2017 to 2023, in particular Objectives RF32 and RF39.
- 7.2.8. Having regard to the national planning policy provisions and guidance, the National Planning Framework and the Sustainable Rural Housing Development Guidelines, I consider that the applicants have not demonstrated a social or economic need for an additional dwelling at this location. I therefore consider that the proposed development is contrary to the proper planning and sustainable development of the area. This reason in itself is a substantive reason to refuse permission for the proposed development sought under this application.

7.3. Design and Visual Amenity

- 7.3.1. The appeal site forms part of a larger parcel of land zoned 'HA – High Amenity' under the Fingal Development Plan, 2017 to 2023. Chapter 9 of the Development Plan sets out the planning provisions and guidance for such zoned land. It indicates that this zoning "*has been applied to areas of the County of high landscape value. These are areas which consist of landscapes of special character in which inappropriate development would contribute to a significant diminution of landscape value in the County*". It indicates that these landscape areas meet one or more of the following criteria including but not limited to containing scenic landscapes of high quality; are components in important view and prospects; provide public access to interesting attractive landscapes; through to being a backdrop to important coastal views.
- 7.3.2. In addition to the sites 'HA' land use zoning, which I acknowledge in itself means that such lands are highly sensitive to change, the site is located in landscape setting that is particularly rich in terms of both its built heritage and natural heritage attributes. It is also a landscape that due to its proximity to Dublin is under significant development pressure and it is a landscape that over the last number of decades has suffered from the cumulative impacts of this pressure. As such its capacity at this location to absorb further development is nearing capacity and I consider it is essential that future developments in such areas demonstrates that they are essential and that they are designed as well as laid out to integrate sensitively with their surroundings.
- 7.3.3. In terms of built heritage, the site is located in close proximity to St. Marnock's Graveyard and Church Ruins complex. This complex benefits from several types of protections. Including the Church's designation as a National Monument (DU015-00701). Within the existing curtilage of this church and its graveyard it contains several other National Monument designations including Site No. DU015-007002 (Ritual Site and Holy Well); DU015-007003 (Ogham Stone); DU015-007004 (Graveyard) and DU015-007005 (Wall Monument). Further, this built heritage complex is a designated Recorded Monument (RPS No. 0478) and St. Marnock's Church (in ruins) is a designated Protected Structure (RPS No. 0478). It also lies c0.2km to the south west of Portmarnock Hotel and Golf Links complex of buildings which includes a 19th Century House. This structure is a designated Protected

Structure (Note: RPS No. 0917) and it is an NIAH Site (Reference No. 11351004) under which it is listed as being of 'Regional Value' with its categories of special interest being its 'Architectural' and 'Artistic' merit.

- 7.3.4. In relation to the protection of National Monuments Objective CH03 of the Development Plan seeks to *“protect all archaeological sites and monuments, underwater archaeology, and archaeological objects, which are listed in the Record of Monuments and Places and all sites and features of archaeological and historic interest discovered subsequent to the publication of the Record of Monuments and Places, and to seek their preservation in situ (or at a minimum, preservation by record) through the planning process”*.
- 7.3.5. In relation to Protected Structures the Development Plan under Objective CH20 seeks to ensure that any development affecting these structures, or their setting is sensitively designed, is compatible with their special character and are appropriate in their scale, mass, height and so forth.
- 7.3.6. In relation to the natural heritage this matter is discussed under the heading 'Appropriate Assessment' (Section 7.4 below).
- 7.3.7. The Planning Authority as part of their second reason for refusal concluded that as the additional built-form, scale and scope of the proposed development together with the proposed dwellings non-subordinate width cumulative to the built form, the size and scale of Lissadell Lodge would be detrimental to the open landscape character at this location. They therefore considered that to permit the proposed development would give rise to a significant negative visual impact on the surrounding landscape and in turn it would materially contravene Objective NH51 and Objective NH36 of the Development Plan.
- 7.3.8. Objective NH51 of the Development Plan states that the Planning Authority will seeks to *“protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place”* and under Objective NH36 they will *“ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it: causes unacceptable visual harm; Introduces incongruous landscape elements; Causes the disturbance or loss of (i) landscape elements that*

contribute to local distinctiveness, (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns, (iii) vegetation which is a characteristic of that landscape type and (iv) the visual condition of landscape elements". Having inspected the site and its immediate environs I consider these objectives are reasonable and appropriate particularly having regards to the following:

- The site's immediate setting which includes St. Marnock's Church and Graveyard.
- The established pattern of development between the Strand Road and the Coastline at this location.
- The exposed nature of the dune landscape that characterises the landscape in between the fringe of development that bounds the eastern side of the Strand Road and the Coastline at this location.

7.3.9. Having regard to the above factors I note that the Planning Authority in their third reason for refusal concluded that as the subject site is located between the road and sea on lands zoned 'HA' to permit the provision of a dwelling would materially contravene Objective RF49. This Development Plan objective states that the Planning Authority "*require that no new houses are permitted on High Amenity zoned lands which are located between the sea and the coast road except in such cases indicated in Objective RF50*". Objective RF50 states the following: "*consider a suitable alternative site for a new house, in the case of applicants who comply with the Settlement Strategy for houses in the countryside and whose existing family farm is located entirely between the coast and the road, and where no opportunities exist to convert existing/vernacular farm buildings as a new dwelling or to extend the existing house*".

7.3.10. As examined in the previous section the applicants have not demonstrated compliance with the Settlement Strategy for houses at this location irrespective of whether one could consider the curtilage of Lissadell Lodge and its environs as forming part of what one normally considers the essential attributes and visual amenity qualities one expects to find in the countryside. Notwithstanding, the eastern side of the Strand Road is not as densely developed as land on its western side and whilst at this location containing a number of built forms to the north and

west of the site it is otherwise characterised by its exposed and open coastal/estuarine landscape attributes that to the east of the site have been integrated into the Portmarnock Hotel and Golf Links golf course.

- 7.3.11. In addition, the applicant and their landholding at this location does not form part of a family agricultural landholding and in relation to their existing residence the applicant has not demonstrated that the existing Lissadell Lodge, which in built form, scale and nature is a substantial modern 2- storey detached property, cannot be refurbished or altered to allow independent living for one of the applicants at ground floor level.
- 7.3.12. Despite the applicants use of a relatively light weight contemporary architectural 2- storey flat roofed built form with large expanses of glazing and the incorporation of an attractive existing brick wall and with a palette of materials, finishes and treatments that generally seek to harmonise with built features in its immediate setting I share the same concerns as the Planning Authority in that the additional built form, the scale and scope of the proposed dwelling together with its non-subordinate width would, if permitted, detrimentally impact upon the open character of the landscape at this location and the setting.
- 7.3.13. Of particular concern in my view is the visual impact on the setting of St. Marnock's Church and graveyard complex which adjoins the south eastern boundary of the site. This is a nationally important complex of built and archaeological heritage that is highly sensitive to change. By way of this application the separation distance between substantial built forms and this site would be significantly reduced to c15m to its northern boundary and c42m from the ruins of the church itself. The insertion of the proposed dwelling at this location would reduce the openness and void of significant built structures between St. Marnock's Church and Graveyard complex, Lissadell Lodge and properties to the west and north west of it within its landscape setting. It would also add to the cumulative impact of built structures within its immediate setting. I consider this to be inconsistent with planning policy provisions for HA zoned land and those which seek to protect important built and archaeological sites/structures of national interest.
- 7.3.14. Of further concern, is the placement of another building in what is a side garden of an existing substantial detached dwelling house that has a principal building line that is c55m back from the eastern roadside boundary of the Strand Road. The

placement of Lissadell Lodge is to the rear of a less substantial 2-storey dwelling house that addresses the Strand Road i.e. St. Columba's Cottage. This placement is in general at odds with the eastern side of the Strand Road and the coastline at this location. The placement of a building on the side garden, a side garden which extends behind the rear boundaries of adjoining and neighbouring properties to the south of it would in my view result in backland development.

7.3.15. While intensification of density on serviced lands is generally encourage this is not the case on 'HA' zoned land where the landscape is recognised as being sensitive to change and where new built insertions must demonstrate compliance with rigid requirements. I therefore raise a concern that to permit the proposed development could establish undesirable precedent for other similar developments that cumulatively would diminish the character and intrinsic value of 'HA' zoned land which is a valuable amenity resource under significant threat at this location due to its proximity to Dublin.

7.3.16. Based on the above considerations I consider that the proposed development is inconsistent with 'HA' land use zoning objectives and, if permitted, it would be inconsistent with Objectives NH36, NH51 and Objective RF49 of the Development Plan.

7.4. Appropriate Assessment

7.4.1. The site is situated c1km to the Baldoyle Bay SAC and SPA (Site Codes: 0199 and 4016 respectively). This Natura 2000 site is situated c1km to the south of the site. The site is also situated c0.8km to the south of Malahide Estuary SAC (Site Code: 000205) and c1.5km to the north of Malahide Estuary SPA.

7.4.2. The conservation objectives for the Baldoyle Bay SAC site are "*to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA*" and "*to maintain and restore favourable conservation condition of the Annex 1 habitat(s) and/or the Annex II species for which the SAC has been selected*".

7.4.3. The conservation objectives of the Malahide Estuary SAC are "*to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in Malahide Estuary SAC*"; "*to maintain the favourable conservation condition of Salicornia and other annuals colonising mud and sand in Malahide*

Estuary SAC"; "to restore the favourable conservation condition of Atlantic salt meadows (*Glauco- Puccinellietalia maritimae*) in Malahide Estuary SAC"; "to maintain the favourable conservation condition of Mediterranean salt meadows (*Juncetalia maritimi*) in Malahide Estuary SAC"; "to restore the favourable conservation condition of Shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes') in Malahide Estuary SAC", "to restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation ('grey dunes') in Malahide Estuary SAC" and "to maintain the favourable conservation condition of Mediterranean salt meadows (*Juncetalia maritimi*) in Malahide Estuary SAC". This Natura site overlaps with Malahide Estuary SPA.

7.4.4. The conservation objectives for Malahide Estuary SPA. The Features of Interest of Interest are: the Great Crested Grebe (*Podiceps cristatus*) [A005]; the Light-bellied the Brent Goose (*Branta bernicla hrota*) [A046]; the Shelduck (*Tadorna tadorna*) [A048]; the Pintail (*Anas acuta*) [A054]; the Goldeneye (*Bucephala clangula*) [A067]; the Red-breasted Merganser (*Mergus serrator*) [A069]; the Oystercatcher (*Haematopus ostralegus*) [A130]; the Golden Plover (*Pluvialis apricaria*) [A140]; the Grey Plover (*Pluvialis squatarola*) [A141]; Knot (*Calidris canutus*) [A143]; Dunlin (*Calidris alpina*) [A149]; the Black-tailed Godwit (*Limosa limosa*) [A156] Bar-tailed Godwit (*Limosa lapponica*) [A157]; Redshank (*Tringa totanus*) [A162]; Wetland and Water birds [A999]. The conservation objective for this SPA is to maintain the favorable conservation condition of these species and to also maintain the favourable conservation condition of the wetland habitat in Malahide Estuary SPA as a resource for the regularly-occurring migratory water birds that utilise it.

7.4.5. This application is accompanied by an Appropriate Assessment Screening Report. It's authors as part of their preparation of this report surveyed the site and concluded that the lands form part of the garden of Lissadell Lodge are modified and artificial in nature. It indicates that the proposed development is not located within or adjacent to any SAC or SPA, however, it considered that pathways do exist to a number of these areas. Their assessment of the various aspects of this project indicates that significant negative effects are not likely to occur to these areas when assessed against their conservation objectives. This report concludes that the habitats found on the site were of negligible biodiversity value; that there would be no negative impacts to higher value (Annex 1) habitats situated in the neighbouring golf course;

that the site did not contain suitable roosting spaces for bats; that features on the site are of low value for roosting bats; that there are no protected plants on this site and that there can be no negative effect to local biodiversity from this development.

7.4.6. I consider the conclusions of this report are reasonable given the location of the development on serviced lands, the brownfield nature of the site, modest nature and scale of the proposed development and having regard to the separation that exists between the site and the closest Natura 2000 sites.

7.4.7. I consider it is reasonable to conclude, on the basis of the information on the file, which I am satisfied is adequate in order to issue a screening determination, that the nature and scale of the proposed development, and, the nature of the receiving environment, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site in the vicinity of the site, in view of the sites Conservation Objectives. A Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required.

7.5. Other Matters Arising

7.5.1. Occupancy Clause

Should the Board be minded to grant permission I draw their attention to Objective RF33 which indicates “*that any house which is granted planning permission in the areas with the zoning objective, RU, HA, or GB will be subject to an occupancy requirement whereby the house must be first occupied as a place of permanent residence by the applicant and/or members of his/her immediate family for a minimum period of seven years*”. I therefore recommend that they include an appropriate occupancy clause condition.

7.5.2. Outer Airport Zone

7.5.3. The site is located within the ‘Outer Airport Zone’. Objective DA07 of the Development Plan states that the Planning Authority will “strictly control inappropriate development and require noise insulation where appropriate within the Outer Noise Zone, and actively resist new provision for residential development and other noise sensitive uses within the Inner Noise Zone, as shown on the Development Plan maps, while recognising the housing needs of established families farming in the zone. To accept that time based operational restrictions on

usage of a second runway are not unreasonable to minimize the adverse impact of noise on existing housing within the inner and outer noise zone". Objective DA08 requires planning applications in this zone to be accompanied by a noise assessment report. This has not been provided with this application.

- 7.5.4. Should the Board be minded to grant permission such an assessment should be required by way of condition for the purposes of ensuring that all appropriate noise mitigation measures will be provided. Objective DA08 also requires that a declaration of acceptance will also be required regarding the acceptance to the provision of these measures.

8.0 Recommendation

- 8.1. I recommend that planning permission be **refused**.

9.0 Reasons and Considerations

1. Having regard to the site's location within the 'HA' zoning objective as provided for under the Fingal Development Plan, 2017-2013, provision of housing is restricted to applicants with a defined rural housing need set out as those who have a defined essential housing need based on their involvement in farming or exceptional health circumstances. In addition, Objective RF39 of the said plan states that the Planning Authority will "*permit new rural dwellings in areas which have zoning objectives RU, or GB, on suitable sites where the applicant meets the criteria set out in Table RF03*". I consider this requirement reasonable having regard to the high sensitivity of HA zoned land to change.

The applicants have not submitted any substantive evidence to demonstrate compliance with these requirements. Furthermore, the applicants already have a dwelling on the site and have not demonstrated a need for two additional dwellings within the landholding to which this application relates and therefore cannot be considered to have a rural generated housing need.

The proposed development would therefore materially contravene Objective RF39 of the Fingal Development Plan, 2017-2023, regarding housing need at this location.

Furthermore, the subject site is located in an area that is under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of housing based on the core consideration of demonstrable economic or social need to live in a rural area. It is considered, therefore that as applicants do not come within the scope of the housing need criteria as set out in the Development Plan and in national policy for houses at this location, the proposed development would, therefore, be contrary to the policies set out in the National Planning Framework and the Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development is located in an area designated as an Area of High Amenity in the Fingal Development Plan, 2017-2023. The zoning objective for the area, as expressed in the Development Plan, is to protect and improve high amenity areas. This objective is considered reasonable. The proposed development, which is not related to the amenity potential of the area or the use of the area for agriculture would contravene materially that development objective indicated in the Development Plan for the use primarily of the area for the purpose of protecting and improving high amenity areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development would injure the visual setting of St. Marnock's Church and graveyard, a historic monument which stands registered in the register of Historic Monuments under section 5 of the National Monuments (Amendment) Act 1987, and St. Marnock 's Church, a designated Protected Structure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector
3rd April 2019.