



An
Bord
Pleanála

Inspector's Report ABP – 304934 – 19.

Development	Construction of 7 no. detached 2-storey dwelling units and all associated site works.
Location	Monks Meadow, Coast Road, Portmarnock, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F19A/0039
Applicant	Eoin Blacklock; Jonathan Crowe; & Julie-Ann Doyle.
Type of Application	Planning Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellants	<ol style="list-style-type: none">1. Pat Kelly Rogers2. Monks Meadow Residents Action Group.

Observers

1. Oran O' Siochana.
2. Ivor & Loretta Christensen.
3. Helena Keane.
4. Nigel Ross

Date of Site Inspection

10th September, 2019.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site has a stated 0.88ha area and having carried out an inspection of the site and its setting on the 10th day of September, 2019, I consider that the Boards Inspectors site location and description given in their report for appeal case ABP Ref. No. PL06F300471 which also related to this subject site is still largely applicable. It reads as follows:

“The appeal site is situated at the northern edge of the village of Portmarnock, County Dublin. It is situated to the west of the R106, the Coast Road linking Portmarnock to Malahide.

The site is situated to the rear (west) of houses that front onto the Coast Road and is at the end of a private cul-de-sac, that currently serves four detached properties. The laneway has a tarmac surface with adjoining grass verge. The entrance to the cul-de-sac lies in the 60kph speed limit zone and is immediately north of the 50kph speed limit zone. There is a pedestrian footpath along the eastern side of the Coast Road opposite the entrance to the cul-de-sac, with no footpath along the western side. There is a Dublin Bus Stop to the north of the entrance on the western side of the Coast Road and one to the south on the eastern side. The access lane serving the site is approximately 110-metres long. The width varies, and it narrows to a pinch point measuring c. 3.8-metres (between fences on the northern and southern side of the lane) towards the eastern end of the lane close to the junction with the Coast Road. The lane joins a wider paved area adjacent to the Coast Road, that accommodates a recessed entrance that provides access to the laneway serving the appeal site and to a separate laneway to the north that serves 5 detached properties.

The site is approximately square in shape and at the time of site inspection, was unused and a little overgrown. It falls from west to east and is elevated above the level of the Coast Road to the east. To the east, the site is bounded by a block wall and mature trees, to the west by a bank and to the north by mature vegetation. The site is open to the south, save where it adjoins a residential property ‘Carrigfoyle’ which is separated from the appeal site by hedge planting and a wooden fence. Residential development, and associated gardens lie to the east and south of the site. Robswall Park lies to the north and west of the site. Development along the

laneway is characterised by one off dwellings on large plots and density is generally low in the area.”

To this I note that since this previous appeal case ABP Ref. No. PL06F300471 was determined by the Board that the main site has remained unused; it is overgrown, and it is unkempt.

In addition to the Boards Inspectors site location and description for appeal case ABP Ref. No. PL06F300471 I note to the Board that the main site area slopes significantly from its north western corner which is indicated as having a ground level of 21.329 to its south eastern corner which is indicated as having a ground level of 14.1. The eastern boundary of the main site area contains several mature trees and hedging of good quality. This boundary due to the predominance of evergreen species currently provides an effective screening between the subject site and the properties adjoining the site to the east as well as the Coast Road.

Bounding and indenting into part of the southern boundary of the site there is a recently completed contemporary in style part single and part two storey flat roofed dwelling house. This dwelling house is called ‘Seascape’ and it relates to a grant of permission P.A. Reg. Ref. No. F17A/0281 which sought and was approved planning permission for the demolition of an existing three storey dwelling house which was referred to as ‘Carrigfoyle’ and the construction of a new detached two-storey dwelling, new detached garage, new vehicular and pedestrian access off the existing private entrance in its place. This recently completed dwelling house commands a focal point on the private roadway that serves the site as its principal façade has an easterly aspect and the private roadway terminates at its eastern boundary.

I also observed at the time of my inspection of the site that the private roadway which forms part of the site as outlined in red in the accompanying Site Layout Plans has continued to degrade with its surface being poor. I also observed that it is in places significantly restricted in its width with pinch points as the described by the previous inspector being evident and less due to the overgrown nature of its roadside edges in places. In addition, the southern boundary of the site appears to be used for car parking.

Photographs taken during my inspection of the site and its setting are attached.

2.0 Proposed Development

2.1. Planning permission is sought for:

- Construction of 7 no. 2-storey contemporary-style detached dwellings with sedum-green flat roofs and single-storey garages. Each dwelling to be provided with 2 no. car parking spaces and private amenity space, comprising of rear gardens with patios and first floor level terraces. In total the stated floor area of the proposed dwelling units is 2,284m²;
- Creation of a bin collection point, new entrance and internal roadway off existing private road which would be accessible from the Coast Road (Regional Road – R106);
- Part realignment, widening and improvement works to existing private road including 1.5m wide pedestrian footpath on southern section, improvement works to the entrance and boundary treatments to Little Monks Meadow comprising of a 1.1m high front boundary wall and 3m wide vehicular entrance; landscaping, boundary treatments and SUDS drainage;
- All associated site works and services necessary to facilitate the development.

2.2. The Planning Application as submitted with the Planning Authority on the 1st day of February, 2019, included the following documentation:

- A Covering Letter.
- A Planning Report.
- Landscape and Visual Impact Assessment.
- Arboricultural Impact Assessment & Arboricultural Method Statement.
- Architects Planning Report.
- Transport Statement.

2.3. On the 6th day of June, 2019, the applicant submitted their additional information response. The revised drawings submitted relate to foul drainage; surface water drainage; and, site access. This submission was also accompanied by:

- A Planning Report.

- A report prepared by Consulting Engineers addressing the items raised in the additional information request.
- A survey report for Monks Meadow Laneway.
- Documentation relating to the ownership of the private road that forms part of the site area.

I note to the Board that this submission did not require revised public notices.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to **grant** permission subject to 15 no. conditions including:

- **Condition No. 3:** Sets out the requirements of the Planning Authority's Transportation Planning Section.
- **Condition No. 5a:** Requires the developer to pay a financial contribution to make up for the 613m² shortfall in their provision of public open space.
- **Condition No. 5b:** Tree Protection Plan and requires payment of a tree bond.
- **Condition No. 5c:** Requires revisions to the submitted landscape plan.
- **Condition No. 7:** Sets out the requirements for screening walls.
- **Condition No. 8:** Save for the terraces and balconies proposed no other sedum flat roofs and flat roofs shall be used as a terrace or balcony amenity.
- **Condition No. 13:** Sets out the requirement to pay bonds to ensure satisfactory completion of the development until such a time as they are taken in charge.
- **Condition No. 14:** Requires a financial contribution in lieu of open space provision.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **initial Planning Officer's Report** concluded with a request for additional information on several matters including:

Item No. 1

- A request for a revised junction layout in the vicinity of the R106;
- A request for the applicants to demonstrate that they have sufficient interest in the site and access laneway to carry out all necessary works;
- Clarification was sought on the width of the laneway at its narrowest point;
- A request for a revised footpath along the access lane.

Of note the applicant was requested to liaise with their Transportation Division prior to lodgement of the above sub-items.

Item No. 2

- A request for an engineering report which deals with the matter of the design for the soakway in a manner that complies with BRE Digest 365; the design of the infiltration trench serving the access road; and, the design of the sedum roof;
- A request to demonstrate how the infiltration trench proposed for the laneway will function.

The **final Planning Officer's Report** is the basis of the Planning Authority's decision. Whilst this report considered that there appeared to be a number of inconsistencies between the engineering report and the drainage drawings submitted in terms of the soakaway sizes and rain water harvesting system sizes that their Water Services Section considered that these could be satisfactorily addressed by way of conditions. This report concluded that the applicant had satisfied the concerns raised by them and it considered that the proposed development accords with the proper planning and sustainable development of the area subject to its recommended conditions.

3.2.2. **Other Technical Reports**

- **Water Services:** Final report concluded no objection subject to conditions.
- **Transportation:** Final report concluded no objection subject to conditions.

- **Parks and Green Infrastructure:** This report considered that the landscape scheme is generally acceptable subject to recommended revisions.

3.3. Prescribed Bodies

- **Irish Water:** No objection subject to conditions.

3.4. Third Party Observations

- 3.4.1. The Planning Authority received and considered several submissions during its determination of the proposed development. The substantive issues raised in them correlate with the issues raised in the two 3rd Party grounds of appeal submitted to the Board which are summarised under Section 6 of this report.

4.0 Planning History

4.1. Site: Recent Planning History

- **ABP Ref. No. PL06F.300471 [P.A. Reg. Ref. No. F17A/0500]:** Planning permission was **refused** for 7 no. two storey contemporary style dwellings with sedum-green flat roofs with single storey garages; provision of 2 no. on curtilage car parking for each of the proposed dwellings, private amenity space provision comprising of rear garden areas, patios and first floor level terraces; bin collection point; new entrance and internal roadway off existing private road in the ownership of the applicants; part realignment of this road including 1.8m wide pedestrian footpath; improvement works to the entrance onto the public road and 'Little Monks Meadow'; landscaping; boundary treatments; SUDS drainage and all associated development on a site with a stated 0.88ha. The single stated reason for refusal relates to capacity issues for the private road serving the site, road safety and traffic hazard concerns.
- **P.A. Reg. Ref. No. F17A/0175:** Planning permission was **refused** for the construction of 9 no. 2-storey contemporary style detached dwellings with sedum-green flat roofs with 3 of the proposed dwellings also having a single storey detached garage within their curtilage; with each dwelling served by 2 no. car parking spaces; bin collection; new entrance and internal roadway off existing

private road; part realignment and improvement works to the existing private road including improvement works in the vicinity of the public road and entrance to 'Little Monks Meadow' and all associated site works and services. The stated reason for refusal reads:

"The development proposed would be served by an existing laneway off the Coast Road currently serving 4 existing dwellings in addition to a dwelling granted planning permission under F16A/0087. The existing, permitted and proposed development equates to 14 dwellings using this laneway. The laneway is narrow, tapering to a minimum measured width of 3.4m at its eastern end. Having regard to the proposed intensity of development using the laneway and that it is not possible to provide sufficient pedestrian access along this lane due to its restricted nature, the proposed development of 9 dwellings would represent overdevelopment of the site which relies on sole access via a laneway of substantial width, capacity and alignment off the Coast Road and as such would be contrary to the zoning objective pertaining to the area, i.e. RS "Provide for residential development and protect and improve residential amenity". The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area which would require adequate pedestrian and vehicular access to be provided to residential cluster of 14 houses.

To permit the development in its proposed form would set an undesirable precedent for other future similar development."

- **ABP Ref. No. PL06F.228945 [P.A. Reg. Ref. No. F07A/1363]:** Planning permission was **granted** on appeal to the Board for a development consisting of the demolition of an existing house and the erection of four, 2-storey detached dwellings and all associated works and services on a 1.05ha site. This grant of permission was granted an extension of duration which expired on the 5th day of February, 2017.

4.2. Part of the western portion of the subject site and land adjoining part of the southern boundary of the site.

- **ABP Ref. No. PL06F.228945 [P.A. Reg. Ref. No. F07A/1363]:** A planning application for demolition of the existing house and the construction of 4 no. detached dwellings on a site comprising the western section of the appeal site

and lands to the south of it comprising a residential property known as 'Carrigfoyle'. Two of the dwellings were situated on the appeal site, while two were on the 'Carrigfoyle' lands. The Planning Authority granted permission. The decision was subject to a 3rd Party appeal. An Bord Pleanála upheld the decision of the Planning Authority and granted permission. Under P.A. Ref. F07A/1363/E1, permission was extended up to 5th day of February, 2017.

4.3. In the vicinity

4.3.1. Monks Meadows

- **PL06F.244960 [P.A. Reg. Ref. No. F15A/0104]:** Planning permission to alter the development approved under PL06F.241124 to include amendments to the garden sizes of 4 no. approved dwellings fronting the Coast Road (5-8 Monks Meadow), provision of communal rear garden to the rear of the dwellings and retention of existing single storey house which was to be demolished under PL06F.241124 for use as a store. Permission refused by the Planning Authority. The decision was subject to a first party appeal. An Bord Pleanála overturned the decision of the Planning Authority and granted permission.
- **PL06F.241124 [P.A. Reg. Ref. No. F12A/0015]:** On appeal to the Board planning permission for demolition of an existing single storey house and construction of 4 two storey houses on land to the south east of the appeal site (known as Monks Meadow), facing Coast Road, with a new shared access from the site to Coast Road granted.

4.3.2. 'Seascape', adjoining property on part of the southern boundary of the site (Note: formerly the site of a dwelling house referred to as 'Carrigfoyle').

- **P.A. Reg. Ref. No. F17A/0281:** Planning permission **granted** for one detached two storey dwelling in the grounds of 'Carrigfoyle' Permission granted by the Planning Authority.
- **P.A. Reg. Ref. No. F16A/0087:** Planning permission **granted** for one detached two storey dwelling in the grounds of 'Carrigfoyle' a residential property located immediately south of the appeal site. The detached dwelling is identical to that approved under ABP Ref. PL06F.228945 [P.A. Ref. F07A/1363].

5.0 Policy and Context

5.1. National Planning Policy Provisions

- Project Ireland 2040 National Planning Framework (2018).
- Guidelines on Urban Development and Building Heights for Local Authorities, 2018.
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, (2009) and the accompanying Urban Design Manual: A Best Practice Guide, (2009).
- Quality Housing for Sustainable Communities (2007).
- Urban Design Manual – A Best Practice Guide (2009).
- Design Manual for Urban Roads and Streets (DMURS) (2013).

5.2. Local Planning Policy Provisions

- 5.2.1. The Fingal County Development Plan 2017-2023 is the applicable development plan under which the appeal site is zoned 'RS' (Residential) which has a stated land use zoning objective to "*provide for residential development and protect and improve residential amenity*". The lands directly adjoining the appeal site to the west are zoned 'HA' (High Amenity). The land use zoning objective for 'HA' zoned lands is to "*protect and enhance high amenity areas*". An indicative cycle/pedestrian route is shown along the R106 regional road which lies to the east of the appeal site and is reached via a private roadway which the appellants contend is in their legal interest.
- 5.2.2. Section 11.4 of the Development Plan deals with 'Transitional Zones' and states that it is important to "*avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones*". In addition, Policy Z04 requires that proposals in such areas shall have regard to development in adjoining zones, particularly the more environmentally sensitive zones.
- 5.2.3. Section 12.3 of the Development Plan sets out the design criteria for urban development and it refers to guidelines published by the Department of Environment, Community and Local Government in respect of quality housing and sustainable residential development. It also refers to the Design Manual for Urban Roads and

Streets published jointly by the Department of Transport Tourism and Sport and the Department of Environment, Community and Local Government. Policy objectives PM31 to PM33 of the Development Plan seek to promote good urban design in accordance with these guidelines.

- 5.2.4. With respect to residential densities, the Plan states that regard should be had to the national guidance set out in the '*Sustainable Residential Development in Urban Areas Guidelines and the accompanying Urban Design Manual.*' The Development Plan promotes higher densities at suitable locations such as along public transport corridors and in main town centres. Development Plan objective PM41 reiterates this.
- 5.2.5. Policy PM44 of the Development Plan encourages and promotes the development of backland sites in existing residential areas, subject to the character of the area and environment being protected.
- 5.2.6. The appeal site falls within a Coastal Landscape Character Type, which is described as having an exceptional landscape value. The Plan states that "*the coastal fringe is very sensitive to development due to the exposed nature of many of the coastal and estuarine areas making them particularly vulnerable to intrusive development. Finding sites for new development along the coast will be difficult as new development is likely to be conspicuous*". Objectives NH33 to NH39 of the Development Plan seek to safeguard the essential character of each of its defined landscape character types.

5.3. Natural Heritage Designations

- 5.3.1. The main site area lies within c86m to the west of a Special Area of Conservation - Malahide Estuary SAC (Site Code: 000205). The appeal site includes a private roadway which at its nearest point lies within c13 of this SAC.
- 5.3.2. The north-easternmost corner of the site lies within c0.2km of a Special Protection Area – Malahide Estuary SPA (Site Code: 004025).
- 5.3.3. Policy NH15 of the Plan, affords protection to the network of Natura 2000 sites in the county.

5.4. Environmental Impact Assessment

- 5.4.1. The appeal site lies on the edge of Portmarnock's urban envelope with the main area of the site at its nearest point situated within c86m to the west of the coast which is designated as a Special Area of Conservation, i.e. Malahide Estuary SAC and the north eastern corner of the site is within c200m of Special Protection Area – Malahide Estuary SPA which at this point overlaps with the said SAC which extends along this stretch of the Irish Sea coastline in both a northerly and southerly direction for a significant distance.
- 5.4.2. The appeal site has the ability to connect to the public sewer and to a public mains water supply due to its close proximity to such existing infrastructure. However, surface water arising on site may be connected to the aforementioned Natura 2000 sites by over ground or underground flow with the topography sloping downwards from the western boundary of the site towards the Irish Sea coastline.
- 5.4.3. It is the applicant's intention to put in place a surface water management system accordance with the principals of Sustainable Urban Drainage Systems and by way of additional information they have provided further clarity on the same with these details and specifications to the satisfaction of the Planning Authority. The applicant also provided clarity on and improvements to surface water drainage for the private roadway from which access for the proposed seven dwellings to the public road network would be dependent. Such a system would control surface water movements from the site to greenfield levels via appropriate discharge channels and would include also include controls in respect of surface water pollution.
- 5.4.4. The documentation accompanying this application indicates that the proposed development has been screened for Natura Impact Assessment. This concluded that no negative impacts upon any of the following Natura 2000 Sites would occur if the proposed development were to be permitted:
- Malahide Estuary SAC (Site Code: 000205) & SPA (Site Code: 004025).
 - Broadmeadow/Swords Estuary SPA (Site Code: 004025).
 - Baldoyle SAC (000199) & SPA (Site Code: 004016).
 - Rockabill to Dalkey Island SAC (Site Code: 003000).
 - Ireland's Eye SAC (Site Code: 002193) and SPA (Site Code: 004117).

It did acknowledge that the main potential indirect risk from this development of the subject site to any of the Natura 2000 in its vicinity would be considered to be the indirect hydrological connection of the development to the surrounding aquatic Natura 2000 sites. However, it considered that the SuDS measures proposed alongside the proposed new connection to the public foul drainage system would ensure that no adverse impacts would arise to Natura 2000 sites. It also considered that the use of these techniques in the design of the project would ensure that negative effects to the water quality will not arise from surface water run-off. This report concluded that the proposed development does not necessitate or warrant progression to a 'Stage 2 - Appropriate Assessment'.

- 5.4.5. Having regard to the serviced nature of the site which has surplus capacity in its public mains water and drainage to meet the requirements of the proposed development, the infrastructural measures proposed to deal with the surface water drainage requirements of the site including the access road and subject to satisfactory arrangements being put in place regarding the management of surface water from commencement of development on site to completion, which can be controlled by condition, 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 any Natura 2000 sites in its immediate or wider vicinity or in view of their stated conservation objectives.
- 5.4.6. I therefore concur with the Planning Authority that a Stage 2 Appropriate Assessment and the submission of a NIS is not therefore required in this case.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal submitted on behalf of Monk's Meadow Resident Action Group can be summarised as follows:
- The applicant's contention that they can provide a minimum 4.1m width is not accepted. On this point it is submitted that the laneway narrows down to a width

of 3.8m. It is therefore not accepted that a 2.4m roadway and a 1.5m in width footpath can be achieved.

- Reference is made to the planning history of the site, in particular, refused planning applications and the reasons as to why previous developments of the site have been refused.
- The proposed development would fall short of providing a safe access to the public road.
- The present arrangement for bin collection for residents of this private road is at its entrance to the public road. It would not be possible for the additional bins to be accommodated nor is the laneway suitable for HGV type vehicles.
- The physical infrastructure that would serve the proposed development including roads, surface water and water supply is lacking.
- The existing roadway does not have capacity to absorb seven large dwellings nor is the entrance of this private road onto the public road network which is via a regional road capable of safely absorbing the additional traffic the proposed development would generate in addition to the existing traffic on this road.
- To permit the proposed development on land that has a transitional zonal character would be contrary to decision making made on similar sites in the immediate area.
- Only by allowing a lower number of houses can the character as well as pattern of the surrounding area be protected.
- The proposed development, if permitted, would set an undesirable precedent for other future similar developments.
- The residential density of the proposed development exceeds the predominant density in the area.
- Reference is made to local and national planning provisions.
- Concerns are raised that the modifications proposed to the private roadway would interfere with land that is outside the applicant's legal ownership without written consent or any agreements. Therefore, the applicants are unable to

provide adequate access to the proposed development in the absence of the same.

- The proximity of the single lane section of the private road relative to the Coast Road, a regional road, and the absence of an adequate waiting area for cars entering the shuttle run from the eastern side presents a serious constraint. The vehicle movements arising from the increase in the number of houses proposed could reasonably be expected to result in queuing on the Coast Road on occasion at the entrance to the private road from which access is proposed. The pinch point and the proximity of the shuttle run to the Coast Road would only allow one, not two cars to queue as suggested by the applicants on the eastern side of the shuttle run. The proposed arrangements would result in the obstruction to road users of the regional road and present a potentially hazardous situation for road users.
- Sightlines onto the Coast Road are restricted and there is a Dublin Bus Stop immediately to the north of the junction.
- The constrained nature of the access lane at its eastern end, regardless of the provision of a shuttle run and footpath, in proximity to a regional road, severely limits the scale of development that it can support.
- The applicants have failed to adequately address the additional information request as they are unable to provide sufficient space in width to provide two lanes of 2.4m in width and sufficient space for 2 cars to safely queue. This situation is worse when larger vehicles are considered; they have not sufficiently clarified their legal interest to carry out the works proposed to the private road; they have provided conflicting dimensions in terms of what is the actual width of the narrowest point of the private road; the design of the improvements to the private road include the provision of a footpath that tapers from 1.8m to 1.5m which doesn't comply with relevant standards moreover it would require sections of the modified road to be mountable to allow larger vehicles to pass.
- This submission is accompanied by a report prepared by MTW Consultants Limited - Consulting Civil and Structural Engineers. This report concludes that *"the proposed development fails to provide a safe and proper access to the public road"* and it considers that the revised application does not overcome the

restricted nature of the access of the reasons for the Boards previous decision to refuse planning permission. I also note that it raises concern as to why no consideration was given to the proposed future cycle lane along the Coast Road which they also contend would have profound effects on the private road's junction with the R106.

- This submission is accompanied by a Boundary Report prepared by Land Surveys – Land & Aerial Surveyors. This report purports to clarify the boundaries of the adjoining property referred to as 'Windward' in the submitted documentation
- This submission is accompanied by a Hedge Survey Report of the property referred to as 'Windward' which raises concerns in relation to the impact the proposed works on the private road would have on the existing mature hedge.

6.1.2. The grounds of appeal submitted by Pat Kelly Rogers can be summarised as follows:

- If the proposed development is permitted it would result in the private road becoming dangerous, unsafe, impractical and not fit for purpose,
- The insertion of a high-density development into a low-density area is contrary to the zoning objective of the area which seeks to protect and improve residential amenity.
- The access laneway currently allows occupants of four dwellings which is purported to in total contain 18-bedrooms to carefully drive cars into and out of a junction where the laneway joins Coast Road.
- It is contended that at its narrowest point this private road is 3.4m in width and there is no scope for widening it.
- It is contended that the existing residents are required to bring their bins to the private road's junction with the public road for collection as refuse trucks are unable to access the laneway.
- An access way for eleven dwellings containing in total 51 bedrooms should enable safe access for cars, service vehicles, delivery trucks and refuse lorries while at the same time accommodating pedestrians and so forth. The existing

private road cannot accommodate the additional traffic the proposed development would generate.

- There is little consideration given for the access way that joins the entrance of the private road at the junction onto the Coast Road. This accommodates another 5 dwellings.
- The provision by the developer of a token lay-by in the laneway together with the proposed re-surfacing works would not improve the existing sight lines or provide safe access to the proposed development.

6.2. The Applicant Response

6.2.1. The applicant's response can be summarised as follows:

- The applicants are in full ownership of the private road.
- The appellants who are objecting to the proposed development do not have need to use this access as their dwellings are accessed directly off the Coast Road.
- The Board is requested to uphold the Planning Authority's decision.
- The private roadway currently serves four dwellings and the site.
- Reference is made to the planning history of the site.
- A footpath is proposed to link to the Coast Road to provide access to an existing Dublin Bus Stop and a single lane shuttle run is provided at the entrance to the laneway with a yield line and associated signage marking the transition to the section of the road that accommodate two-way traffic including a junction. Dual traffic is possible throughout the development with restrictions on infrequent events only with the majority of the private road being suitable to cater for two-way traffic with only c.8% of the overall laneway being single lane.
- The proposed development complies with the zoning objective for the site.
- The design has been carefully designed to avoid any impacts associated with overlooking, overshadowing and overbearing on properties in its vicinity.
- Reference is made to various objectives set out in the current Fingal Development Plan.

- The density proposed is relatively low density and there is ample separation between the proposed dwellings from the western boundary to ensure that an abrupt transition between residentially zoned land and high amenity zoned land is avoided.
- This development will provide a high-quality family homes which will allow for a variety of families to reside in this scenic location and it incorporates landscape details which will enhance the character of the area.
- The approved sedum flat roofs will only be accessed for maintenance purposes and would not be used as terraces.
- The proposed dwellings would not result in any visual overbearance of neighbouring properties.
- The land in which the development would take place which excludes the laneway. i.e. 0.73ha results in a density of 9 dwellings per hectare and it is below the density requirements of the Development Plan. It is considered this density is appropriate and it respects the character of the area.
- The width of the laneway at its narrowest point as purported by the appellants is not accepted.
- This proposal provides for the significant upgrade and improvement of the access road.
- Sightlines to the north of the junction are 59m and to the south 45m at a 2m setback is compliant with DMURS.
- The laneway is wide enough to provide for the access of the proposed and existing dwellings it serves.
- The density makes an efficient use of vacant land which is zoned for residential development.
- Several planning precedents are cited for residential developments accessed via narrow laneways.
- The proposed development represents an appropriately designed and scaled development which would not give rise to any undue impacts on the amenity of its setting and it provides for significant improvements to the private roadway.

- This submission is accompanied by response from ARUP.

6.3. The Planning Authority Response

6.3.1. The Planning Authority's response can be summarised as follows -

- The proposed development accords with its Development Plan.
- The applicant has addressed their concerns in their further information response.
- The proposed development would not constitute a traffic hazard.
- Should permission be granted it is requested that the Board include Condition No.s 5(b); 13; 14; and 15 in their determination.

6.4. Observations

6.4.1. The Board received an observation from a Nigel Ross which can be summarised as follows:

- The observer does not consent to any interference with his fence and that any works carried out by the applicants would have to be outside of the line of his fence.
- The observer does not consent to changes of the entrance to his property and they also consider the angle proposed for him to exit from his property is unsafe.
- Little regard has been given to the proposed future cycleway along the Coast Road.
- Further concerns are raised that the applicants are proposing works that are outside the land which they have ownership for, i.e. the junction area from which access to the Coast Road is achieved. It is contended that this area is outside the applicant's ownership and for which they have no consent for.
- It is requested that permission be refused by the Board as the pinch point on the laneway is not wide enough to take the additional traffic that would be generated by the proposed development. In addition, the proposed development, if permitted, would result in road safety as well as traffic hazard issues.

6.4.2. The Board received an observation from an Oran & Kasia O'Siochain which can be summarised as follows:

- The observers main concern is maintaining the continued and safe access to their property as well as the impact the proposed development would have if permitted.
- The proposed level of development is beyond the capacity of the restricted access road and the resultant increase in traffic as well as the proposed intensification of use of the entrance onto the Coast Road would result in traffic conflict as well as road safety issues.
- Concerns are raised that the applicants did not fully address the Planning Authority's additional information request.
- Sightlines onto the Coast Road were considered to be an issue previously by the Board.
- The entrance and driveway was originally laid out to serve 3 dwellings and it is inadequate to serve 12 large dwellings.

6.4.3. The Board received an observation from an Ivor and Lotte Christensen which can be summarised as follows:

- Monks Meadow owners have a right-of-way on the private roadway serving the subject site since the 1950s.
- The entrance at the junction onto the R106 has been continuously maintained by the existing residents for upwards of 70-years.
- The applicants have failed to provide a historical map of legal title deed to claim ownership of the laneway, only the ordinance land registry map accompanying the planning permission which conflicts with the observers 1939 Title Deeds a copy of which is provided.
- The applicants land registry does not show the red line extending as far as our current fence and it is contended that the observer's property extends beyond the existing timber fence at this point. Therefore, the applicants are unable to carry out the proposed works in the area in which the observers title deeds indicate as being in their ownership.
- The applicants are not entitled to carry out any works that would impinge on the established easement and right-of-way.

- This application is almost the same as that recently refused by the Board on this site. This application does not overcome the issues that resulted in its refusal.
- Concerns are raised in relation to the proposed footpath running along their boundary and its inadequacy where it reduces to a width of 1.5m.
- Inadequate consideration is given to the future cycleway along the Coast Road.

6.4.4. The Board received an observation from an Eamonn Keane which can be summarised as follows:

- The observer contends that his experience of accessing his property via the private road serving the site is challenging but workable at present. It is not accepted by him that it or its entrance has the capacity or design to safely absorb the level of development proposed.
- The design put forward under this application is dangerous and would not work for larger vehicles such as HGVs which would have no option but to mount the footpath.
- Reference is made to the previously refused developments on this site.
- The Board is requested to refuse planning permission.

7.0 **Assessment**

7.1. **Introduction**

7.1.1. I have read the appeal file, all associated reports and plans and I visited the appeal site and the surrounding area.

7.1.2. I first of all note the comments made by the applicant in their response to two separate appeals received by the Board where they raise concerns that the appellants have not supported any previous type of development on the appeal site which is residentially zoned and they also raise concern that neither party access the public road network from which the appeal site is accessed. They therefore raise concern that both appeals are disingenuous.

7.1.3. While I acknowledge that it is frustrating for an applicant to have made an appeal on foot of a grant of planning permission, I am of view that both appellants raise substantive planning issues which they seek that the Board examine by way of a *de novo*

consideration of the proposed development sought under this application. That is their legitimate right and the planning system allows for this process to occur in such circumstances. I do not consider that the issues raised by the appellants or indeed the observers in their submissions to the Board could be considered as vexatious or frivolous but to be planning based concerns and as property owners in the immediate vicinity of the proposed development alongside the appellants properties bounding part of the appeal site I consider that both appeals have sufficient planning interest and merit to be deemed as valid 3rd Party appeals.

- 7.1.4. In relation to the proposed development, I note that the initial planning application as lodged to the Planning Authority was subject to a request for additional information. The applicant's response addressing the items raised in by the Planning Authority in this request in my view brings forward qualitative improvements particularly in terms of surface water drainage, improvements to the private road and improvements onto the Coast Road (R106 - Regional Road). This response was received by the Planning Authority on the 6th day of June, 2019, and for clarity I note to the Board that my assessment below is based on the revisions made to the proposed development on foot of this additional information request.
- 7.1.5. In relation to the principal of the proposed development I consider that the principle of a residential development to be generally acceptable for this vacant site. I also consider that it is appropriate that any residential on this site seeks to reach a balance between the much lower density residential development that adjoins and neighbours it to the east and south which would appear to be circa 3 to 4 units to the hectare alongside the high amenity land that bounds it to the west. As such I consider the density of 9 units to the hectare achieves a more efficient use of serviced lands despite the sensitivity of its coastal location though I do raise it as a concern that the proposed design puts forward a shortfall of public open space amenity. Nonetheless, the Planning Authority considered that this shortfall could be compensated for by way of special contributions and I also note that the site benefits from easy reach to the coastal pathway that runs alongside the eastern roadside edge of the Coast Road alongside the expanse of beach front that is effectively a short walk away. There are also other public open space amenity provisions within the wider area.
- 7.1.6. Going back to the matter of density I also note that in close proximity to the site, i.e. to the south west and south of the site the density increases to more medium density residential developments, e.g. Limetree Avenue, Ashley Rise through to Carrickhill Rise

which characterise the suburban fringes of Portmarnock. I do not consider such densities would be appropriate for this site having regard to its visual curtilage and the fact that the site bounds high amenity zoned land on its western side.

- 7.1.7. I consider that in this instance that the density of the proposed development at 9 dwellings per hectare achieves a suitable balance between protecting the character and amenity of this edge of suburban Portmarnock as well as high amenity coastal landscape. It also would provide a suitable functional use for what is currently vacant and underutilised land that is residentially zoned whilst at the same time having regard to the transitional character of its setting adjoining high amenity zoned land. I therefore consider that the proposed density to be acceptable in this context.
- 7.1.8. Having regard to the proposed design resolution of the housing scheme put forward which I note is accompanied by what is in general a well considered landscaping scheme which seeks also to protect existing quality trees and hedgerows along its boundaries, in particular, its eastern boundaries, I consider that the scheme is well resolved in terms of building to space relationships within the courtyard setting proposed for the main site area in which the 7 no. dwellings are proposed.
- 7.1.9. The dwellings themselves though substantial in their own right are also in my view to be well considered in that they are light weight with a good solid to void relationship; they include a well-chosen palette of materials; they include design features that seek to create harmony and a sense of identity as well as self-identity an unity as a group, whilst at the same time respecting and not being visually overbearing when appreciated from neighbouring properties in their immediate vicinity. I consider that outside of some revisions to the landscaping scheme as recommended by the Planning Authority's Parks department which I consider would result in qualitative improvements alongside ensuring an appropriate standard of development which includes conditions dealing with agreements for the palette of materials through to boundary treatments which are generally dealt with by way of condition for such developments that the building to space relationship as put forward in this proposal is acceptable.
- 7.1.10. Further, the proposed development exceeds the minimum standards for residential dwelling units of this type and design itself puts forward high quality internal as well as external residential amenity for future occupants. The design also has had regard to passive design and sustainable building practices as well as materials for the detached dwellings which includes but is not limited to sedum roofing which would help with

carbon capture and would also absorb surface water from these spaces in a sustainable manner on site.

7.1.11. I consider, therefore, that the main issues for consideration relate to the matters raised by the parties to this appeal and these can be summarised under the following broad headings:

- Access.
- Ownership.
- Impact on Residential Amenities.
- Impact on Visual Amenities.
- Water Services.

7.1.12. The matter of Appropriate Assessment also requires consideration.

7.2. **Access**

7.2.1. The applicants propose to provide access to the public road network via an existing private roadway that junctions with the R106 (Coast Road) c73m from the southern east corner of the main portion of the site area. At present this road serves 4 substantial detached dwellings, it is poorly surfaced, is restricted in its width and it contains no footpaths, lighting or road markings. The stretch of public road that serves the private road junctions with has a posted speed limit of 60kmph which reduces to 50kmph in close proximity to the south of the junction.

7.2.2. In addition, there is a continuous white line for circa a kilometre to the south and north of this junction. This reflects the meandering horizontal and vertical alignment of this regional road which follows the coastline with views restricted in both directions due to the curving alignment of the road which also restricts views in a southerly and northerly direction.

7.2.3. As part of this application it is proposed to widen, improve the alignment, improve the road service through to providing a reordered junction for both the private roadway and the access road that also junctions with the Coast Road immediately alongside it to the north. In effect at present the existing junction is functioning as a combined entrance for both separate access roads onto this regional road.

7.2.4. Under a recent appeal case relating to the same site the Board overturned a decision of the Planning Authority to grant planning permission for a similar 7 no. two storey dwelling units residential scheme which also included improvement works to the private access road (Note: ABP Ref. No. PL06F.300471). The Boards reasons and considerations for refusal read:

“Having regard to the scale of the proposed development, in conjunction with existing and permitted development, and the narrow access lane to the site from the public road, it is considered that the additional traffic associated with the proposed development, notwithstanding the proposed arrangements for traffic calming and improvement of the access lane, would give rise to additional turning movements at the junction of the access lane and R106 Regional Road, lead to conflict between road users and endanger public safety by reason of traffic hazard. The proposed development would, therefore, be in contrary to the proper planning and sustainable development of the area.”

7.2.5. Having inspected the site and the documentation on file I am not convinced that the proposed development sought under this application has overcome the Boards stated reasons to have refused a similar development at the subject site. The lane itself even with improvements now proposed would be seriously constrained at its eastern end and relative to the number of dwellings, i.e. 11 substantial detached dwellings, it would serve together with the five other substantial detached dwellings that also access onto the Coast Road from the same junction it does not provide an adequate waiting area for cars entering into the shuttle run from the public road should there be more than one car waiting with the potential for conflict to arise on occasion by traffic exiting from ‘Windward’ the adjoining property to the north which has an entrance that opens onto the combined junction even with the provisions included in the design to formalise this arrangement.

7.2.6. This more formalised arrangement has the potential due to its restricted site lines in a westerly direction to further cause traffic obstruction in the immediate vicinity of the junction with the Coast Road. This arrangement together with the proximity of the shuttle run and the pinch point, which I concur with the previous inspectors measurement is c3.8m at its narrowest point to the roadside edge of the Coast Road, which I also note could in the near future be further constrained by way of the provision of a cycle lane, at best has the capacity to hold two modest sized vehicles

turning into the private roadway from the Coast Road. I am not convinced that the applicant has demonstrated that the potential for obstruction and in turn increased road safety hazard for road users on the Coast Road would not occur under the proposed road improvements put forward under this application. I am also of the view that the design of the roadway and pedestrian footpath design put forward does not give adequate protection to vulnerable road users and that the shuttle way is designed in a manner that gives priority given to vulnerable road users. As to do the later, for example in the form of a shared surface, would result in the queue of vehicles on the Coast Road being more a more likely occurrence and the duration in which the vehicles would have to queue would be lengthier when vulnerable road users were using the footpath area at the pinch point.

- 7.2.7. On this point I also refer to the National Planning Frameworks which under National Policy Objective 27 seeks to “*ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments*”.
- 7.2.8. Having regard to the curving alignment of the adjoining stretch of the Coast Road, particularly in a southerly direction and despite the documentation indicating that the required sightlines can be achieved I concur with the previous Board inspector for appeal case ABP Ref. No. PL06F.300471 that a development that could give rise to the potential for queueing onto the Coast Road would be unacceptable as it would obstruct road users and would give rise to a potentially hazardous situation along and in the immediate vicinity of a busy regional road.
- 7.2.9. I also concur with the previous inspector in appeal case ABP Ref. No. PL06F.300471 that the Dublin Bus stop immediately to the north of the junction would also impede and obstruct views to the north, on a temporary basis as busses pull in and out. In addition, if a vehicle is queuing on the R106 to enter the laneway, the southern sightline could be readily restricted. I further note that vegetation also obscures sightlines in this northerly direction also.
- 7.2.10. Moreover, this proposal effectively seeks to separates the junction into two access and egress points onto the Coast Road. I consider this is inconsistent with the Development Plan policy which under Objective DMS 126 seeks to restrict the provision of new access points onto regional roads. It would also result in the

proliferation of access points in close proximity to one another at a locality where the road has a curving alignment as well as an undulating horizontal alignment.

7.2.11. Of further concern the documentation submitted with this application by the applicant in my view does not appear to demonstrate without doubt that they have consent to do these works to the northern side of the existing junction onto the Coast Road and I would also raise a concern that the sightlines from this new access point in a northerly direction would also be restricted. As a result, this could potential give rise to further vehicle conflicts occurring in the vicinity of this new access point.

7.2.12. I also note that the National Planning Framework whilst seeking to prioritise the provision of new homes at locations that can support sustainable development indicates under Objective 33 that these must be at an appropriate scale of provision relative to the location. I consider that whilst the density of housing proposed for the subject site is suitable for this location and provides a denser use of residentially zoned land for this locality when compared to neighbouring properties this quantum of development requires safe access to the public road network. The applicants have not demonstrated that this restricted in width access road together with their improvement measures are robust enough to ensure the safety of all types of existing and future users alongside public road users of the Coast Road from the access way serving the site and from the junction onto the Coast Road itself.

7.2.13. While I am of the view that the existing access road that serves the appeal site is in need of improvement, notwithstanding, I am of the opinion that the constrained and substandard nature of the access lane serving the appeal site, in particular having regard to its width towards its eastern end, severely limits the scale of development that it can support and that the proposed increase in the in-coming and out-going movements would be likely to give rise to a traffic hazard at its junction with Coast Road (R106) and to obstruct road users on this roadway. This is substantive reason for the proposed development to be refused and to consider such a development to be premature pending the more wholesale improvements to the access road serving the site and its junction onto the Coast Road.

7.3. **Ownership/Civil Matters**

7.3.1. Based on the information on file provided by the different parties to this appeal I am not satisfied that the applicant has demonstrated that they have sufficient legal

interest in the land to bring forward the proposed upgrade works to the access road serving the site and to make the proposed amendments to the junction with the Coast Road in its entirety.

7.3.2. I am also not convinced even based on what appears to be land within the applicants legal interest that this access road can be improved to safe level required to serve the quantum of development proposed under this application without additional width being acquired from either or one of the properties adjoining it to the south and north from the south easternmost corner of the main site area.

7.3.3. On this basis I consider that the applicant has not demonstrated sufficient legal interest in the land to bring forward the proposed upgrade works to the access lane nor do they have sufficient legal interest along the eastern stretch of the access lane to provide the necessary improvements to safely accommodate the quantum of existing and proposed residential development at this location nor have they demonstrated sufficient legal interest in the northern portion of the junction that provides access onto the Coast Road to provide two separate access points onto this regional road.

7.4. Impact on Residential Amenities

7.4.1. I do not consider that the proposed development, if permitted, would give rise to any significant adverse impact on residential amenities of properties in its vicinity in terms of overlooking, overshadowing, reduction to privacy through to depreciation of property values. Notwithstanding, should the Board be minded to grant permission for the development sought under this application I recommend that include a condition similar to Condition No.8 of the Planning Authority's notification to grant planning permission which restricts the use of the flat roofs as a precaution so to ensure that these are not used as an additional source of private open space amenity.

7.4.2. Arguably any access improvements to serve the existing four dwellings using the private laneway which would serve the proposed development would be generally welcomed considering its substandard nature in width, alignment through to surfacing.

7.4.3. However, such improvements potentially could be offset against the increased volume of traffic that would be generated by the proposed development along the

main extent of this private road. This could potentially have a more significant impact at the junction of this private road onto the public road network which in its current form is combined with another private access serving five substantial detached dwellings. There is also a bus stop to the immediate north of this junction.

7.4.4. Therefore, the increase traffic could result in additional road safety hazards for existing road users of the private road and the junction onto the Coast Road.

7.5. Impact on Visual Amenities

7.5.1. The main area of the appeal site is set back from the Coast Road with existing residential development predominating in between. It is not immediately visible from the Coast Road but from its higher points there are views across to the Irish Sea but there is built and natural features that limit the extent of the views I could observe at the time of my site inspection.

7.5.2. Like the previous development on site considered by the Board the applicant proposes to cut down the existing ground level of the site to place the seven dwellings. This results in the flat roofed dwellings having an overall height that does not exceed any of the existing dwellings that surround the site. Additional landscaping is proposed to settle and reinforce the boundaries to provide visual screening to both existing and the proposed dwellings.

7.5.3. Therefore, within the wider setting the proposed development would not be highly visible or legible from the public domain with the main visual impact being localised around the private laneway which already has a low-density residential character despite its coastal location and peripherality relative to the urban edges of Portmarnock.

7.5.4. The proposed improvements to the laneway which would include improved boundaries, hard and soft landscaping through to the overall upgrading of the private laneway itself arguably would result in level of visual improvement to its immediate locality.

7.5.5. I also consider that maintaining the existing western hedgerow, the previously discussed settling of the dwellings into the landscape by cutting down into the existing levels of the site and the provision of additional landscaping of perimeters would minimise the visibility and visual incongruity of the proposed development

relative to the adjoining high amenity zoned land from which there would be limited views of.

- 7.5.6. Based on the above considerations I consider that the proposed development would not have a significantly negative impact on the visual amenities of the area.

7.6. **Water Services**

- 7.6.1. As previously discussed the development sought under this application comprises of a relatively low-density residential scheme on the suburban edge of Portmarnock on vacant land that is residentially zoned and benefits from being in proximity to public water services to connect to. In terms of overall water demand it would add little to the overall demand for water in the area and no objection or capacity issues have been raised by Irish Water have raised no objections to the application on the grounds of inadequate water supply.
- 7.6.2. Under this application the applicant proposes a surface water management system for the main site area and the private road in accordance with the principals of Sustainable Urban Drainage Systems.
- 7.6.3. Whilst matters of detail were raised by the Planning Authority in relation to the design of the infiltration trench serving the access road, the design of the sedum roof and clarification was sought on how the design of the infiltration trench proposed for the laneway will function the Planning Authority considered that the applicants further information response was satisfactory in addressing these matters and raised no issues regarding the principle of draining the site subject to a number of recommended conditions.
- 7.6.4. I concur with the Planning Authority that outstanding water and drainage issues can be adequately addressed by condition.

7.7. **Appropriate Assessment**

- 7.7.1. As previously indicated in this report the main site area lies within c86m to the west of a Special Area of Conservation - Malahide Estuary SAC (Site Code: 000205) and the appeal site also includes a private roadway which at its nearest point lies within c13 of this SAC.

- 7.7.2. In addition to this the north-easternmost corner of the site lies within c0.2km of a Special Protection Area – Malahide Estuary SPA (Site Code: 004025).
- 7.7.3. In terms of public infrastructure in the area the appeal site is located where access can be provided to public mains drainage and the Planning Authority have raised no objections to the same subject to standard conditions.
- 7.7.4. The site also lies on the peripheral built up edge of a settlement (Portmarnock) and the main site area has ground levels that are higher than the Coast Road to the east. This regional road follows the coastline and is heavily trafficked. It is in its current state a vacant greenfield site with no evident functional use and there is potential that surface water arising on this site including that from the private access road that provides connection to the public road network via the Coast Road which also forms part of the site area indicated in red may be connected to nearby Natura 2000 sites by over ground or underground water flow.
- 7.7.5. As mentioned previously in this report, the applicants propose to put in place a surface water management system accordance with the principals of Sustainable Urban Drainage Systems.
- 7.7.6. Such a system subject to meeting the required standards would control surface water movements from the site to greenfield levels. It also includes the provision of appropriate discharge channels and controls in respect of surface water pollution with these measures extending to include the private access road with these measures further clarified by way of the applicant's further information response.
- 7.7.7. Based on the above and subject to satisfactory arrangements being put in place regarding the management of surface water, which I concur with the Planning Authority that in this case can be controlled by way of appropriately worded condition, it is reasonable to conclude that on the basis of the information on the file, which I consider to be adequate in its nature and scope to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on downstream European sites, in view of the site's Conservation Objectives. As such I consider that a Stage 2 Appropriate Assessment and the submission of a NIS is not therefore required.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. Having regard to the scale of the proposed development, in conjunction with existing development served by a restricted in width access lane to the site from the public road, it is considered that the additional traffic associated with the proposed development, notwithstanding the proposed arrangements for traffic calming and improvement of the access lane, would give rise to additional turning movements at the junction of the access lane and R106 Regional Road, it would lead to conflict between road users and endanger public safety by reason of traffic hazard, and, it would also result in a proliferation of access points in close proximity to one another opening onto a regional road by virtue of the improvements including two separate entrances onto the regional road. The proposed development would, therefore, be in contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young

Planning Inspector

23rd day of October, 2019.