



An  
Bord  
Pleanála

## Inspector's Report 305445-19

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<b>Development</b>	Revisions to previously permitted residential development
<b>Location</b>	"Strand View" (formerly 778-784), Howth Road, Raheny, D5
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2475/19
<b>Applicant(s)</b>	Horoprops Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission subject to conditions
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant(s)</b>	John Scahill; Geraldine Walsh; Gregory Duggan; Group appeal by (i) Gráinne Walsh, (ii) Denise & Dermot Waters, (iii) F. Kelly, (iv) Conor & Genevieve Fallow & (v) Dr. Greg Di Mascio.

**Observer(s)**

Seán Haughey TD  
Claire Quinn & Ray Quinn  
Orla & Terry Reddy  
Mary Conroy  
Derek Nolan & Joelle Oliver  
Sinead Conroy

**Date of Site Inspection**

27<sup>th</sup> November 2019

**Inspector**

Louise Treacy

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 8,931 m<sup>2</sup> and is located on the north-western side of Howth Road, Raheny, Dublin 5. This section of Howth Road forms part of the coast road between Clontarf and Sutton, with the landward side generally characterised by a variety of detached dwellings and the seaward side characterised by a continuous cycle-path and pedestrian route.
- 1.2. Development works are currently ongoing on the site in implementing a permitted residential scheme of 68 no. units. The scheme includes 16 no. houses arranged in 2 no. terraces to the rear of the site and 52 no. apartments in 2 no. blocks (A and B) positioned at the front of the site overlooking Bull Island and Dublin Bay.

## 2.0 Proposed Development

- 2.1. The proposed development comprises revisions to a previously permitted residential development of 68 no. dwellings (16 no. terraced houses in 2 no. blocks and 52 no. apartments in 2 no. blocks) granted under PA Reg. Ref. 4648/17; ABP Ref. 301265-18.
- 2.2. The proposed revisions comprise a new fourth-floor penthouse level to the previously permitted apartment blocks A and B to comprise 2 no. 5-storey (3-storey plus 2 setback penthouse floors) apartment blocks with an overall increase of 6 no. apartments (2 no. 1-bedroom units and 4 no. 2-bedroom units) with the apartment blocks now consisting of a total of 58 no. units (10 no. 1-bedroom units, 38 no. 2-bedroom units and 10 no. 3-bedroom units), with balconies to the east, south and west elevations; all associated internal and external modifications; and, all associated engineering and site development works necessary to facilitate the development.
- 2.3. The applicant's response to the Request for Further Information as submitted to Dublin City Council on 29<sup>th</sup> July 2019 reduced the number of proposed apartment units from 6 to 4 no. 2-bedroom plus study units (2 no. units per apartment block).
- 2.4. I note that a concurrent appeal case relating to this site is before An Bord Pleanála (PA Reg. Ref. 2639/19; ABP Ref. 305484-19) which seeks permission for a single-storey extension to the rear of permitted house no. 15 and a single-storey rear and

side extension to permitted house no. 16. These dwelling are located towards the north-eastern corner of the site.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

- 3.1.1. Notification of the Decision to Grant Permission subject to 11 no. conditions issued on 23<sup>rd</sup> August 2019.

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

##### 3.2.1. **Planning Reports (3<sup>rd</sup> May 2019 and 23<sup>rd</sup> August 2019)**

- 3.2.2. Further Information Request issued on 3<sup>rd</sup> May in relation to 8 no. items, including: (i) updated impact studies and photomontages; (ii) the potential precedent set by a further recessed 5<sup>th</sup> storey; (iii) bedroom sizes; (iv) measures to prevent the use of the open areas to the side and rear of the apartment units as private amenity space; (v) measures to minimise side-on overlooking between apartments and their terraces; (vi) the applicant's willingness to provide a contribution in lieu of public open space; (vii) a car parking management plan; and (viii) on-site bicycle parking.
- 3.2.3. Following the submission of a response to the Request for Further Information, the development was deemed to be consistent with the development plan and the proper planning and sustainable development of the area.

#### 3.3. **Other Technical Reports**

- 3.4. **Engineering Department – Drainage Division:** No objection to the proposed development subject to conditions.

- 3.5. **City Archaeologist:** No objection to the proposed development subject to conditions.

#### 3.6. **Transportation Planning Division: (1<sup>st</sup> May 2019 and 9<sup>th</sup> August 2019)**

- 3.7. Further information sought in relation to a car parking management plan and on-site bicycle parking.

3.8. Following the submission of the response to the Request for Further Information, no objections arose in relation to the proposed development subject to conditions.

### 3.9. **Prescribed Bodies**

3.9.1. **Minister for Arts, Heritage, Regional, Rural & Gaeltacht Affairs:** None received.

3.9.2. **Irish Water:** None received.

### 3.10. **Third Party Observations**

3.10.1. A total of 26 no. third party objections were made on this application. The grounds of objection generally reflect the issues raised in the appeal submissions.

## 4.0 **Planning History**

### 4.1. **Subject Site (formerly Nos. 778-784 Howth Road)**

4.1.1. **PA Reg. Ref. 2699/19:** Planning permission granted on 5<sup>th</sup> July 2019 for revisions to previously permitted house no. 1 (PA Reg. Ref. 4648/17; ABP Ref. 301265-18) comprising a single-storey ground floor extension with associated elevational changes and all associated engineering and site development works.

4.1.2. **PA Reg. Ref. 2475/19; ABP Ref. 305484-19:** Planning permission sought for revisions to previously permitted scheme (PA Reg. Ref. 4648/17; ABP Ref. 301265-18) comprising a single-storey ground floor extension to the rear of house no. 15 and a single-storey ground floor extension to the side and rear of house no. 16, with associated elevation changes and all associated engineering and site development works necessary to facilitate the development.

4.1.3. This is a concurrent appeal case before An Bord Pleanála.

4.1.4. **PA Reg. Ref. 4648/17; ABP Ref. 301265-18:** Planning permission granted on 12<sup>th</sup> November 2018 for the demolition of 4 no. existing houses and associated outbuildings and the construction of 16 no. terraced houses in 2 no. blocks and 2 no. 4-storey apartment blocks (68 no. units in total).

4.1.5. This is the parent permission for the current appeal case.

4.1.6. Condition no. 2 of the parent permission required no more than 102 no. car parking spaces be provided to serve the development and the omission of at least 15 no. car

parking spaces from the front of the proposed houses, with the vacated area to be reconfigured as communal open space.

4.1.7. All other conditions are generally standard in nature.

4.1.8. **PA Reg. Ref. 2917/16; ABP Ref. PL29N.247709:** Planning permission refused on 31<sup>st</sup> October 2017 for the demolition of 4 no. existing houses and the construction of 16 no. houses in 4 no. blocks and 2 no. 4-storey apartment blocks.

#### 4.2. **No. 784 Howth Road**

4.2.1. **PA Reg. Ref. 1784/08; ABP Ref. PL29N.232118:** Planning permission refused on 22<sup>nd</sup> June 2009 for the demolition of the existing detached house and the construction of a residential scheme in 2 no. detached blocks comprising 26 no. apartments over basement car parking.

#### 4.3. **Nos. 778, 780 & 782 Howth Road**

4.3.1. **PA Reg. Ref. 3747/07:** Planning permission refused on 7<sup>th</sup> August 2007 for the demolition of 3 no. habitable houses and the construction of 55 no. apartments in 2 no. blocks.

## 5.0 **Policy and Context**

### 5.1. **Development Plan**

### 5.2. **Dublin City Development Plan 2016-2022**

5.2.1. **Zoning:** The site is subject to land use zoning 'Z1' (Sustainable Residential Neighbourhoods) which has the objective "to protect, provide and improve residential amenities". Residential land uses are permissible under this zoning objective.

5.2.2. **Policy:** The housing policies of Dublin City Council are contained within Chapter 5 of the development plan. Those policies which are directly relevant to this appeal case are identified below.

5.2.3. **Policy QH1:** To have regard to the DEHLG Guidelines on '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007), '*Delivering Homes Sustaining Communities – Statement on Housing Policy*' (2007), '*Sustainable Urban Housing: Design*

*Standards for New Apartments* (2015) and *'Sustainable Residential Development in Urban Areas'* and the accompanying *'Urban Design Manual: A Best Practice Guide'* (2009).

- 5.2.4. **Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 5.2.5. **Policy QH18:** To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.
- 5.2.6. **Policy QH19:** To promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive, sustainable, mixed-income, mixed-use neighbourhoods, supported by appropriate social and other infrastructure.

### **Residential Quality Standards – Apartments**

- 5.2.7. The standards for apartment developments are set out in the *Design Standards for New Apartments – Guidelines for Planning Authorities* (March 2018). The key standards in relation to this application (4 no. 2-bedroom/4-person units) are identified below.

**Overall floor area:** 73 m<sup>2</sup>

**Min. aggregate bedroom floor area:** 11.4 + 13 m<sup>2</sup> = 24.4.m<sup>2</sup>

**Min. storage space requirements:** 6 m<sup>2</sup>

**Min. private amenity space:** 7 m<sup>2</sup>

**Min. communal open space:** 7 m<sup>2</sup>

- 5.2.8. **Car Parking:** In suburban locations served by public transport, planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum standard. Map J of the Dublin City Development Plan 2016-2022 confirms

that the site is located within Area 3 of the city with respect to car parking provision, and within which, a maximum standard of 1.5 parking spaces per dwelling applies.

- 5.2.9. **Childcare Facilities:** The Guidelines confirm that notwithstanding the recommendation of the Planning Guidelines for Childcare Facilities (2001) that one childcare facility be provided for every 75 dwelling units, the threshold for such facilities in apartment schemes should have regard to the scale and unit mix of the proposed development, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. One-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision, and subject to location, this may also apply in part or whole, to units with two or more bedrooms.

### 5.3. **The National Planning Framework (NPF)**

- 5.3.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to 2040, including population growth of 1 million persons. The NPF targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas.
- 5.3.2. **National Policy Objective 3a:** Deliver at least half (50%) of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

### 5.4. **Urban Development and Building Heights Guidelines for Planning Authorities (2018)**

- 5.4.1. These Guidelines expand on the compact development objectives of the NPF and remove the blanket numerical limitations on building height which previously applied under county development plans, including the Dublin City Development Plan 2016-2022.
- 5.4.2. In considering appropriate building heights in suburban/edge locations within cities and towns, the Guidelines note that newer housing developments in these areas typically include a range of unit types and heights. These include townhouses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). Such developments address the need for more 1 and 2 bedroom units, while at the same time provide larger family homes, thus enabling households to meet changing accommodation requirements within the same locality.



5.4.3. The Guidelines confirm that an effective mix of 2, 3 and 4-storey developments should be included in such areas, which integrates well into existing and historical neighbourhoods. The Guidelines note that development of 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets.

## 5.5. **Natural Heritage Designations**

5.5.1. The application site is located approximately 80 m north-west of the North Dublin Bay SAC and North Bull Island SPA.

## 5.6. **EIA Screening**

5.6.1. Having regard to the nature and scale of the proposed development, comprising 4 no. additional residential units to a permitted scheme of 68 no. units in an established residential area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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**

6.1.1. 4 no. third party appeals have been lodged in relation this application by:

- (i) John Scahill, No. 786 Howth Road, Dublin 5;
- (ii) Geraldine Walsh, No. 45 St. Margaret's Avenue, Raheny, Dublin 5;
- (iii) Gregory Duggan, No. 776 Howth Road, Dublin 5;
- (iv) Group appeal submission by (a) Gráinne Walsh, No. 65B St. Margaret's Avenue, Raheny, Dublin 5; (b) Denise and Dermot Waters, No. 804 Howth Road, Raheny, Dublin 5; (c) F. Kelly, 15 St. Margaret's Avenue, Raheny, Dublin 5; (d) Conor and Genevieve Fallow, 49 St. Margaret's Avenue, Raheny, Dublin 5; and, (e) Greg Di Mascio, 796 Howth Road, Raheny, Dublin 5.

6.1.2. The grounds of appeal can be summarised as follows:

- The proposed penthouse level is disproportionate to the rest of the building, visually incongruous, and would set a precedent for such further development along the coastline;
- A refusal of planning permission is merited based on the inappropriate height of the development relative to surrounding dwellings and the impact of the development on No. 786 Howth Road to the north-east of the application site, including the overlooking of the rear garden and front rooms of this property;
- The fifth-floor penthouse level of Block B would have an overbearing impact on No. 786 Howth Road and would result in a loss of sunlight and overshadowing during afternoon and evening periods;
- Loss of daylight, loss of sunlight, loss of views and property devaluation of No. 45 St. Margaret's Avenue;
- The significant impacts of the parent permission on No. 776 Howth Road, including loss of views, loss of sunlight, overlooking, overshadowing, loss of privacy, breaching of building lines and building heights, which have given rise to an unacceptable level of harm to this property;
- The fifth-floor balcony at the south-western side of Block A would overlook the front of No. 776 Howth Road, including the front garden of this property;
- The proposed development does not comply with development plan policy in relation to residential development and the Sustainable Residential Development in Urban Areas Guidelines and Urban Design Manual (2009);
- Additional unacceptable traffic levels will be generated on foot of the proposed development; the Traffic Impact Study which accompanied the parent application was flawed; insufficient visitor car parking has been provided on site; and, local DART services do not have the capacity to cater for this development and other new schemes in the area;
- The shadow/sunlight/daylight studies submitted by the applicant use a baseline which is more suited for dense urban areas and only assesses impacts on 21<sup>st</sup> March, with no consideration for impacts arising in June, September and December;

- An Appropriate Assessment should have been undertaken for this planning application given the proximity of the site to the North Dublin Bay SAC and North Bull Island SPA;
- The proposed increase in height will impact on Light-bellied Brent Geese in terms of disruption, flight path and solar dazzle;
- The additional dwellings are not in keeping with the site's capacity to absorb this urban development in a high amenity, scenic and ecologically sensitive area;
- The proposed development does not reflect the established pattern of development at this location;
- The applicant's original Childcare Impact Study has not been updated to support the current application. There are no childcare spaces available in the locality to facilitate the proposed development;
- DCC should not have facilitated the payment of a levy in lieu of on-site public open space provision given the lack of usable open space adjacent to the site;
- Insufficient communal open space serves the development and the proposed penthouse levels will overshadow the children's play area within the site;
- The entire scheme should be assessed *de novo* by An Bord Pleanála.

## 6.2. Applicant Response

6.2.1. Downey Planning lodged a first party response on behalf of the applicant on 16<sup>th</sup> October 2019 and 22<sup>nd</sup> October 2019, which can be summarised as follows:

- The proposed development will not give rise to any significant or material negative impact on the residential amenity of adjoining properties and will not give rise to any environmental, flooding or traffic concerns;
- The principle of the development has been established on the site and the proposed 4 no. additional apartment units will help to increase housing supply and cater for the 'trade-down' market, thus releasing second hand properties in the area;
- A new AA screening report was deemed unnecessary in this instance given that the development comprises an amendment to a previous application, with

no increase in overall footprint or change to the drainage proposals. A construction management plan has been submitted and approved by the Planning Authority, while the Planning Authority's screening assessment confirmed that a Stage 2 AA was not required in this instance;

- The correct impact studies have been undertaken by the applicant as requested by the Planning Authority. No impact on local wildlife will occur on foot of the proposed development;
- Areas to the rear of the upper floor apartments and associated balcony/terrace areas will not be used as private amenity spaces. Part of the side terraces will be used as amenity spaces, which have been set back a minimum of 3 m from the eastern and western parapets to remove undue overlooking of neighbouring properties. Appropriate screening is being introduced for privacy purposes and to prevent access where required;
- The proposed development has been sensitively designed to ensure no overlooking or overshadowing impacts arise to third parties;
- The development will successfully integrate with the character of the area and has been designed in accordance with the relevant policies and objectives of the development plan;
- The findings of the original traffic assessment remain valid in the light of the proposed minor increase in apartment unit numbers. The 4 no. additional apartment units will not result in any noticeable change in traffic volumes at the site or on the adjoining road network;
- The proposed development falls below the threshold which requires a childcare facility to be provided on site, with a low number of family-sized units provided;
- The provision of a financial contribution in lieu of public open space accords with development plan policy;
- The proposed additional apartment floor will not give rise to overshadowing of the amenity/communal spaces or the 16 no. dwellings to the rear of the site as confirmed by the applicant's shadow/sunlight/daylight report;

- Third party amenity spaces will enjoy continued daylight/sunlight, with the development passing the BRE Guide for Site Layout Planning. March 21<sup>st</sup> is the baseline date for such assessment, with results improving in the summer. Thus, there is no requirement to undertake further studies;
- The height of the proposed development is 15.6 m, which is below the previous development plan limit of 16 m for the outer city, now superseded by the *Urban Development and Building Height Guidelines for Planning Authorities* (2018). This national policy document supports increased densities and building heights in supporting the objectives of the NPF;
- The surrounding area is characterised by 2-3 storey dwellings, with some single-storey dwellings located to the east. The revised photomontages confirm that the development will integrate into the built and natural environment at this location;
- The proposed development will not result in any overlooking of the rear garden of No. 786 Howth Road, with the nearest apartment block located 28.6 m to the front of this house. In addition, no balconies are located to the rear of the apartment block at the new top floor level. The rooms to the side elevation of this block contain a bathroom and study, which will be lightly used and could be fitted with obscure glazing if deemed appropriate by An Bord Pleanála;
- The site is not affected by any protected or preserved views and as such, the development will not detract from any view that is protected or to which there is an entitlement;
- The appellants have not taken reasonable consideration of national and local planning policy which supports the redevelopment of underutilised, zoned, serviced land within the Dublin Metropolitan Area.

### 6.3. Planning Authority Response

#### 6.3.1. None received.

## 6.4. Observations

6.4.1. A total of 6 no. observations were lodged in relation to this appeal case. No new issues have been raised.

## 6.5. Further Responses

6.5.1. Further responses have been received from Gregory Duggan, No. 776 Howth Road, Dublin 5, Geraldine Walsh, No. 45 St. Margaret's Avenue, Dublin 5, John Scahill, No. 786 Howth Road, Dublin 5 and the third-party appeal group identified in section 6.1.1. of this report above. No new issues have been raised.

## 7.0 Assessment

7.1. I am satisfied that the main issues for consideration in this appeal case include the following:

- Principle of the proposed development;
- Visual impact of the proposed development;
- Overshadowing, overbearing and overlooking impacts on neighbouring properties;
- Traffic impacts of the proposed development;
- On-site childcare facilities;
- Public and communal open space;
- Appropriate assessment.

7.2. Each of these issues is addressed in turn below.

### 7.3. Principle of the development

7.3.1. The appellants object to the scale of development which has already been permitted on the subject site and submit that the entire scheme should be assessed *de novo* by An Bord Pleanála. In considering the foregoing, I note that the parent application (PA Reg. Ref. 4648/17; ABP Ref. 301265-18) has already been assessed and deemed appropriate by An Bord Pleanála and as such, is not open for consideration under this appeal case.

- 7.3.2. In considering the appropriateness of the development which is now proposed, I note that the site is zoned for Z1 purposes (Sustainable Residential Neighbourhoods), with residential land uses being permissible in principle under this zoning objective. I further note that recent national policy guidance on building heights as set out in the *Urban Development and Building Heights Guidelines for Planning Authorities (2018)*, confirms that development within suburban/edge locations of cities and towns should not be subject to specific height restrictions in seeking to deliver more compact forms of residential development as promoted under the National Planning Framework. The Guidelines also identify specific locations where developments of 4 storeys or more can be accommodated, including areas with river/sea frontage.
- 7.3.3. Having regard to the land use zoning objective which applies to the site and to national planning policy guidance in relation to building heights, I am satisfied that the proposed development is acceptable in principle at this location.

#### **7.4. Visual Impact of the Proposed Development**

- 7.4.1. A revised set of photomontages accompany the applicant's response to the Request for Further Information, which demonstrate the visual impact of the proposed development (as amended) from 7 no. viewpoints surrounding the application site.
- 7.4.2. It is acknowledged that the permitted apartment blocks have introduced an increased building height along this section of Howth Road compared with the scale of the neighbouring residential dwellings, which I note are primarily 2-storeys in height, with 2 no. single storey dwellings located immediately to the east at Nos. 786 and 788 Howth Road. However, in my opinion, the visual impact of the proposed additional penthouse floor to each apartment block must be assessed in the context of the scale of development which has already been permitted on the subject site, in addition to its impact on the wider locality.
- 7.4.3. The additional penthouse level has a height of 3.05 m and would increase the overall height of the permitted apartment blocks from 12.55 m to 15.6 m. In my opinion, the proposed height increase would be reasonable in the context of the scale of development which has already been permitted on the site.
- 7.4.4. The applicant's response to the Request for Further Information reduced the number of apartment units from 6 to 4, with 2 no. apartment units now proposed to each block. This has reduced the scale of the proposed penthouse level as illustrated on

Drawing No. 2206 Rev D (Apartment Blocks A & B, Front & Rear Elevations), with the penthouse level reduced in length by 3.5 m at its south-eastern end and by 2.7 m at the south-western end. In my opinion, these amendments serve to further reduce the visual impact of the proposed penthouse levels.

7.4.5. I also note that the application site has a frontage of c. 110 m onto Howth Road and Bull Island/Dublin Bay beyond, with the Urban Development and Building Height Guidelines for Planning Authorities (2018) confirming that sites in suburban areas with sea frontage are capable of accommodating development of 4 storeys or more. Thus, I consider that the site context in this instance is such that it can reasonably accommodate the scale of development proposed. I further note that the application site is not subject to any protected views which would serve to limit the height of the development.

7.4.6. Having regard to the foregoing, in my opinion, the proposed additional penthouse level to apartment blocks A and B, would have no significant negative visual impact on the subject site or surrounding area which would warrant a refusal of planning permission in this instance.

7.5. **Overshadowing, overbearing and overlooking impacts on neighbouring properties**

- **Impacts on No. 45 St. Margaret's Avenue**

7.5.1. The owner of No. 45 St. Margaret's Avenue objects to the proposed development on the grounds of loss of daylight, loss of sunlight, loss of views and property devaluation. I note that the appellant's property is located to the rear/north of the application site, with separation distances in excess of 80 m arising to the permitted apartment blocks.

7.5.2. It is acknowledged that the parent permission has materially altered the built context of the subject site, including the obscuring of seaward views from St. Margaret's Avenue. However, as discussed in section 7.3 above, the scale of development which has already been permitted on the site is not open for reassessment in this instance.

7.5.3. Given the separation distances which arise between the appellant's property and the apartment blocks within the application site, I consider that the objections which have



been raised concerning loss of daylight and sunlight are unfounded. This is supported by the applicant's Supplementary Shadow, Sunlight and Daylight Studies as prepared by Chris Shackleton Consulting, which confirms that the houses on St. Margaret's Avenue will not be impacted by the proposed development.

7.5.4. I consider that the appellant's objections concerning loss of views are without substance given that the development plan does not designate any protected views at this location. The appellant's commentary in relation to property devaluation is not a material planning consideration in this case.

- **Impacts on No. 776 Howth Road**

7.5.5. No. 776 Howth Road is a two-storey detached dwelling with accommodation at the attic level. This property is located adjacent and to the west of the subject site. The owner of this property highlights the impacts which have arisen of foot of the parent permission, including the loss of views, loss of sunlight, overlooking, overshadowing, loss of privacy and the breaching of building lines and building heights. The appellant submits that the fifth-floor balcony at the south-western corner of block A would overlook his house and front garden.

7.5.6. While it is acknowledged that the appellant's seaward views have been altered on foot of the parent permission, there is no specific entitlement to these views as previously noted. In addition, a new building line has been established on the subject site on foot of the parent permission, and as such, this matter is not relevant to this appeal case.

7.5.7. No. 766 Howth Road is located closest to apartment block A, with separation distances in excess of 60 m arising to apartment block B. Thus, in my opinion, only the penthouse level which is proposed to apartment block A, and in particular, the western-most apartment unit, has the potential to impact on this property.

7.5.8. At its closest point, apartment block A is positioned c. 15 m forward of the front building line of No. 776 Howth Road. The side/western elevation of the block faces onto the front garden of this property, being set back by c. 6 m from the party boundary at the permitted ground floor level, increasing to 7 – 8 m at the permitted third floor (current penthouse) level.

- 7.5.9. The side/western elevation of the proposed fourth-floor penthouse level is set back by c. 5.6 m from the permitted third floor level below. A balcony area of 2.5 m wide is proposed to the side of the proposed living room which is enclosed by an opaque privacy screen varying from 1.1 – 1.8 m in height. I note that the proposed amenity space reflects similar arrangements at the permitted first, second and third-floor levels below. The apartment unit then steps back to the rear, with only the proposed study room having a window directed towards the front garden of No. 776 Howth Road.
- 7.5.10. While it is acknowledged that the parent permission has materially altered the character of the subject site, in my opinion, the provision of 2 no. additional apartment units at the fourth-floor level of block A would have no significant negative impact on No. 776 Howth Road, having regard to the separation distances which would arise.
- 7.5.11. I note that the appellant submits that the proposed balcony at the south-western corner of block A would overlook his house and front garden. In considering the foregoing, I note that a separation distance of c. 7 metres would arise between the balcony and the party boundary and that an opaque privacy screen will enclose the balcony space. I further note with reference to Drawing No. 2204 (Apartment Blocks A & B Proposed Additional Fourth Floor Plan) that the dividing screen to the rear of the balcony has a height of 1.8 m, which appears to step down to 1.1 m along the side. Should planning permission be granted in this instance, it is considered that an opaque screen of 1.8 m should be maintained around both the rear and side of the balcony to prevent any undue overlooking of the neighbouring property. This matter can be addressed by way of condition.
- 7.5.12. In considering the potential overlooking of this property from the proposed study room in the western-most apartment in block A, in my opinion, no significant overlooking will occur given the c. 17 m separation distance which would arise to the party boundary. I further note that the room will be used as a study rather than a primary living space, and on that basis, will likely have a reduced level of occupancy.
- 7.5.13. The applicant's Supplementary Shadow, Sunlight and Daylight Studies as prepared by Chris Shackleton Consulting, examines the impact of the proposed development on No. 776 Howth Road with respect to (i) light from the sky impacts, (ii) sunlight into

living spaces, and (iii) the availability of sunlight in amenity spaces. The results of this assessment confirm that the proposed additional development complies with the requirements of the BRE guidelines in relation to skylight availability to habitable rooms and in relation to both annual and winter sunlight availability to living room spaces. In addition, at least half of the front and rear amenity spaces of No. 776 Howth Road will continue to receive 2 hours of sunlight on 21<sup>st</sup> March, and as such, the proposed development would have no impact on the tested amenity spaces.

7.5.14. Thus, in conclusion, I am satisfied that the proposed development would have no significant overshadowing, overbearing or overlooking impacts on No. 776 Howth Road which would warrant a refusal of permission in this instance.

- **Impacts on No. 786 Howth Road**

7.5.15. No. 786 Howth Road is a single-storey detached dwelling located adjacent and to the north-east of the subject site. The owner of this property submits that the height of the proposed development is inappropriate relative to the height of the surrounding dwellings. The appellant further submits that the proposed development would have an overbearing impact on his property; would result in the overlooking of the front rooms and rear garden; and, would result in a loss of sunlight and overshadowing during the afternoon and evening periods.

7.5.16. No. 786 Howth Road is located closest to permitted apartment block B, with separation distances in excess of 65 m arising to permitted apartment block A. Having regard to the foregoing, I consider that only the proposed penthouse level to apartment block B, and in particular, the eastern-most apartment unit, has the potential to impact on No. 786 Howth Road.

7.5.17. At its closest point, apartment block B is positioned c. 20 m forward of the front building line of No. 786 Howth Road. The side/eastern elevation of the block faces onto the front garden of this property, being set back by c. 12 m from the party boundary at the permitted ground floor level, increasing to 13 – 14 m at the permitted third floor (current penthouse) level.

7.5.18. The side /eastern elevation of the proposed fourth-floor penthouse level is set back by c. 5.6 m from the permitted third floor level below. A balcony area of 2.5 m wide is proposed to the side of the proposed living room which is enclosed by an opaque privacy screen varying from 1.1 – 1.8 m in height. As noted in my assessment

relating to apartment block A, the proposed amenity space reflects similar arrangements at the permitted first, second and third-floor levels below. The apartment unit then steps back to the rear, with a proposed bathroom and study having windows directed towards the front garden of No. 786 Howth Road.

- 7.5.19. As previously acknowledged in this assessment, I note that the parent application has materially altered the character of the subject site. However, in my opinion, the provision of 2 no. additional apartment units by way of a new set-back penthouse level to block B, would have no significant negative impact on No. 786 Howth Road, having regard to the separation distances which would arise. As noted in relation to apartment block A, it is considered reasonable that a 1.8 m privacy screen be provided to the rear and side of the balcony to the apartment at the eastern end of the block in order to safeguard the privacy of the adjoining property. This matter can be addressed by way of condition.
- 7.5.20. In considering the potential overlooking of this property from the proposed study and bathroom room in the eastern-most apartment in block A, in my opinion, no undue overlooking will occur given the c. 25 m separation distance which would arise to the party boundary.
- 7.5.21. The applicant's Supplementary Shadow, Sunlight and Daylight Studies as prepared by Chris Shackleton Consulting, confirm that the proposed additional development complies with the requirements of the BRE guidelines in relation to skylight availability to habitable rooms and in relation to both annual and winter sunlight availability to the living room spaces of No. 786 Howth Road. In addition, at least half of the front and rear amenity spaces of this property will continue to receive 2 hours of sunlight on 21<sup>st</sup> March, and as such, the proposed development would have no impact on the tested amenity spaces.
- 7.5.22. Thus, in conclusion, I am satisfied that the proposed development would have no significant overshadowing, overbearing or overlooking impacts on No. 786 Howth Road which would warrant a refusal of permission in this instance.

## **7.6. Traffic Impacts of the Proposed Development**

- 7.6.1. The appellants submit that the proposed development will generate unacceptable traffic levels surrounding the subject site, with insufficient visitor car parking provided and local DART services having insufficient capacity to cater for the proposed

development. The appellants also submit that the Traffic Impact Study which accompanied the parent application was flawed.

- 7.6.2. In considering the foregoing, I note that the traffic study which was undertaken for the parent application is not open for re-examination under this case, while Condition No. 2 of this permission required a reduction in the number of on-site car parking spaces. I note that the Transportation Planning Division of Dublin City Council had no objection to the current application subject to conditions, including the submission of a parking management plan and a Mobility Management Plan.
- 7.6.3. The proposed development comprises 4 no. additional apartment units, which would increase the total number of units on site from 68 to 72. Having regard to the modest increase in unit numbers proposed, it is considered that the appellants concerns in relation to the impact of the development on traffic levels, visitor car parking and public transport services are unfounded.

#### **7.7. On-site Childcare Facilities**

- 7.7.1. The appellants submit that the applicant's original Childcare Impact Study has not been updated to support the current application and that no childcare spaces are available locally to facilitate the proposed development.
- 7.7.2. The requirement to provide an on-site childcare facility did not arise under the parent application. The current application seeks permission for 4 no. additional apartment units, which would increase the total number of units to 72. The Childcare Facilities Guidelines for Planning Authorities (2001) identify a 75-unit threshold for the provision of an on-site childcare facility.
- 7.7.3. The permitted scheme comprises 16 no. houses (12 no. 3-bedroom units and 4 no. 4-bedroom units) and 52 no. apartments (8 no. 1-bedroom units, 34 no. 2-bedroom units and 10 no. 3-bedroom units). The proposed development would increase the number of apartments to 56 (an additional 4 no. 2-bedroom plus study units). Given that the development remains sub-threshold with respect to the recommendation to provide on-site childcare facilities and that the scheme comprises a majority of 1 and 2-bedroom apartments, the absence of on-site childcare facilities is considered acceptable in this instance.

## 7.8. Public and communal open space

- 7.8.1. The appellants submit that Dublin City Council should not have facilitated the payment of a levy in lieu of on-site public open space given the lack of usable open space adjacent to the site. The appellants further submit that insufficient communal open space serves the development, and that the proposed penthouse levels will overshadow the children's play area within the site.
- 7.8.2. Section 16.10.3 of the Dublin City Development Plan 2016-2022 sets out the residential quality standards in relation to public open space. While such space will normally be located within residential sites, in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the city. A contribution in lieu of public open space is provided for under Section 11 of the Dublin City Council Development Contribution Scheme 2016-2020.
- 7.8.3. I note that a contribution in lieu of public open space was required by way of Condition No. 18 of the parent permission (PA Reg. Ref. 4648/17; ABP Ref. 301265-18). Given that the proposed development comprises an amendment of the parent permission, it is considered reasonable that a contribution in lieu of public open space also be provided for in this case. This matter can be addressed by way of condition.
- 7.8.4. In considering the communal open space which serves the scheme, I note that the 4 no. additional apartment units would result in a requirement for an additional 28 m<sup>2</sup> of such space based on the standards contained within the Design Standards for New Apartments Guidelines for Planning Authorities (2018). However, given the small number of additional units proposed, it is considered that the communal open space requirement for these units can be reasonably accommodated by the permitted communal open space within the site. I further note that the site is located within reasonable walking distance of significant public amenity spaces at Bull Island and Dollymount Strand, in addition to the Sutton to Clontarf segregated cycling and walking routes, which provide further amenity opportunities at this location.
- 7.8.5. The Supplementary Shadow, Sunlight and Daylight Studies which accompany the applicant's response to the Further Information Request confirm that the proposed development will have no sunlight impact on the shared amenity spaces, with 72 %

of these spaces continuing to receive 2 hours of sunlight on 21<sup>st</sup> March, in excess of the minimum BRE requirement of 50%.

## 7.9. **Appropriate Assessment**

- 7.9.1. The appellants submit that an Appropriate Assessment should have accompanied the planning application given the proximity of the site to the North Dublin Bay SAC and North Bull Island SPA. The appellants state that the increased building height will impact on Light-bellied Brent Geese with respect to disruption of flight paths and solar dazzle and that this ecologically sensitive area does not have the capacity to absorb the proposed development.
- 7.9.2. An Appropriate Assessment Screening Report accompanied the parent application. This assessment determined that as the proposed development would have no direct or measurable indirect impacts on any Natura 2000 sites in close proximity to the subject site, including the North Dublin Bay SAC and North Bull Island SPA, a Stage 2 Appropriate Assessment was not required. This determination was supported by An Bord Pleanála in its assessment of the parent application. In assessing the current appeal case, I note that Dublin City Council determined that a Stage 2 Appropriate Assessment was also not required.
- 7.9.3. In considering the foregoing, I note that the proposed development comprises a minor amendment to a permitted residential scheme, which will increase the height of each of the apartment blocks by 3.05 m. The development will not increase the footprint of the development and will not impact on the permitted drainage arrangements.
- 7.9.4. Having regard to the nature and scale of the proposed development, comprising a minor amendment to a permitted residential scheme, no appropriate assessment issues arise, and it is not considered 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.

## 8.0 Recommendation

8.1. I recommend that planning permission be granted subject to conditions.

## 9.0 Reasons and Considerations

9.1. Having regard to the site's location on serviced urban land, the residential land use zoning of the site, and the nature and scale 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 residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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 29<sup>th</sup> July 2019, except as may otherwise be required in order to comply with the following conditions.</p> <p>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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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</p>



	<p>application of the terms of the Scheme shall be agreed between the planning authority and 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.</p> <p><b>Reason:</b> 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.</p>
3.	<p>The developer shall pay the sum of €4000 per residential unit (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office, to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of public open space. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer.</p> <p><b>Reason:</b> 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.</p>
4.	<p>An opaque privacy screen of 1.8 m shall be maintained to the rear and side of the balcony of the western-most apartment unit in Block A and the eastern-most apartment unit in Block B.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity.</p>
5.	<p>No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of planning permission.</p> <p><b>Reason:</b> To safeguard the amenities of surrounding occupiers and the</p>

	visual amenities of the area in general.
6.	<p>A Parking Management Plan, a Mobility Management Plan and a cycle parking plan shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
7.	<p>Proposals for an amended estate/street name, house/block/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, all estate and street signs, and house/block/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority and shall be in both Irish and English. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been applied for and been granted under section 97 of the Act, as amended. Where such an</p>

agreement is not reached within eight weeks from the date of this Order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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Louise Treacy  
Planning Inspector

6<sup>th</sup> January 2020