



An
Bord
Pleanála

inspector's Report ABP-303314-18

Development	Demolition of commercial building and construction of apartments
Location	Oscar Taylor's Restaurant, Island View Hotel, Coast Road, Malahide, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F18A/0390
Applicant(s)	Purple Green Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	1) Thomas O'Brien 2) The Moorings Residents Association
Observer(s)	None
Date of Site Inspection	3 rd of April 2019
Inspector	Angela Brereton

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1.0 Site Location and Description

- 1.1. This site is currently in commercial use as a hotel and restaurant and is located on the southern side of the Coast Road (R106) to the east of Malahide Village Centre (c.900m), which is served by a DART station. Bus stops are located some 70m to the northwest of the site. It is approx. 500m from the Grand Hotel. The site is surrounded on two sides by existing residential development; to the west by a commercial premises operating bus coaches and to the north on the opposite side of the road by open space and the sea. There are views to the Malahide estuary and The Island golf club beyond.
- 1.2. The subject site is occupied by an established hotel and restaurant 'Oscar Taylors' with a stated area of c.0.2ha and it faces the Coast Road. There is customer parking marked out within the frontage of the site. I noted on the day of my site visit which was around the lunch time period that the carpark and restaurant were very busy. The site is serviced by two vehicular accesses from the Coast Road providing separate entrance and exit points. Boundary treatment to the front of the site consists of a low wall and planting with associated signage. There is a footpath along the site frontage.
- 1.3. On the day of my site visit I also viewed the general area including from the residential properties/areas to the south (rear) in Island View and The Moorings to south west of the site. It is noted that there is some screening provided by existing trees to the rear of the site. The side elevation of the adjoining property (No.54) in Island View has two first floor windows that can be seen from the site. The site can also be seen from the end of the cul-de-sac and from lower green area in The Moorings and in particular from the rear of no.56 The Moorings.

2.0 Proposed Development

- 2.1. This is to consist of the following:
 - (a) The demolition of existing 2 storey commercial building;
 - (b) The construction of a 4 storey residential development providing 9no. apartments (4no. 2 beds, 5 no. 3 beds) all with associated balconies/terraces; solar PV panels at roof level; 15 surface level car parking spaces, a bin store,

a bike store, communal open space areas; alterations to existing access points and all associated site development, service connections; landscape and boundary treatment works.

All located on the site of Oscar Taylor's Restaurant, Island View Hotel, Coast Road, Malahide, Co. Dublin.

2.2. The following documents have been included with the application:

- Drawings to include site location map, site layout plan, floor plans, sections and elevations, including contextual elevations and engineering details.
- Infrastructure Design Report
- Housing Quality Assessment Document
- Landscape Design Plan

3.0 **Planning Authority Decision**

3.1. **Decision**

On the 27th of November 2018 Fingal County Council, granted permission subject to 17no. conditions. These generally relate to infrastructure (roads and drainage), landscaping, construction management and development contributions.

Condition no.2 – provides that the internal floor to ceiling height of the 4th floor shall be reduced by 300mm so that it does not exceed 2.4m and the overall height of the apartment building shall be no greater than 12.3m in height.

3.2. **Planning Authority Reports**

Planner's Report

This had regard to the locational context of the site, planning history and policy, the external reports and the submissions made. This included the following:

- The proposed development complies with the principle of the residential zoning objective.

- The proposal generally complies with planning policy and guidelines relative to density, design and layout.
- As part of the assessment associated with F18A/0040 regard was had to ABP Planning Report associated with F09A/0391/PL06F.236551.
- They provide a comparison of the current proposal with the previous application (withdrawn) for a 3 storey block on this site – Ref. F18A.0040 refers.
- They consider that a redesign rather than removal of the fourth floor would be preferable.
- They note some discrepancies in height but that the overall height as specified by the applicant is c. 12.6m.
- They note the conclusions of the shadow analysis submitted with this application, which provided that the proposal would not adversely impact on adjoining properties.
- There is no direct overlooking and the proposal will not adversely impact on privacy or loss of light to adjoining properties.
- All units are very generously sized and of dual aspect. The terraces/balconies are considered to be reflective of the larger than average apartments.
- They noted that Water Services had no objection subject to conditions.
- They noted the concerns of the Transportation Planning Section relative to the setback of the ESB substation to achieve sightlines.
- They had regard to the concerns of the Parks and Green Infrastructure Department relative to the lack of provision of usable public open space and to the need for appropriate development contributions to be applied.
- They noted their concerns relative to landscaping and recommended that a landscape maintenance schedule be conditioned.
- They provided that boundary treatment along the site frontage with Coast Road should be retained and match the existing.

- They had regard to Screening for AA and did not consider that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.
- They had regard to the submissions made relative to Procedural issues.
- They concluded the proposed development to be acceptable in principle but requested a redesign of the fourth-floor element.

Additional Information request

The Council sought:

- A redesign of the fourth-floor penthouse element to reduce the visual impact from the adjoining properties and the Coast Road.
- A reconsideration of external finishes to include a more visually weighty material such as stone along the whole ground floor northern frontage.
- To provide the floor area of the proposed structure.

Further Information response

This was submitted by Brock McClure on behalf of the applicant and included:

- Regard to planning policy and guidelines including *Urban Development & Building Heights: Guidelines for Planning Authorities 2018*.
- They submitted revised plans showing a set back of the fourth floor and a reduction in the balcony area and a mansard roof.
- A Landscape & Visual Impact Assessment based on photomontage views of the modified scheme has been submitted.
- They provide that the subject development is in keeping with Objective DMS39 of the FCDP relative to infill development.
- They note the Council's concerns relative to external finishes and include a drawing to show that stone has to been added to the north elevation as requested.
- They note the gross internal floor area of the proposed building is 1,348sq.m.

Planning Officer response

The Planner had regard to the further information and the revised plans submitted and to the inter-departmental reports and the submissions made. In conclusion they considered that the proposed development provides an infill apartment development in a residentially zoned area and would be in compliance with, policies and objectives in the Fingal CDP. They considered the applicant has satisfactorily addressed the F.I request and that due to the size of the subject site, location on a wide road, with sufficient set back and positioning facing onto a wide exposure of open space and water, the proposed development would be a suitable densification of an existing urban area. Also, it would be in compliance with, the National Planning Framework Section 28 Ministerial Guidelines 'Urban Development and Building Heights' 2018. They recommended permission subject to conditions.

3.3. Other Technical Reports

Transportation Planning Section

They noted that the proposed development is located within the 50km/h speed limit. They considered the level of on-site parking proposed to be acceptable and noted the availability of on street pay and display parking for visitors. They were concerned that the sightlines drawing is shown incorrectly. Sightlines to the west of the proposed access are impeded by the ESB substation. They recommended that this be set back into the site so that sightlines are achievable. In the event of a permission they recommended a number of conditions.

Water Services Department

These have no objection to surface water drainage subject to recommended drainage conditions.

Irish Water

They have no objections subject to conditions.

Parks Division

They had concerns that the location of the open space to the rear of the building results in the creation of semi-private rather than public open space. They noted that a special financial contributions condition will be required in lieu of public open space

provision. Also, that a tree survey report has not been submitted. They recommended conditions relative to boundary treatment and landscape management aftercare.

They considered the revised landscape plan submitted to be acceptable and recommended that it be conditioned.

3.4. **Third Party Observations**

As noted in the Planner's Report, a number of Submissions have been received from local residents at the application stage and also in response to the modifications proposed in the Further Information submitted. As the points raised are generally similar to those issues raised subsequently in the Third Party Appeals, they are considered further in the context of the Grounds of Appeal below.

4.0 **Planning History**

As noted in the Planner's Report the following is the more recent planning history of the subject site:

Reg.Ref. F18A/0040 – Permission sought for (a) the demolition of existing 2 storey commercial building (b) the construction of a 3 storey residential development providing 7no. apartments (4no. 2 beds and 3no. 3beds) all with associated balconies, terraces; solar PV panels at roof level. Communal open space areas; site services; and all associated site development, service connections; landscape and boundary treatment works. This application was subject to a Further Information request and was subsequently withdrawn.

FS97/18/05– Certificate of Exemption granted for the Demolition of the two storey building and construction of the 3 storey apartment block (7no. apartments).

Adjacent sites:

Reg.Ref. F14A/0312 – Permission granted to Tom O'Brien for the Demolition of the existing dormer bungalow and out buildings and the construction of a new two storey house with balcony and adjoining garage and ancillary site development works including relocating entrance and new driveway at Fort Granite, Coast Road,

Malahide. This house is located to the east of the site and has now been constructed and is occupied.

Reg.Ref.F09A/0361 – Permission granted by the Council (on the Fort Granite site) but subsequently refused by the Board for Demolition of house and construction of 4 storey over basement residential block comprising 8 no. apartments and associated site development works. The Board's reason for refusal (**PL06F.236551** refers) was as follows:

Notwithstanding the quality of the design, having regard to the existing pattern of development in the area, the residential zoning of the site, it is considered that the proposed development, by reason of its scale, bulk and in particular, its proximity to boundaries, would constitute overdevelopment of the site, would seriously injure the amenities of the area and of adjoining property. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

Reg.Ref. F03A/0634 – Permission granted for development at Clearwater, Bath Avenue and Coast Road, Malahide, comprising a 4 storey over basement carpark apartment building (the third floor being a penthouse) of 11 apartments in total and all ancillary works. Decision to refuse permission was overturned on appeal – Ref. **PL06F.203872** refers. This building has been constructed on a corner site adjacent to the Grand Hotel.

Copies of these decisions are included in the History Appendix to this Report.

5.0 Policy and Context

5.1. National Policy

It is submitted that the key policy and guidance documents of relevance to the proposed development are as follows:

- National Planning Framework 2040
- Rebuilding Ireland - Action Plan for Housing and Homelessness
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and accompanying Urban Design Manual

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHPLG, 2018)
- Urban Development and Building Heights Guidelines for Planning Authorities December 2018
- Design Manual for Urban Roads and Streets 2013
- The Planning System and Flood Risk Management 2009 (including the associated Technical Appendices)
- Habitats Directive - Appropriate Assessment

5.2. Fingal County Development Plan

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

Chapter 4 - Malahide

The development strategy for Malahide contained in this Chapter seeks to promote the planned and sustainable consolidation of the existing urban form and the sensitive promotion of amenities. This includes Objective Malahide 3 which seeks to *retain the existing centre with its mixed use and varied architectural profiles that complement the principal structure.*

As shown on Sheet 9 Malahide - the application site is located in the Residential Area and Zoning Objective 'RS' applies: *Provide for residential development and protect and improve residential amenity.*

There is a Specific Objective *To preserve views along the Coast Road.* Also, to provide an *indicative cycle/pedestrian route along the Coast Road to the north.*

Chapter 12 – Development Management Standards

Section 12.3 provides the Design Criteria for Urban Development and seeks to promote High Quality Urban Design.

Objective DMS03 requests the submission of *a detailed Design Statement for developments in excess of 5 residential units or 300sq.m of retail/commercial/office development in urban area.* The criteria for this design statement are provided.

Objective SS16 seeks to: *Examine the possibility of achieving higher densities in urban areas adjoining Dublin City where such an approach would be in keeping with the character and form of existing residential communities, or would otherwise be appropriate in the context of the site.*

Section 12.4 provides the Design Criteria for Residential Development. This includes regard to the zoning objectives, mix of dwelling types and residential density. *In general the number of dwellings to be provided on a site should be determined with reference to the Departmental Guidelines document Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009). As a general principle and to promote sustainable forms of development, higher residential densities will be promoted within walking distance of town and district centres and high capacity public transport facilities.*

Apartment Development

Section 12.4 also includes: *Apartment developments should be of high quality design and site layout having due regard to the character and amenities of the area. Apartment developments are encouraged to provide dual aspect units. Furthermore, it is essential that apartment developments should provide a mix of units to cater for different size households.* Objectives DMS20-23 refer.

Objective DMS24 seeks to - *Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3.* Table 12.2 refers to – Apartment size (for 1, 2,3 beds) and Table 12.3 – minimum room sizes and widths for houses and apartments.

Objective DMS28 provides: *A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.*

Objective DMS30 seeks to: *Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.*

Provision is also made for Management Companies and Facilities for Apartment Developments. Objectives DMS33 – 35 refers.

Infill Development

Objective DMS39 provides that: *New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.*

Sense of Place

Objective DMS44 seeks to *protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.*

Open Space

Section 12.7 and Table 12.5 refer to Public Open Space. Objective DMS56 seeks to: *Integrate and provide links through adjoining open spaces to create permeable and accessible areas, subject to Screening for Appropriate Assessment and consultation, including the public, as necessary.*

Objective DMS57A seeks to: *Require a minimum 10% of a proposed development site area be designated for use as public open space.*

Objective DMS57B includes that the Council has discretion to accept a financial contribution in lieu of remaining open space requirement.

Objectives DMS73-74 note that the design of SuDS enhances the quality of open space and that underground tanks and storage systems will not be accepted under public open space as part of a SuDS solution.

Objectives DMS77 - 82 seek to protect, preserve and ensure the effective management of trees and to promote sustainable landscaping.

Objectives DMS84-86 refer to private open space and boundary treatment and to ensure that all residential unit types are not unduly overshadowed.

Objectives DMS89—92 and Table 12.6 provide the criteria for private/communal open space.

Table 12.8 provides the car parking standards i.e 1.5 spaces per 2 bed unit and 2 spaces per 3+ bedrooms (plus 1 visitor space per 5 units). Table 12.9 to Bicycle Parking Standards.

5.3. **Natural Heritage Designations**

The Malahide estuary upper and lower SAC (000205) and Malahide Estuary SPA (004025) are proximate to the site.

5.4. **EIA Screening**

5.5. Having regard to the nature of the proposed development and taking into account the existing commercial development on this site, the serviced nature of the site, and the distance of the site from nearby sensitive receptors, 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.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

Two separate Third Party grounds of appeal have been received from the following:

- The Moorings Residents Association
- Thomas O'Brien

These include the following:

The Moorings Residents Association

- They note the sensitivity of the site and provide that their submission should be read in conjunction with their previous detailed submissions to the Council.
- The original application was for a 3 storey building (Ref.18A/0040 relates) and this was never decided and was subsequently deemed withdrawn.
- There is no justification for increasing the building height in this location.
- The proposed development does not accord with specific objectives in the National Planning Framework published in 2018 or the Urban Development Building Heights: Guidelines for Planning Authorities, December 2018.

- The planning decision was made before these more recent documents came into force and these Guidelines are very new and untested.
- Fingal County Council has not revised its Development Plan in accordance with these documents. The location of the proposed development has not been identified in the Plan as an area where increased building height shall be actively pursued.
- They refer to the magnitude of the change and attest that the applicant's interpretation of 'urban' is very different to that outlined in the December 2018 Guidelines.
- The site is c.900m from the centre of Malahide Village. It is not on the suburban edge of a large urban centre nor is it well served by public transport.
- The visual character of the area would be diminished by buildings with increased heights and the height is not justifiable in accordance with the Guidelines, on this site.
- There is no screening of the proposed development and viewpoints on the Coast Road and there are only a few trees between it and neighbouring properties.
- The proposed development is badly out of scale with adjoining buildings and would attract attention and interfere with view in the area including the seascape.
- The proposed development reduces the mixture of land uses in the neighbourhood.
- They note flooding can occur within 300m of the site and are concerned that the existing drainage network does not have the capacity for further development.
- The proposed development could create an undesirable precedent for similar types of development in the area. This would lead to a significant deterioration of the area along this section of the Coast Road.

- The Moorings Residents Association is not against further residential development in the local area per se but welcomes new developments that respect the existing character of the area.

Thomas O'Brien

This Third Party Appeal has been submitted by O'Connor Whelan on behalf of Thomas O'Brien who is the owner and occupier of the adjoining two storey dwelling 'Fort Granite'. It is provided that his home will be significantly affected by the proposed development and the grounds of appeal include the following:

- Overlooking and Noise Impacts on the privately owned rear garden of 'Fort Granite'. This includes overlooking of the recreational garden/patio areas during afternoon and evening periods.
- Excessive height - Coast Road mainly comprises two storey properties and a four storey apartment block would be out of character and would negatively impact on the streetscape.
- External materials are out of character with the general finishes in the area.
- The mass and scale of the proposal constitutes over development and is imposing on both neighbouring properties and the surrounding residential area.
- Inconsistencies in the drawings submitted.

Contravention of the Zoning Objective

- The proposal would not be consistent with the residential zoning objective, in view of the adverse/negative impact it would have on the residential amenities enjoyed by adjoining properties.

Character of the Area and Visual Impact

- The proposal for a four storey building in a row featuring two and single storey dwellings would be completely out of character with the area.
- The proposal is contrary to Fingal DCP Objective SS16 relative to higher densities in that it would not be appropriate in the context of the site and would have an unacceptable visual impact along the Coast Road.

- They refer to the photomontages showing view points in the Landscape and Visual Impact Assessment submitted and consider that it would have a significant negative impact on the character of the area.
- The Clearwater apartments are adjoining the 6 storey Grand Hotel, located on a corner site and are remote from adjoining single and two storey dwellings.

Excessive Height of the Proposal

- They refer to the Planning Officer's Report and to the Board's decision relative to a refusal of planning permission for a four storey apartment block on the lands of Fort Granite – Ref. PL06F.236551 refers. They ask the Board to take this decision into account.
- There is no discernible difference relative to the proposed height, between that submitted as part of the original planning application and that submitted in response to the Council's request for Further Information.

There is no contextual elevation submitted with the F.I response (they include a copy of the plans). They consider that the actual height of the proposed development has not been adequately assessed.

Impacts on Residential Amenity

- Overlooking from the rear windows and the balconies of the proposed development have not been adequately addressed by the P.A.
- They ask that at the very least the Board ensure that all rear facing balconies are omitted in the proposed development and alternative designs submitted have regard to private open space.
- The proposal will depreciate the value of adjoining residential properties.
- They conclude that the proposal consists of an overdeveloped building, which is too high and results in overlooking. As a result, it will have a negative and detrimental impact on the residential amenities of Fort Granite. They ask the Board to refuse permission for the proposed development.

6.2. Applicant Response

Brock McClure has submitted a First Party response on behalf of the Applicant, which has regard to the grounds of appeal and includes the following:

- None of the issues raised by the third parties give rise to a requirement to amend or refuse the scheme for any significant reason.
- They note the need for new housing and provide that the current proposal is an opportunity to deliver 9no. residential units at a much sought after suburban site.

Urban Height Guidelines

- They note Objectives relative to the provision of new housing and increased density and infill development and increased heights in *Project Ireland – National Planning Framework 2040*. They consider the proposed development will deliver these objectives in an appropriate location.
- They also consider it is supportive of the National Planning Policy for *Rebuilding Ireland: Action Plan for Housing and Homelessness*.
- The proposed development meets these criteria by providing good quality housing on an infill site, within an urban area with a variety of amenities and good public transport links.
- They refer to the *Urban Development and Building Height Guidelines adopted December 2018* and provide that they are now directly relevant to assessment by the Board.
- The key message from the Guidelines is that increasing the prevailing building height and density levels in existing settlements is a specific planning policy, which they consider the subject proposal delivers on.
- They note that Malahide is considered as a 'Consolidation Area within a Gateway' a 'Moderate Sustainable Growth Town' and a 'Town and District Centre', within the Fingal CDP.

Site Drainage

- A new drainage system has been put in place which complies with the Greater Dublin Strategic Drainage Study. They provide details relevant to SuDs and proposals for surface water attenuation.
- They note the Drainage Division of the Council supported a grant of permission and they consider concerns relevant to this issue are unfounded.

Character of the Area

- The proposed development is supported by a robust technical assessment of its visual impact as carried out by Modelworks and submitted as part of the F.I response.
- This assessment outlines that a single plot cannot greatly alter the character of the road and they provide details relevant to this.
- The Landscape and Visual Impact Assessment outlines how the magnitude of change to the site, due to this development, would be low and they provide a list of factors.
- They note that the Planning Authority approved the proposed development and that the Planner's Report did not consider the precedent undesirable.

Scale and Form

- The Grand Hotel and Clearwater apartments are only 500m and 300m away respectively. They submit these distances are acceptable for comparison purposes.
- They consider that the scale of the 4th floor has been significantly reduced in the revised plans submitted to the Council at F.I stage. Also, that this provides an appropriate design response to the site and the surrounding context.

Relationship with Seascape

- The Landscape and Visual impact assessment views the area of land opposite the subject site as amenity space comprising of green space, a beach, the estuary and carparking.

- The proposed development is set back 23m from the Coast Road and is therefore not intrusive. They refer to the existing piecemeal development along this road.

Height

- They refute similarities with the refusal relative to Reg.Ref. F09A/0361 – Ref. 06F.236551. The current proposal is well set back from the boundaries. They also consider that a decision of 10 years ago should not hinder the current redevelopment of the site, which accords with current planning policy.
- They consider the scale of the current proposal is 3 storey with 4 storey set back to be more modest. They provide that there are no material negative impacts on surrounding properties that would warrant a reduction in scale.
- National, Regional and Local Planning Policy concerns a move towards the efficient use of underutilised lands that are well located.
- The proposed development height is in accordance with the Urban Height Guidelines. As per condition no. 2 of the Council's permission it will only be 3.1m higher than the ridge height of the existing building.
- The proposed development is more in keeping with the surrounding area as it has a unified design and a residential use.

Overlooking and Screening

- They provide details of balcony screening, and note the use of high level windows in the side elevations to ensure no overlooking.
- They consider the revisions made at F.I stage including the set back of the fourth floor and reduction in the balcony areas will increase the set back from Fort Granite and the top floor balcony.
- They note that trees will be retained and reinforced along the southern boundary and submit that overlooking will not be an issue in this development.

Inconsistencies

- Inconsistencies/discrepancies in the drawings were addressed at F.I stage. They provide that claims of inconsistencies are unfounded.

- They note that condition no.2 of the Council's permission restricts the overall height to 12.3m.

Conclusion

- They conclude that the overall development provides a quality scheme that does not impact adversely on adjoining properties or the character of the area and accords with best practice in terms of layout and design and recommend that the Board grant permission and dismiss the Third Party appeals.

6.3. Planning Authority Response

Fingal County Council response provides the following:

- The application was assessed against the policies and objectives of the Fingal CDP and existing government policy and guidelines. The proposal was assessed having regard to the development plan zoning objective, the impact on adjoining neighbours and the character of the area.
- Having reviewed the grounds of appeal they are willing to accept a condition to provide 1.5m to 1.8m glazed screen at the sides of the rear balconies at first second, and third floors to avoid overlooking to properties to the east and west.
- Having regard to this amendment the P.A remains of the opinion that the proposed development will not detract from adjoining residential amenity, subject to compliance with the conditions. They request the Board to uphold their decision.

6.4. Further Responses

The Moorings Residents Association submission relative to the First Party response to the grounds of appeal which includes the following:

- They strongly disagree with the Council's view that the proposed development will not detract from adjoining residential amenity.
- The Council's suggestion regarding screens only makes a concession to the house to the east but does not benefit houses in The Moorings and Island

View to the south and southwest, where the impact of the 4 storey building will be significant.

- This proposal will impact adversely on overlooking and loss of sunlight to these properties.
- They note that the existing trees provide poor screening. They enclose photographs to show how views will be impacted from the closest houses in The Moorings and Island View.
- Additional screen planting may take years to have an impact and could be potentially oppressive to the existing residents.
- As stated in their appeal they are not against the development of this site. They did not object to the original application for a 3 storey development (Reg.Ref.F18A/0040 refers). However, they object to the addition of a fourth floor in the current application.
- The inappropriate height and the highly intrusive nature of the south facing balconies and their proximity to long established houses is of great concern to residents affected. They ask the Board to assess this issue.

First Party

A further response has been received from Brock McClure on behalf of the applicant. They welcome the comments of the Council in support of the scheme. They confirm that they are willing to accept a condition to provide 1.5m to 1.8m glazed screens at the sides of the rear balconies at 1st, 2nd and 3rd floors.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. Chapter 4 of the Fingal County Development Plan 2017-2023 includes regard to Malahide, which is designated as a moderate sustainable growth town within the Metropolitan Consolidation Area. The Development Strategy for Malahide seeks to *promote the planned and sustainable consolidation of the existing urban form and the sensitive promotion of amenities*. As shown on Sheet 9 (Malahide) of the Fingal CDP the site is zoned RS – Residential Objective, where the Objective seeks to:

Provide for residential development and protect and improve residential amenity.

The Vision seeks to: *Ensure that any new development in existing areas would have a minimal impact on an enhance existing residential amenity.*

- 7.1.2. The First Party provides that the scheme is conceived as a cohesive, response to the site and the requirement of its users within an economic and sustainable context and as such. It is provided that the scale of the proposed development reflects the mainly established suburban nature of the surrounding area and design attention has been paid to details of how it is to be occupied, used, serviced and maintained across its life time. Also, that the vehicular access, pedestrian entrance and landscaping address the Coast Road and the site provides an opportunity to create a cohesive, socially inclusive sustainable scheme based on the principles of permeability, place and community.
- 7.1.3. The Third Parties consider that the design and layout of this proposal has little architectural merit, in this residential area defined by single and two storey dwellings. Local residents, are concerned about the 4 storey height and would consider the 3 storey height as originally put forward in Reg.Ref. F18A/0040 (withdrawn) to be preferable and more in character with the 2 storey dwellings in the area. Having regard to its overall height, massing and density they consider that it will represent an overdevelopment of the site, which is edge of town rather than town centre or suburban area and will impact adversely on the character and amenities of adjacent lower profile residential properties and on the visual amenities of the area. Also, that it will result in the removal of what is now a commercial use (hotel and restaurant), which is a more beneficial use to the local area and tourism.
- 7.1.4. Regard is also had to the 'National Planning Framework Plan 2040' which seeks to increase housing supply and to encourage compact and urban growth, supported by jobs, houses, services and amenities rather than continued sprawl and unplanned, uneconomic growth. Chapter 4 refers to *Making Stronger Urban Places* and includes National Policy Objective 4 which seeks to: *Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.*
- 7.1.5. Note is also had to the 'Urban Development and Building Heights' Guidelines for Planning Authorities. Section 3 provides the development management criteria and

includes: *Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character of the public realm of the area, having regard to topography, its cultural context, setting of key landmarks and key views.*

- 7.1.6. It is considered that the principle of a residential development is acceptable relative to the residential land use zoning. Regard is had further to the documentation submitted and to the issues raised by the third parties including compliance with planning policy and guidelines, density, design and layout, height, access/traffic and drainage and impact on the pattern of development and character and amenities of the area in this Assessment below.

7.2. Procedural issues

- 7.2.1. The Third Party have concerns that a number of procedural issues were not adequately considered or dealt with by the Council in the course of their consideration of this application. This includes that inadequate information submitted including inconsistencies in the drawings to enable an informed decision to be made on the proposed development, including the impact on local residents.
- 7.2.2. The First Party refutes this and they are of the opinion that sufficient details have been submitted including at F.I stage to enable any third party to analyse potential impacts on adjoining properties. They provide that detailed drawings have been prepared for the overall development and that in addition the LA have deemed sufficient information was provided.
- 7.2.3. These concerns have been noted as has the First Party response. However, having regard to the above it is considered that these are matters relevant to the procedures of the Council in dealing with/processing the application and that it would not be appropriate for the Board to make a decision on such issues.

7.3. Regard to Planning History and Precedent

- 7.3.1. It is noted that the Third Party asks that the Board have regard to their refusal on the adjoining site to the east (Reg.Ref.F09A/0361 and Ref. PL06F.236551 relate). The Board's reason for refusal has been noted in the Planning History Section above. In that case permission was refused at 'Fort Granite' for the demolition of a bungalow

and construction of a four storey block (including penthouse) over basement. In the current case the development is on the adjoining site which is currently in commercial use with associated parking area. The proposed development is set back to reflect the building line and off the site boundaries and does not include basement parking. It is similarly 4-stories in height. It is noted that the proposed ridge level for the apartment block exceeds that of 'Fort Granite' previously considered as a planning constraint for this development. A large two storey house and garage has subsequently been erected on this site.

- 7.3.2. Regard is also had to Reg.Ref. F03A/0634 – Ref. PL06F.203872 refers. In this case permission was granted by the Board for the construction of a four-storey over basement carpark apartment building (the third floor being a penthouse). This is located on a corner site at Clearwater, at the junction of Bath Avenue and Coast Road adjacent to the part 6 storey Grand Hotel and is some 300m to the west of the site. Having viewed the building on site, I would consider that this can be viewed more as a stand-alone building, and note that it is not an infill site in the context of the surrounding lower profile residential development as is the current proposal.
- 7.3.3. Also, referred to in the Planning Report submitted with the application is Reg.Ref. F00A/1009 where permission was granted by the PA and was subsequently upheld by the Board for a residential development consisting of 290 houses, 17 duplex units and over 17 apartments in 5 blocks at Robswell, Coast Road, Malahide. It is noted that this development is considerably more extensive, is set back from Coast Road and is further to the west of the subject site and from Malahide Village Centre. Therefore, it is not considered to be particularly relevant to the subject site.
- 7.3.4. While all of these developments are noted, they are in different locations and present a different scenario to the subject development, which must be considered on its merits. However, they are referenced to show that the concept of 4 storey apartment development has depending on the circumstances been accepted in this part of the development boundaries of Malahide.
- 7.3.5. It is noted that local residents are concerned that if the subject development is granted and were to go ahead, that it would set a precedent for other such development in the area, to the detriment of the character of the area and adjoining two/single storey residential development. Taking this into account if the Board

decide to permit it is important that the proposed development would constitute a well-designed contemporary development that would enhance this infill site and views from Coast Road. Also, that it would not impact adversely on the residential development in the locality.

7.4. Rationale for Proposed Demolition and Change of Use

- 7.4.1. It is proposed to demolish the existing building which is in commercial use (hotel and restaurant). The existing two storey building consists of a mix of architectural styles. There is a large roof to the east with a lower dormer type two storey central section, connecting to a pyramid roofed western section when viewed from the front elevation. It is extended to the rear and has windows in the first floor side elevations. There is a small yard area with plant and storage shed to the rear. While it does not detract from the streetscape and is two storey which is in character with existing residential properties in the area, it is not considered that the existing building is of any architectural merit. In that respect I would have no objection to its demolition.
- 7.4.2. There is concern at the reduction of mixed uses in the area caused by the removal of the existing established commercial use, its potential for tourist accommodation and loss of employment in the area. It is noted that that the existing premises appears well established and that there is a limited amount of such commercial development to serve the population of the Malahide area and that this proposal will result in the loss of such an amenity. It is asserted that this contravenes the typologies aspect of SPPR4, Paragraph 2 of the 'Urban Development and Building Heights Guidelines for Planning Authorities December 2018' relative to edge of city/town locations i.e: *a greater mix of building heights and typologies in planning for the future development of suburban locations.*
- 7.4.3. The Planning Application Report submitted provides a rationale for the proposed development. They submit that the demolition of the existing building is justified as the hotel building is at the end of its functional life having regard to modern quality standards. They consider that the demolition provides an opportunity to strengthen the building line to Coast Road and improve the streetscape. Also, that its replacement with a sensitively designed contemporary building will make a positive contribution to the building stock. They provide that works to the public realm will combine with a new active street frontage to make a positive contribution to the

locality. Also, that the proposal represents an efficient use of the site, one which maximises its residential yield and protects the amenities of neighbouring properties and the character of the area.

7.5. Density, Design and Layout

- 7.5.1. The development of 9no. apartments on this 0.2ha site represents a density of 45 units for hectare and provides surface car parking. It is noted that while 0.2ha is given on the application form the Site Layout Plan, the Planning Report and Site Layout Plan submitted with the application refer to the site area as 2120sq.m which provides a density of 42 units per hectare. Given the proximity of the site to Malahide village and the availability of public transport, it is provided that the proposed increased density is in accordance with the principles of sustainable development as set out in the DEHLG *Sustainable Residential Development in Urban Areas, 2009*, subject to the consideration of other planning criteria, particularly the impact on residential amenity and the character of the area.
- 7.5.2. However, regard is also had to the existing lower density and lower profile in the area. It is noted as put forward by the Third Parties that if the proposal were reduced by one floor (i.e. omitting the second floor) to 3 storey the density for 7no. apartments would be 33units per hectare (based on site area of 2120sq.m). If the penthouse floor were omitted the number of apartments would be reduced to 8no. i.e 38units to the hectare. However, it is considered that the latter would have an adverse impact on the overall design concept, resulting in a visually bulky building.
- 7.5.3. Section 6.3.3 of the Planning Report submitted has regard to residential density. Reference is also had to the 'Sustainable Residential Development in Urban Areas' (2009) which has regard to Density standards. The First Party considers that this should be considered as a 'Brownfield Site' in the suburban area. Section 5.7 refers and provides that higher densities maybe considered in locations (within city or town centres) and close to public transport corridors. The Third Parties consider this an 'Edge of Centre site' rather than suburban relevant to smaller towns and villages which allows for a lower density of 20-35 units per hectare.
- 7.5.4. Regard is also had to Section 5.9 of the Guidelines (infill residential development), which provides: *In residential areas whose character is established by their density*

or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. Objective PM41 of the Fingal CDP seeks to: Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.

- 7.5.5. The Design Statement provides the proposal will provide quality mixed accommodation with sufficient area of large open space. 9no. apartments are proposed i.e 4no. 2 and 5no.3 bed, all dual aspect. The F.I submitted provides the floor area is 1,348sq.m. for the 4 storey block. The 2nd and 3rd floor are to be set back in depth to reduce the footprint. It is noted that a Housing Quality Assessment accompanies this application and this provides a Schedule of floor areas. Regard is had to the *Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities 2018*. Appendix 1 provides the Required Minimum Floor Areas and Standards. The Planning Report submitted with the application also provides details of the apartment units (section 6.3.4 relates), which are all generously sized.
- 7.5.6. The apartments are designed to provide generous accommodation and to be suitable for families and people with disabilities. Private open space associated with apartments and duplexes is important to ensure a suitable level of amenity for occupiers. Balconies and terraced areas are the primary form of private open space for apartment and duplex type schemes. Facing, first and second floor windows are more than 22m apart in all instances. Gross storage areas exceed the minimum standards. Adequate facilities are to be provided for refuse storage and collection. All bin stores are to be enclosed and secured.
- 7.5.7. The First Party provides that the proposed apartment block is designed to be distinctive and to reflect its maritime context with the vertical circulation areas set to evoke the prow of a ship in external appearance. This is to offer a signature feature to the elevation facing the Coast Road. It is proposed to retain the former boundary walls on the site and some trees. It also retains the general footprint of the existing building, entrances and its place within the site and related car parking. The building is orientated south-west to north-east so the main front and rear elevations benefit from east and west light to allow for solar gain and bright internal spaces. Solar

panels are to be included on the roofs of the apartment building where the orientation allows.

- 7.5.8. There is concern that the external finish, texture and cladding described do not suit a marine environment and that these finishes should reflect the existing colours of adjacent structures. The Council's F.I request recommended that due to the increased height and greater need for visual grounding, that the applicant be requested to consider the provision of a more durable, visually weighty material such as stone along the whole ground floor northern frontage. The F.I response notes these comments and provides that stone will be added to the north (front) elevation as requested and as shown on the revised drawings. Fig. 4 of the Landscape and Visual Impact Assessment shows the elevations proposed on the revised plans. The ground and first floors of the front and side elevations are to be clad in off white/cream sandstone tiles. The second floor is to be rendered and painted white. The mansard roof is to be zinc clad. It is considered important if the Board decide to permit that quality external finishes be used and it recommended that this be conditioned.

7.6. Height

- 7.6.1. There is concern about the overall height and massing of the proposed apartment block. The development proposed under the subject application would have a principal height of c. 12.6m. The proposal will read as a 4 storey building and the third parties consider that it should be conditioned to be 3 storey.
- 7.6.2. The Council's F.I request considered that a greater set back of the fourth floor and a presentation of a 3 storey side elevation to adjoining properties is preferable as is a reduction in the visual impact on the Coast Road. The applicant was requested to set the penthouse level in from all elevations of the proposed ground to second floors, including increased inset distances from the eastern and western boundaries and to reduce or omit the overhang from penthouse level balconies, such that private amenity space does not project from the main building and create further visual disturbance.
- 7.6.3. Revised plans have been submitted in response to the F.I showing the 4th floor set back by 9.8sq.m (in total) and in addition to this the overall balcony reduced in size

by 14.8sq.m (in total). The F.I provides that the setback of the upper level from the sides of the building and the use of a mansard roof are intended to minimise any sense of overbearance for the neighbouring properties. They consider that this will be effective in views from close up, with the upper level at least partially hidden from view, reducing the apparent height. Also, that the proposed development at 4 storeys in height it is not significantly taller than the existing 2 storey building which is 9.2m in height. In this respect it is noted that the Planning Authority attached condition no.2 to their permission to ensure that the proposed building does not exceed 12.3m in height. This is to be achieved by a reduction in floor to ceiling height of the fourth floor from 2.7m to 2.4m.

- 7.6.4. The Third Party considers that despite concerns about height there is no discernible difference between what was originally submitted as part of the planning application and that submitted as part of the F.I. They note that there is no reduction in overall height, there is no set back from adjoining boundaries. They consider that the only difference is a slight angling at roof level with the introduction of the mansard roof, and a reduction in the length of the balconies.

7.7. Overlooking/Overshadowing

- 7.7.1. It is noted that houses at the rear of the cul-de-sac in Island View adjoin the southern boundary of the site. Two first floor side windows in the adjoining no. 54 Island View can be seen from the rear yard area of the site. There are some trees along this boundary within the application site, which currently provide some screening. The site can also be seen from the rear of no.56 The Moorings further to the south west. Also, there is a bungalow to the west which is separated by the coach park at the rear of the site.
- 7.7.2. There is also concern, that the third and fourth floor balconies are overly large and will impact on the privacy of local residents. In this respect balconies addressing the side elevations are to be provided with opaque privacy screens. If the Board decides to permit I would recommend that it be conditioned that all rear balconies at first, second and third floors have 1.8m opaque screens to avoid overlooking of the properties to the east and west.

- 7.7.3. On the east and west elevations the only glazing is in the form of high level windows with obscure glazing so that overlooking is not an issue. The First Party response provides that the proposed development was designed so as no windows face each other and that it is proposed to provide mature trees to the south in order to allow a visual barrier between the proposed apartments and the adjoining dwellings. Also, they note the set back and reduction in fourth floor balconies as shown on the revised drawings in response to the F.I submitted.
- 7.7.4. There is concern that the proposal including the revisions made at F.I stage will lead to overshadowing, including that of the Third Party property 'Fort Granite'. Also, that this will impact adversely on their recreational garden/patio areas during the afternoon and evening periods. It is noted that this is a recently constructed large two storey property and has not been shown plotted on the Site Layout Plan submitted (appears to be the footprint of the previous dwelling). The new dwelling is set back off the boundary and has 3no. first floor side windows facing and patio/large garden area at the rear. This is an adjoining single storey side garage with pitched roof between this property and the eastern side boundary of the subject site.
- 7.7.5. The Planning Report submitted with the application notes that the shadow analysis conducted by ARC concludes that there are no adverse impacts on neighbouring lands or buildings in terms of daylight or sunlight. This noted that the housing to the west will continue to have an acceptable amount of sunlight, the Fort Granite house, to the east will experience some minor changes, where some areas become more overshadowed and some become less. Housing to the south may experience some early morning and late evening shadows by only during summer times and this will not be severe. The analysis also conducted an assessment of the average daylight factor in some key rooms near the proposed development and found no impact.

7.8. Open Space and Landscaping

- 7.8.1. Significant private south facing open space is accommodated to the south-west of the proposal to enhance the amenity of future and existing residents in dwellings to the south west and south east. It is noted that open space has been provided well in excess of the requirement at 27.5% of the site area. This is to comprise of a large central lawn area with footpaths and paved seating areas at the sides enclosed by rows of trees along the side and rear boundaries. The existing trees on the southern

boundary are proposed to be retained and this proposal retains as far as possible existing natural features such as significant tree stands and hedgerows. However as this is to the rear of the proposed development it will appear more as communal or semi-private rather than public open space. The development context in the local area includes a mix of open public spaces to the north to address coastal amenity.

- 7.8.2. In response to the F.I a revised landscaping plan was submitted which established the retention of the trees to the southern boundary as effective screening in the short term, which would then be reinforced by newly planted trees as part of the Landscaping Plan submitted. It is noted that the Council's Park Division recommended that the revised landscape plan submitted be implemented on completion of the construction phase before the occupation of the first dwelling unit. They also recommended that in the event of permission being granted, all retained boundary walls be rendered on both sides in the interest of visual amenity and that the proposed front boundary wall & railing along the Coast Road match the neighbouring property of natural stone finish, cut granite capping and galvanised black railing. It is recommended that if the Board decide to permit that a landscaping and boundary treatment condition be included.
- 7.8.3. Regard is had to the Council's Parks Division Report relative to the deficiency in the provision of usable public open space. Section 48 of the Planning and Development Act 2000, (as amended) details the methodology and guiding principles by which Development Contributions Schemes should be arrived at. The wording of S.48(2)(c) of the 2000 Act states that: *A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.* The Planner's Report notes that the proposal for 5no. 3 bed and 4no. 2 bed units results in a public open space requirements of 0.06ha (based on 2.5ha per 1000 population).
- 7.8.4. It is noted that Condition no.16 of the Council's permission provides for a special development contribution of €35,216 in lieu of open space provision towards the cost of amenity works in the area of the proposed development, based on a shortfall of 600sqm. of open space. I would recommend if the Board decide to permit that this be conditioned.

7.9. Access and Parking

- 7.9.1. Coast Road is a wide urban carriageway, reflective of its status as a Regional Road (R106), which is good in terms of both width and alignment. It is within the 50kph speed limit. There are footpaths on both side of the road. However, a cycleway is not provided. Vehicular access is proposed via a single centralised in/out entrance as opposed to the two existing entrances along Coast Road currently servicing the Oscar Taylor's carpark. The Infrastructure Design Report includes regard to the Road Network. It is provided that the width of the proposed central access has been designed in accordance with DMURS and has been evaluated for fire tender and refuse access using Auto Track. This notes that the proposed development scale is below threshold traffic analysis.
- 7.9.2. Regard is had to the internal road network/pedestrian facilities. It is provided that, roads and footpaths are designed in accordance with the principles and methods set out in DMURS. It is proposed to access the development via a 6.5m wide permeable paved driveway. The pedestrian access to the development is via two 1.5m wide concrete footpaths. Internal footpaths are also to be provided.
- 7.9.3. The proposed parking area is to be to the front of the apartment block, facing and with vehicular entrance from the Coast Road. Parking is to be provided at a rate of 2 spaces per apartment unit and 1.5 spaces per own door apartment unit i.e 15 no. spaces in total including 1 assessible space. The parking area is to be broken up by planting and shared surface landscaping. Adequate, secure bicycle storage is to be provided as stipulated in the development plan. The proposals also provide 4 short term bicycle spaces and 20 secure covered bicycle spaces.
- 7.9.4. It is provided that vehicular traffic will be slowed to a safe speed, with pedestrians and cyclists given priority. Dedicated cycle paths adjacent and cycle parking within the site will encourage the use of alternatives to cars. Also, that a well-lit cycle and footpath along the northern boundary provides a safe, permeable route for residents along the Coast Road. This is debateable since there are currently no cycle lanes along the public road. While the Third Party, asserts that the site is not well served by a regular public transport network, it is noted that a number of bus routes run along Coast Road thus providing public transport connections to the surrounding

areas, Dublin Airport and Dublin City Centre. Local schools and Malahide village centre lie within 1km of the site. Also, Malahide is served by a train station.

- 7.9.5. Regard is had to the Council's Transportation Planning Section Report which notes that the sightlines drawing as originally provided is incorrect. Sightlines to the west of the proposed access are impeded by the ESB substation. They provide that if this substation was setback the site sightlines are achievable. It is recommended that if the Board decide to permit that a condition relative to roads and parking infrastructure be included.

7.10. Impact on the Character and Amenities of the Area

- 7.10.1. There is concern that the Coast Road Streetscape mainly comprises of lower profile properties, and that a four storey apartment block is totally out of character and would negatively alter the existing street scene and impact adversely on the visual amenity of the area. There is no coherent architectural style or quality to the existing development along this stretch of the Coast Road. The only 4 storey apartment block in the vicinity and facing Coast Road is proximate to the Grand Hotel some 300m further west, and closer to Malahide town centre. The immediate area is characterised by lower profile bungalows and 2-storey low density suburban development. 'Fort Granite' is a new large 2 storey house with single storey garage to the east and there is a bungalow with a coach depot to the rear to the west. Both are on sizable plot areas. Two storey houses in Island View and The Moorings lie in a denser development to the south. There is a green area on the opposite side of the road adjoining the public carpark further to the north and there are views to the Malahide Estuary.
- 7.10.2. A Landscape & Visual Impact Assessment has been submitted which includes an assessment of townscape effects. This includes regard to landscape/townscape sensitivity and to the magnitude of change. A visual effects assessment is included and this includes a description of a number of viewpoints (Fig.4 shows viewpoint locations). Photomontage views of the modified scheme have been submitted. This has regard to the proportions of the modified building as shown on the revised plans and includes before and after scenarios. The First Party consider that the photomontages for viewpoints and it is provided that the revised modifications to the proposal reduce adverse impacts on neighbouring properties or on the street scene.

They consider that the proposal as an infill development complies with Objective DMS39 of the Fingal CDP. Also, that its impact on the wider area is classified as slight to moderate and neutral. They provide that the assessment and visual impact as carried out by Modelworks as submitted as part of the F.I outlines that a single plot cannot greatly alter the character of the road. They cite the prominence of the seascape and coast is how the road is perceived. Also, noting the piecemeal development of the road as one-off developments including a restaurant, bus depot, bungalows, 2-storey houses and larger scale developments such as Clearwater. They provide that the proposed development would create a more unified structure compared to the existing Oscar Taylor building. They conclude that the proposed development would result in change of townscape character and some views, but only locally and the change while significant for certain more proximate views would be beneficial and is not adverse or an inappropriate intervention to the streetscape.

7.11. Consideration of Alternatives

- 7.11.1. It is an objective of the development plan to preserve views along the Coast Road. As shown on the Photomontages, this proposed building will appear more dominant in the landscape especially when seen in the context of the lower profile buildings in the area. Having regard to the plans submitted and the photomontages showing before and after scenarios I would be concerned that the design, height and massing of the proposed block including the 4 storey element will appear overly dominant in the street scene. The Board may in this case consider that the proposal as submitted by the Third Parties would look less dominant and would blend in more with the character of the lower profile residential if it were reduced to 3 storey. In this case in the interests of retaining the design concept the second floor would be omitted, resulting in a reduction to 7no. apartments on the subject site.
- 7.11.2. However, it could also be considered that in view of the set back from the public road and the site boundaries and the area of the site, that it has the capacity to accommodate a well-designed contemporary and more innovative 4 storey building. I would consider that if this is the case that the design and massing of the current proposal including as shown on the revised plans will appear overly bulky. It should be further stepped back in width at both second and third floor levels to reduce the overall bulk/massing of the proposal. It is noted that the width of the ground and first

and second floor plans are shown as c. 25.7m. While as shown on the submitted plans the length of the second and third floors is shown reduced which is desirable, the width of the second floor should also be reduced (a minimum of 1.5m on each side) and similarly for the penthouse level. This would assist in breaking up the mass of the floor levels and side elevations and would be achievable in view of the generous floor area of the apartments in relation to the minimum floor areas and standards as provided in Appendix 1 of the 'Sustainable Urban Housing Design Standards for New Apartments' Guidelines (2018). I would also recommend the omission of the mansard roof which would not add to the appearance of the block, or be in character with the area, in favour of the roof design for the penthouse as originally submitted. However, I would consider that the reduction and break-up of the balcony area, should be included in any revised plans submitted. I would recommend that if the Board decides to permit that these modifications be included and revised plans be conditioned.

7.12. Construction issues

- 7.12.1. There is concern that the scale of the proposal will require significant structural and ground works, and in an area where ground conditions are not good, ground piles are likely to be needed and that this type of engineering poses significant risk to any dwelling founded on traditional strip foundations within a 50m radius.
- 7.12.2. It is noted that this proposal does not include underground parking. A Construction/Demolition Management Plan has not been submitted and it is recommended that if the Board decide to permit that this be conditioned.

7.13. Drainage issues

- 7.13.1. An Infrastructure Design Report has been submitted with this application. This includes regard to surface water strategy and design including provision of SUDS, foul sewer design and water main design.
- 7.13.2. This provides that consultation of flood information from the OPW's floodmaps website indicates that the site has not been subject to flooding in the past. Appendix D refers. Further consultation of the OPW's Eastern CFRAM flood risk map indicates that the site is located in Flood Zone C and is not at risk of fluvial or tidal flooding. It

is therefore suitable for residential development. Section 5 of this Report details how the storm-water drainage system has been designed in accordance with the GSDSDS recommendations for the pluvial storm events up to the 1 in a 100 year event. They provide that given the capacity of the drainage network there is a low flood risk to the proposed development and that the proposal does not impact on adjoining properties.

- 7.13.3. The commercial units on site have an existing connection to the foul and surface water drainage systems. A new foul network has been designed to service the proposed development and details are given of this and compliance with current standards. It is noted that the proposed foul layout has been designed to discharge to the existing public sewer location in Coast Road abutting the northern boundary of the subject site. This in turn discharges to the Malahide Waste Water Treatment Plant. Appendix B provides the foul loading calculations.
- 7.13.4. Section 5 of the Infrastructural Report has regard to existing and proposed surface water drainage. This notes the proposed use of SUDS approach to storm water management with the development in compliance with the requirements of the GSDSDS. Surface water is to be discharged to the existing surface water network in Coast Road. Flows from the development into the public network are to be controlled. They provide that the surface water drainage proposals which include the use of extensive permeable paving in parking areas and road surfaces, the provision of a filtration drainage system including the use of attenuation storage systems are in accordance with SUDS. Details are also given of attenuation storage capacity and calculations are included in Appendix A. They note that to prevent pollutants or sediments discharging into water courses 'interception storage' will be incorporated into the discharges from the development. Surface water sewers have been designed in accordance with current guidelines and regulations and details have been given regarding parameters applied relevant to the sizing of pipework. Surface water sewer modelling results for the main drainage network are in Appendix A.
- 7.13.5. The existing commercial building is connected to the public watermain. Details are given of connections to the public watermain for the proposed development. Water demand calculations for the proposed development are provided in Appendix C.

7.13.6. It is noted that the Council's Water Services Department and Irish Water have not objected to the proposed development subject to conditions. It is recommended that if the Board decide to permit that a drainage condition be included.

7.14. Screening for Appropriate Assessment

7.14.1. The natural heritage of Malahide Estuary, a European Site, is designated a Special Area of Conservation (SAC – site code 00205) and a Special Protection Area (SPA – site code 004025). Chapter 4 of the Fingal CDP notes that future development must respect the natural heritage sensitivities. The subject site is located some 140m from the Estuary, on the land side of the Coast Road. This is a brownfield site in that it is already occupied by a commercial development. It is also a fully serviced site and the new proposals aim to improve surface water drainage and attenuation. The Planning Report submitted with the application provides that there are no indicators that make any direct connection to the Natura 2000 sites and it is their considered opinion that the proposed development will have no potential impact on the Malahide Estuary (Broadmeadow/Swords Estuary) SPA.

7.14.2. It is 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 the above European Sites, 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.

8.0 Recommendation

8.1. I recommend that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the site as set out in the Fingal County Development Plan 2017 - 2023, the National Planning Framework issued by the Department of Housing, Planning and Local Government in February, 2018, the Sustainable Residential Development in Urban Areas – Guidelines for Planning

Authorities issued by the Department of the Environment, Heritage and Local Government in May, 2009, the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December, 2018 and the overall scale, design and height of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or 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 application as amended by the further plans and particulars submitted on the 05th day of November 2018 and by the further plans and particulars received by An Bord Pleanála on the 29th day of January, 2019 and 11th day of February, 2019, 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:
 - (a) the width of the second and third floors (i.e the penthouse) shall be reduced, (a minimum of 1.5m on each side) respectively on each floor.
 - (b) the mansard roof proposed on the revised drawings shall be omitted to allow for the design of the roof shown on the elevations submitted on the 9th of July 2018.

(c) the internal floor to ceiling height of the of penthouse floor shall be reduced by 300mm so that it does not exceed 2.4m in height and the overall height of the apartment building shall be no greater than 12.3m in height.

(d) The balconies shall be divided up as shown on the revised plans submitted on the 5th of November 2018. Opaque screens 1.8m in height shall be erected along the eastern and western elevations.

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 visual and residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed building, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

4. In addition to the submitted landscaping proposal submitted on the 5th of November 2018, a scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the rear southern boundary consisting predominantly of mature trees, capable of growing to the minimum height of three metres and shall include the retention of existing trees along this boundary. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

(a) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

(b) all retained boundary walls shall be rendered on both sides in the interest of visual amenity and that the proposed front boundary wall & railing along the

Coast Road shall match the neighbouring property and be of natural stone finish, cut granite capping and galvanised black railings.

Reason: In order to screen the development, in the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of this development.

Reason: In the interests of clarity.

7. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at roof level, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

9. (a) The internal road serving the proposed development, including the access, turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

(b)The ESB substation shall be relocated to provide for the required sightlines at the entrance.

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

10. The developer shall ensure that the car parking spaces for the residential units must be sold off with the units and not sold separately, or let, to avoid non-take up by residents. The developer shall also give an undertaking in this regard, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason; In the interests of public safety and the proper planning and sustainable development of the area.

11. Each proposed apartment unit shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

12. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, 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. (a) 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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

(b) All necessary measures shall be taken by the developer to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

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

14. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

15. 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.

16. The management and maintenance of the proposed development, following its completion, shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of open spaces, roads, parking spaces and circulation areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

17. 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.

18. The developer shall pay the sum of € 32,216 (thirty two thousand two hundred and sixteen euro) (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, in lieu of open space provision in the development towards the cost of amenity works in the area. 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 or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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.

Angela Brereton
Planning Inspector

9th of April, 2019