



An  
Bord  
Pleanála

## Inspector's Report ABP-306009-19.

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<b>Development</b>	Demolition of habitable dwelling on site and the provision of a replacement detached dwelling house and garage together with all associated site works.
<b>Location</b>	'Whitewater', Baily Green Road, Howth, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F18A/0723.
<b>Applicants</b>	Martin & Valerie McCourt.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Michael Rickard.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	18 <sup>th</sup> day of February, 2020.
<b>Inspector</b>	Patricia M. Young.

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## 1.0 Site Location and Description

- 1.1. Having inspected the site and its setting I consider that the site location and description provided by the Boards Inspector on a recent appeal case ABP PL06F.249417 is still largely applicable. It reads:

*“The site is located on the eastern side of the Howth peninsula. It is situated on a prominent headland and is c.30 metres south of the Howth Summit carpark and viewing area. Access to the site is from Bailey Green Road and a narrow laneway that links the Summit carpark with ‘the cliff walk’. The headland slopes steeply down towards the sea at this location. There are views from the site towards the coast and Bailey Lighthouse.*

*The site has a stated area of 0.141 hectares and comprises the remains of a dwelling surrounded by garden areas. The site cuts into the of natural topography of the hill and slopes down to the front (south). There is tree planting on site and along the site boundaries. Lands surrounding the site are characterised by heathland and maritime vegetation”.*

- 1.2. To this description I add that the existing dwelling and garage structure on site are both in poor states of condition with the dwelling house extensively fire damaged with a collapsed roof. Collectively these buildings and their curtilage are known as ‘Whitewater’. They are set in an overgrown and unkempt windswept site that displays evidence of anti-social behaviour including but not limited to graffiti. The dwelling and garage structures are located towards the back of the site with the principal façade accessed by steps leading up from an overgrown former garden area that contains a small number of mature shrubs and non-native planting. From the principal façade there are extensive panoramic views over Howth Head, Dublin Bay and the Irish Sea. These views include a number of significant built heritage structures including ‘Baily Lighthouse’ (Note: RPS No. 587); ‘The Great & Little Baily Promontory Fort’ (Note: RPS No. 585) and ‘Baily Cottage’ (RPS No. 586). In addition, there are extensive panoramic views over the Irish Sea, the Cliffs and the Irish Sea. The ground levels fall from the principal façade of the dwelling in a southerly direction towards the southern boundary of the site and beyond.
- 1.3. The original vehicular entrance serving the site is located towards the northern end of the western boundary. It is currently blocked and there is a low wall bounding the lane

that extends along the majority of the western boundary. This boundary contains a pedestrian opening towards its the southernmost end. It is in a state of collapse and poor repair. This wall is back planted with a mixture of hedgerow plants which provide visual screening of the site. Access to the public road network is via an overgrown, restricted in width lane whose surface is very poor in places with areas of it being heavily eroded. This laneway provides access to Baily Green Road which is located c95m to the north of the site at a point where it meets the Summit Car Park.

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

## 2.0 Proposed Development

2.1. By way of this application planning permission is sought for:

- Demolition of an existing dormer style dwelling;
- Provision of a replacement detached 2-storey dwelling house;
- Provision of a replacement detached garage;
- Provision of a new connection; to foul mains; reconnection to an existing public water supply; and, the provision of surface water disposal on site by way of soak pits;
- Amendments to existing vehicular entrance serving the site;
- All associated site works and services.

2.2. According to the submitted documentation the total gross floor area of demolition proposed is 219m<sup>2</sup> and the gross floor space of the proposed works is 257.6m<sup>2</sup>. This application is accompanied by the following documentation:

- A Design Statement.
- Landscape & Visual Impact Assessment.
- A Tree Report.

2.3. On the 8<sup>th</sup> day of October, 2019, the applicant submitted their response to the Planning Authority's further information request. This response puts forward a new design for the dwelling house which has reduced the overall height of the replacement dwelling house by 1.7m. The revised, now single storey flat roof over dwelling house is

organised into 4 distinct building forms that seek to echo in a contemporary manner a traditional farmyard layout with a courtyard. Accompanying this submission is the following documentation:

- A Revised Design Statement.
- A Landscape Visual Impact Assessment.
- A Revised Landscape Plan.
- An AA Screening Report.

2.4. On the 17<sup>th</sup> day of October, 2019, the applicant submitted revised public notices.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

3.1.1. The Planning Authority granted permission subject to 12 no. conditions. Of note:

Condition No. 2 & 3: Restricts the permission to 1 no. dwelling and garage.

Condition No. 4(c): Deals with the provision of the green roof.

Condition No. 9(c): Requires boundary treatments to comply with the Howth SAAO Design Guidelines.

Condition No. 9(d): Requires that the access lane shall be resurfaced in accordance with the Howth SAAO Design Guidelines upon completion of the dwelling.

Condition No. 12: Requires the payment of a financial contribution.

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

##### 3.2.1. **Planning Reports**

The **Final Planning Officer's Report** is the basis for the Planning Authority's decision. It concludes that the applicants have addressed their outstanding concerns in relation to the proposed development by way of their further information response and that the proposed development by virtue of its scale and design would not unduly impact on the amenity of the surrounding area. As such a recommendation to grant permission subject to conditions is made.

The **Initial Planning Officers Report** concluded with a request for further information seeking: 1) revisions to the proposed replacement dwelling in order to reduce its visual impact; 2) a revised visual impact assessment to accompany the revised replacement dwelling house design requested; 3) a revised landscape scheme omitting medium to large habit trees along the northern part of the site; 4) the resurfacing of the lane is required in a manner compliant with the Howth SAAO Design Guide; and, 5) preparation of an Appropriate Assessment Screening report.

### 3.2.2. **Technical Reports**

- **Transportation:** No objections subject to recommended conditions.
- **Water Services:** No objection subject to recommended conditions.
- **Parks:** No objection subject to recommended conditions.

### 3.3. **Prescribed Bodies**

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

3.3.2. **Other:** I note that the Planning Authority referred this application to An Chomhairle Ealaíon; Failte Ireland; An Taisce - The National Trust of Ireland; the Heritage Council; and, the Department of Arts, Heritage and the Gaeltacht. However, no responses were received.

### 3.4. **Third Party Observations**

3.4.1. During the course of the Planning Authority's determination of this application they received 2 no. 3<sup>rd</sup> Party Submissions objecting to the proposed development. The substantive concerns are the similar as those raised by the appellant in their submission to the Board.

## 4.0 **Planning History**

### 4.1. **The Site:**

**ABP Ref. No. PL06F.249417 (P.A. Reg. Ref. No. F17A/0459):** On appeal to the Board planning permission was **refused** for a development consisting of: (1) The demolition of the existing habitable dwelling on site, (2) the provision of a replacement

detached two storey house and garage, (3) new connection to local authority foul mains; and, (4) amendments to existing vehicular entrance and all associated site works at Whitewater, Bailey Green Road, Howth, County Dublin. There are five substantive reasons and considerations for refusal ranging from visual amenity impact through to failure to meet the standards for this type of development at this location (See: History File Attached).

#### 4.2. In the Vicinity:

- **P.A. Reg. Ref. F03B/0555:** Planning permission was granted for a 42m<sup>2</sup> extension to dwelling house adjoining the ‘Summit Car Park’ which is located to the north of the appeal site.
- **P.A. Reg. Ref. No. F00B/0670:** Planning permission was refused for an extension to dwelling house adjoining the ‘Summit Car Park’, to the north of the appeal site. The states reason for refusal related to the impact on views and on the sensitive high-quality landscape the site forms part of.
- **P.A. Reg. Ref. F00A/0639:** Planning permission was granted for alterations to previously approved alterations and extension to dwelling adjoining the ‘Summit Car Park’ to the north of the appeal site.
- **P.A. Reg. Ref. F99B/0538:** Planning permission was granted for a single storey double garage and alterations to existing driveway to dwelling adjoining the ‘Summit Car Park’ to the north of the appeal site.

## 5.0 Policy & Context

### 5.1. Development Plan

5.1.1. The Fingal Development Plan 2017-2023 is the relevant statutory plan under which the site is zoned ‘HA’ (High Amenity). The objective for such lands is objective to “*protect and enhance high amenity areas*”. The site is also within the designated area of the Howth, Special Amenity Area Order (1999).

5.1.2. The following provisions of the Development Plan are considered to be relevant:

- The site lies within a Coastal Landscape Character Type on the prominent headland of Howth. The Coastal Landscape Character Type is categorised as

highly sensitive to development (Table LC01). The plan sets out policy objectives NH33-NH39, which seek to preserve the uniqueness of landscape character type and ensure that development reflects and reinforces this character.

- Objective NH40: Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.
- Objective 4 Howth: Protect and manage the Special Amenity Area, having regard to the associated management plan and objectives for the buffer zone.
- RF60: Ensure that any planning application for a house within an area which has a Greenbelt or High Amenity zoning objective is accompanied by a comprehensive Visual Impact Statement.
- NH51: Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.
- NH52: Ensure that development reflects and reinforces the distinctiveness and sense of place of High Amenity areas, including the retention of important features or characteristics, taking into account the various elements which contribute to its distinctiveness such as geology and landform, habitats, scenic quality, settlement pattern, historic heritage, local vernacular heritage, land-use and tranquillity.
- Objective NH36: Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it:
  - Causes unacceptable visual harm;
  - Introduces incongruous landscape elements;
  - Causes the disturbance or loss of (i) landscape elements that contribute to local distinctiveness, (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns, (iii) vegetation which is a characteristic of that landscape type and (iv) the visual condition of landscape elements.



- Sheet 10 details protected views from pathways to the south, east and west of the site and from the Summit viewing point to the north.

## 5.2. **Howth Special Amenity Area Order, 1999.**

- 5.2.1. The appeal site lies within the designated area of the Howth Special Amenity Area Order (1999).
- 5.2.2. The appeal site is located within an area defined as '*Other areas within the Special Amenity Area*' (Map A of Order refers). The following features are identified for protection in the vicinity of the site (Map B of Order refers):
- Footpaths and roads to the north, south, east and west of the site from which views will be protected.
  - A proposed natural heritage area surrounding the site.
  - Heathland and maritime grassland, surrounding the site.
- 5.2.3. Schedule 1 of the Order sets out a number of objectives for the enhancement of the Special Amenity Area.
- 5.2.4. Schedule 2 of the Order sets out objectives for the preservation of the character or special features of the area.
- 5.2.5. Schedule 3 of the Order sets out objectives in respect of development in Residential Areas within the Special Amenity Area.
- 5.2.6. Policy 3.4.1 states that replacement dwellings shall not be more than 20% larger than the dwelling which is being replaced.

## 5.3. **Natural Heritage Designations**

- 5.3.1. According to available mapping part of the southern and eastern boundaries of the site are located within Special Area of Conservation: Howth Head SAC (Site Code: 000202) with this SAC extending to the south, south-west, east and north.
- 5.3.2. The site is also located c.50 metres west of the designated area of the Special Protection Areas: Howth Head Coast SPA (Site Code: 004113). In addition to this within a 15km radius of the site are the following European Sites: Rockabill to Dalkey Island SAC; North Bull Island SPA; Baldoyle Bay SAC & SPA; Lambay Island SAC &

SPA; Malahide Estuary SAC & SPA; Howth Head Coast SPA; Ireland's Eye SAC & SPA; North Dublin Bay SAC; Rogerstown Estuary SAC & SPA; South Dublin Bay and River Tolka Estuary SPA; Dalkey Islands SPA; and, South Dublin Bay SAC:

5.3.3. The site is on the boundary of the Howth Head proposed NHA.

#### 5.4. **Environmental Impact Assessment (EIA)**

5.4.1. Having regard to the serviced nature of the site's vicinity which has surplus capacity in its public mains water and drainage supply to meet the requirements of this replacement dwelling house, the infrastructural measures proposed to deal with the surface water drainage requirements of the site and the quantum of development proposed, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development if it were permitted. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required in this case.

## 6.0 **The Appeal**

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

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

- This application is essentially the repackaging of the recent previous planning application that was refused by the Board (ABP PL06.249417).
- The proposed dwelling house fails to comply with Policy 3.4.1.
- This site is situated in a key strategic position within the Howth SAAO and High Amenity area. The protection of the site and its setting should be the primary objective.
- The Assessment Screening Report cannot be seen as independent and its conclusions are not accurate.
- The architects statement misrepresents the facts, the dates and the figures concerning development proposals.
- This application effectively seeks to reconfigure the SAAO boundaries.

- The Planning Authority has failed to enforce the development rules pertaining to this SAAO.

## 6.2. Applicant Response

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

- This proposal is for a replacement dwelling not a new dwelling on a green field site.
- The Planning Authority's decision is supported.
- The scale of the development has been reduced on two occasions to reach this current design and the appellant has miscalculated the floor area of the proposed development in order to imply that it would be 100% greater than the dwelling for which replacement is sought. The replacement dwelling is exactly 20% greater and therefore complies with Policy 3.4.1. In addition, it is noted that all floor areas are accurately represented in the drawings provided.
- It is not accepted that the proposed development would seriously injure the visual amenities of this high amenity landscape.
- The existing dwelling on site is in a poor condition following a fire in 2017.
- The Landscape Visual Impact Assessment was carried out by a reputable registered landscape architect who concluded that this development, if permitted, would not result in any adverse visual impact on this sensitive landscape setting.
- Only minor site works are required for this development. There are two proposed floor levels in the replacement dwelling with the first being the same as the existing dwelling and the other is 1m higher. This is to avoid cut and infill works alongside respecting the existing levels of the site.
- The Howth SAAO boundary has not been reconfigured.
- The Appropriate Assessment was carried out by an experienced registered and professionally qualified ecologist. This report concludes that the site was intended to be excluded from the extent of the SAC.
- The appellant raised no valid reasons for refusal of the proposed development.

- It is not the case that registered professional involved in the preparation of this application have prepared intentionally misleading documents to accompany this application.

### **6.3. Planning Authority Response**

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

- This proposal was assessed against local planning policy provisions and the sites planning history.
- Conditions were attached to ensure that this proposal would blend into its setting.
- The proposed development in its current form is deemed to be acceptable.
- The Board is requested to uphold its decision; however, should permission be granted it is requested that Condition 12 of its notification to grant permission is included.

### **6.4. Referred**

6.4.1. The Board referred this appeal case to The Heritage Council; Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht; and, An Taisce – The National Trust of Ireland; however, no responses were received.

## **7.0 Assessment**

7.1. I have read the appeal file, all associated reports and plans. I have conducted an inspection of the site and its surrounding area.

7.2. I first of all note the concerns raised by the appellant in their submission to the Board in relation to the documentations submitted with this application which they contend put forward misleading through to inaccurate information. Having examined the suite of documentation put forward I do not consider this to be the case and that the information presented both initially with the original application to the Planning Authority and the subsequent revisions put forward addressing the concerns raised by the Planning Authority's in the applicants further information are both adequate and appear to be reliable for the Board to make an informed decision on this case.

- 7.3. In relation to the concerns expressed that this application seeks to redefine the boundaries of the Howth SAAO. I acknowledge that there are issues in terms of the mapping of European sites in this locality. In particular the physical relationship and juxtaposition of this site to Special Area of Conservation: Howth Head SAC (Site Code: 000202). Of relevance to this case, available public mapping of the SAC shows that part of the subject site, i.e. a portion of eastern and southern lands encompassing this site form part of the lands designated for protection under this SAC.
- 7.4. From examination of available historical records there appears to have been no increase in the size, change in dimensions through to repositioning within the landscape of this historical 0.141-hectare site that up to recent years (c2017) was a residential plot that contained a habitable dwelling house, garage and its associated open spaces. This residential plot was given the name 'Whitewater'. The Whitewater plot comprises the entirety of the lands associated with this current application.
- 7.5. Having inspected this residential plot and whilst I acknowledge its location on a cut section of sea cliff on Howth Head to the south of the 'Summit Car Park' it contains none of the identified features of interest for the Howth Head SAC. These features of interest are the indigenous vegetation associated with Atlantic and Baltic Coasts (Ref: 1230) and European Dry Heaths (Ref: 4030). But rather its open spaces are unkempt, containing some visible plant, shrub and hedge remnants from the landscaped garden areas associated with the former habitation the dwelling house on this site. Of course, in time it is possible that indigenous vegetation of this locality would recolonise the site but to date this has not happened to any significant degree.
- 7.6. I also note that the residential plot of 'Whitewater' pre-dates the creation of the Howth SAC and as said there appears to be a recognised discrepancy with the boundaries of this European site not just in terms of the site itself but also on adjoining, neighbouring and the wider cliff side landscape which does include a small number of historical residential plots. This discrepancy appears to be in the form of the SAC boundary taking in parts of similar residential plots in its immediate vicinity whilst missing out sections of land that contain the identified features of interest for this SAC. It would appear that the mapping of the European site has been overlaid in a manner that could be described as being out of sync with land boundaries and the natural vegetative landscape of significant interest within this SAC for protection.

- 7.7. In this case I am not convinced that the applicants by way of this application seeks to redefine the boundaries of the Howth Head SAC. The proposed development put forward under this application is entirely confined within the historical curtilage of the Whitewater plot. With the space around the proposed replacement dwelling house, which I also note is largely positioned within the footprint of the existing dwelling and garage, through to the boundary treatments and road re-surfacing all proposed to be carried out in a manner that is consistent with the requirements of the SAAO Design Guidelines. As such there is no material change to the functional and physical use of the site or the incorporation of land into the site from beyond its historical boundaries.
- 7.8. I also note that the applicants show a willingness to be respectful of the local planning policy provisions for development at such a site sensitive location that is vulnerable to change, in particular the SAC and the specific guidance set out by way of the Howth SAAO designation of land in this locality. In my view this gives rise to latent opportunity to improve the assimilation of the site with a more respectful landscape and built resolution than that which has characterised the site to date and prior to the fire in 2017.
- 7.9. In light of the above I consider that there has been no change in circumstances that would warrant procedures to be put in place to re-zone the subject site in order for the proposed development now sought under this application to be considered and/or permitted. Notwithstanding this I do agree with the appellant that the very apparent boundary issues with the mapping of this SAC is a legitimate cause of concern and one that needs to be urgently addressed by the NPWS.
- 7.10. In relation to the proposed development, I note to the Board that the initial planning application as lodged was subject to a request for additional information.
- 7.11. 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 ensuring a more appropriate balance is achieved between protecting, what is a highly sensitive landscape to change, and a landscape that is one of high amenity value. Whilst providing for a replacement dwelling solution for an existing dwelling and garage that unfortunately are now both in a perilous, unsafe, unsound and visually unsightly condition.

- 7.12. At present it would not be reasonable to assume that they contribute positively to the intrinsic character and qualities of a landscape setting that is of high scenic visual amenity value and biodiversity value. It is also a landscape that is highly visited and used as important amenity resource on the doorstep of Howth and the northern suburbs of Dublin.
- 7.13. The applicant's response was received by the Planning Authority on the 8<sup>th</sup> day of October, 2019, and on foot of this, revised public notices were received on the 17<sup>th</sup> day of October, 2019.
- 7.14. For clarity my assessment that follows is based on the revisions made to the proposed development on foot of this additional information request by the Planning Authority as it is my view that the Board would have found similar issues with the initial application to that found by the Planning Authority. In particular, in terms of the visual and amenity impact of the design resolution on its landscape setting which I concur with the Planning Authority could not be considered to be an appropriate subordinate replacement dwelling or a dwelling that demonstrated it fulfilled the requirements set out in local planning policy provisions for such a development within the Howth SAAO locality. In particular, Section 3.4.1 of the Howth SAAO Design Guidelines and the lack of Appropriate Assessment.
- 7.15. The preparation of the latter assessment having regard to the sites location relative to European sites is in my view a necessary and appropriate exercise that should also have been evident as part of the information that informed the design response.
- 7.16. In terms of planning history, I note that despite the Boards decision to refuse planning permission for a much more substantial replacement dwelling to that now proposed under this application under ABP Ref. No. PL06F.249419 (P.A. Reg. Ref. No. F17A/0459) that the subject site has an established residential use in the form of a dormer dwelling house and garage that appears to have been occupied up to recent times and whose remnants are still *in situ*.
- 7.17. In relation to the principal of the proposed development, I note that residential development is permitted in principle on land zoned 'HA' subject to the applicants demonstrating compliance with the Rural Settlement Strategy set out in the Development Plan. In addition to the site and its setting being located on 'HA' zoned lands it is also located within the designated area of land of the Howth Special Amenity

Area Order (SAAO), 1999. This Order seeks to preserve and enhance the character and special features of this area. Whilst these lands include residential in land use pockets of land the subject site does not form part of one of these and it is remote from such lands. Notwithstanding, it is located on lands defined as '*Other Areas within the Special Amenity Area*' under Map A of the SAAO. In such areas residential development is '*open for consideration*' in specified circumstances including the replacement of an existing occupied dwelling. In relation to replacement dwellings Policy 3.4.1 indicates that these shall not be more than 20% larger than the dwelling which is being replaced.

- 7.18. Having inspected the buildings on site, in particular the remains of the dwelling, I consider that it is a building whose structural condition is extremely poor. However, it appears to have been occupied up to recent times i.e. 2017 and due to adverse circumstances, it is not suitable for current occupation. I am also cognisant that prior to the fire that this building did not benefit from any specific protection and from examining what remains of the structure and its associated garage there is little to suggest that it was of any specific built heritage merit that would warrant its like for like replacement.
- 7.19. In this situation having regard to the fact that the replacement dwelling now proposed does not, from my calculations, exceed beyond the 20% increase in floor area of this existing building and puts forward a lightweight subordinate in built form, massing, scale and extent structure. A structure whose design resolution could be described as a contemporary take of the traditional farm stead with a grouping of built forms around a courtyard setting and as previously noted with a building footprint by and large maintaining that of the existing structures and ground levels of the site. I am also further cognisant that the applicants propose the use of a palette of materials and finishes that accord with the SAAO Design Guidelines for all built structures. They also indicate a willingness to ensure that landscaping and the like also accord with the said Guidelines which if followed through would in my view result incremental improvement to the biodiversity of this locality.
- 7.20. I also consider the provision of a green roof over the four separate structures proposed on site as part of the design resolution for the replacement dwelling and garage subject to safeguards would further add to the biodiversity value of this locality alongside reduce surface water run-off from the site in a sustainable manner. Should the Board



be minded to grant permission for the development sought under this application I consider that an appropriate condition be imposed on this provision in perpetuity save without a prior grant of permission and that its use is restricted, i.e. that it is not used as an additional amenity space by future occupants.

- 7.21. While I consider that the addition of dry stone facades or similar materials to further breaking up the western and eastern facades would be an improvement to these particular elevations due to their significant length and the monotony as well as visual apparentness of the large expanses of smooth finish acrylic render, this is a subjective opinion.
- 7.22. I also considered that there could be some differentiation in the four buildings height whilst still maintaining their subordinate built character and harmony to give a sense of interest.
- 7.23. This would help to ensure that when viewed from a distance that these buildings would be less likely to have a homogenous linear built expression as they morph into one another when viewed from more removed points in the landscape, in particular, from the public pathways. This I note is also a subjective opinion.
- 7.24. Moreover, during my inspection of the site and its setting, despite the inclement weather, there was a steady stream of visitors to the Summit Car Park vantage point and walkers on the many scenic pathways in the immediate locality. I note that the rear boundary of the site is within 30m of the edge of this vantage point and looking across towards the Irish Sea the two chimney stacks as well as small portions of the remaining fire damaged roof are evident. The design put forward together with appropriate planting and the proposed green roof would result in the proposed replacement dwelling and garage not being visible from this popular vantage point.
- 7.25. There are also walkways through this cliff landscape, including but not limited to those running from the Summit Car Park in close proximity to the eastern boundary of the site and the adjoining lane that runs along the western boundary of the site from which access from the site to the public road network is dependent upon. There is mature and dense vegetation in the vicinity of the site including on either side of the poorly surfaced lane that serves this site. In addition to this in the vicinity of the site there are large tracts of indigenous vegetation including health lands and gorse. There are also mature trees including conifers within the curtilage of the neighbouring dwelling to the

north east of the site. Throughout this landscape there are a number of walkways including 'Cliff Walk' as well as vantage points from where the glimpses of the existing built structures on site are visible.

- 7.26. In general I consider that the four subordinate in height single storey built structures and the glazed connections that the design of the replacement dwelling and garage are comprised of would be positioned onto an existing cut and levelled section of cliff side land with the ground levels significantly higher immediately to the north and dropping steadily to the south. The ground levels are also higher to the east of the site as well and as said to the east of the site there is pocket of mature coniferous trees. I therefore consider that the proposed dwelling and garage would not be more visible than the existing built structures on site. Further, in my view the large expanses of glass and the addition of timber to the palette of materials and finishes on the southern elevation would not result in an elevation that would be more visually impactful on this highly scenic landscape setting than that of the existing elevation including its appearance prior to being fire damaged.
- 7.27. In addition, appropriate landscaping and the provision of site appropriate boundary walls, i.e. dry-stone walls as advocated by the SAAO Design Guidelines, would in my view further diminish the visibility and legibility of the proposed development when appreciated in its visually vulnerable landscape setting. In particular when appreciated from lower lying areas where the local indigenous vegetation, vegetation that characterises this sea cliff setting, create openness of view due to the growing limitations of this elevated, exposed and rugged coastal environment.
- 7.28. I therefore consider that subject to safeguards the proposed development is consistent with the 'HA' zoning vision for the site and its landscape setting which seeks to "*protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored*". Further I consider it is also consistent with safeguarding the landscape character of its setting as part of the designated area of the Howth Special Area Amenity Order with this Order also seeking to preserve and enhance its character. In addition, the protected views set out in Map B of the SAAO and Sheet 10 of the Development Plan would also not be adversely compromised by the proposed development for the reasons set out above. Moreover, the removal of the fire

damaged structures on site and reversing this site current neglect would be a positive outcome within this highly scenic landscape setting.

7.29. Having regard to the above considerations I consider that the revised proposal put forward addresses not just the initial concerns of the Planning Authority with the initial design proposal but also the reasons for refusal cited by the Board for the previous recent proposal for a more significant in built form, mass, scale and extent replacement building proposed for this site. I consider that the proposed development subject to standard in nature safeguards can be positively absorbed and integrated into this highly sensitive landscape setting. It would also result in no adverse impact on built heritage features that are afforded protection in its wider setting and it would also result in no significant adverse impact on the appreciation of the scenic and natural qualities of its landscape setting as appreciated from protected views and vantage points upon its completion.

#### 7.29.1. **Other Matters Arising**

##### **Coastal Landscape Character Type**

In relation to the site forming part of landscape defined in the Development Plan as Coastal Landscape Character Type (CDP Table LC01), a landscape which is considered to have exceptional landscape value and to be highly sensitive as well as vulnerable to change, I am of the view that the proposed development would not adversely impact on the preservation of this unique landscape or would it diminish by way or inappropriate development but rather would seek a more subordinate and site sensitive contemporary solution that when completed would seek to have a lesser adverse impact on its landscape setting.

#### 7.29.2. **Appropriate Assessment**

Part of the eastern and southern portion of the site lies inside and adjoins the designated area of the Howth Head SAC (Site Code: 000202) and the site is located c50 metres west of the designated area of the Howth Head Coast SPA (Site Code: 004113).

The Rockabill to Dalkey Islands SAC (Site Code: 003000) and North Bull Island SPA (Site Code: 4006) are also within a 2 km radius of the site.

The features of interest in the Howth Head SAC are the vegetated sea cliffs of the Atlantic and Baltic coasts and European dry heaths. The feature of interest in the Howth Head Coast SPA is Kittiwake (*Rissa tridactyla*).

The further information response submitted by the applicant included a document titled "*Report for the purposes of Appropriate Screening*". This report noted that the proposed project appears to overlap with the boundaries and concludes that the no direct impacts would arise based on the following factors:

- The project would take place on a previously developed site.
- The project would use an existing access.
- The project is to be connected to an existing public sewer network for the treatment of wastewater and therefore the site will require no treatment or disposal of wastewater in the vicinity of the SAC.
- The project includes for the management of surface water a new soak pit that has been designed and is to be constructed in accordance with Building Research Establishment (BRE) Digest 3656, Soakaway Design. In addition, surface water will be managed within the project site boundary and as such it will not result in any changes to the local hydrological regime.

It indicates that in relation to the SAC the worse case scenario would be the source of indirect pollution from wastewater which would affect the habitats for which this SAC has been designated.

Having regard to the development proposed and its design parameters I concur with this reports finding in that there will be no direct impacts on the SAC and that indirect impact is unlikely to occur if the proposed development were permitted.

In relation to the effects on the Kittiwakes, a protected bird species that visits the sea cliffs in this area annually during the summertime for nesting and breeding, I again note that this project includes:

- Demolition of the remnants of a dwelling house and garage with its replacement.
- The proposed dwelling will be served by public mains drainage and water. As such there will be no discernible change in the hydrology of the site and its setting.
- There will no significant modification of ground levels associated with this project.

- The site is c175m away from the nearest cliffs with a public path located in between.
- The site contains none of the Kittiwakes food sources and shows no evidence of being used by them for nesting or otherwise.

It is therefore unlikely that the project would result in any source of direct or indirect pollution that would affect the nesting and/or breeding of Kittiwakes.

Based on the above considerations the site is not necessary to the conservation management of any European site and the proposed project is unlikely to have any direct or indirect affect on the qualifying interests or conservation objectives of any European site. In particular Howth Head SAC and the Howth Head Coast SPA.

I therefore consider that a Stage 2 Appropriate Assessment is not required as the proposed development individually, or in combination with other plans or projects, would not adversely affect the integrity of either of these European Sites or any other European Sites.

## 8.0 Recommendation

8.1. I recommend that permission is granted.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Fingal County Development Plan 2017 to 2023, and the Howth Special Amenity Area Order, 1999, the nature, scale and extent of the proposed development, the proposed connections to public mains drainage and water infrastructure to serve the replacement dwelling, the established residential occupation of this site up to recent years in the form of the a detached dwelling, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area; and, it would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and

particulars submitted on 8<sup>th</sup> day of October, 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The permitted unit shall be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations, 2001, as amended.

**Reason:** To prevent un-authorized development.

3. (a) Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) All bathroom/ensuite windows shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.

(c) Prior to the commencement of development details of the green roof shall be agreed in writing with the Planning Authority. The provision of the green roof shall be provided no later than the 1<sup>st</sup> planting season following the completion of the construction works to the house and shall be maintained thereafter in a manner consistent with the details agreed with the Planning Authority.

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

4. Prior to commencement of development, the developer shall enter into water connection agreement with Irish Water.

**Reason:** In the interest of public health.

5. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. The green roof shall not be used as an additional area of private open space and access to it restricted to maintenance only. In addition, no additional development shall take place above roof level, including air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of planning permission.

**Reason:** To safeguard the visual amenities of the area.

7. The developer shall comply with the following requirements of the Planning Authority:

- (a) Prior to the commencement of development the applicant shall submit for writing agreement of the Planning Authority re-worked the exterior finishes and treatments of the eastern and western elevations.

- (b) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.

- (c) The submitted landscape plan shall be implemented in the first planting season following the completion of construction works.

- (d) The recommendations of the submitted tree report shall be undertaken, including retention of screening vegetation, replacement planting of native species as per Howth SAAO Design Guidelines and tree protection fencing. Proposed tree and vegetation works shall take into consideration the requirements of the Wildlife Act.

- (e) All boundary treatments shall comply with the Howth SAAO Design Guidelines and their final detailed design be submitted for agreement in writing with the Planning Authority prior to the commencement of development.

- (f) Upon completion of the construction of the dwelling house and prior to its occupation the lane serving it shall be resurfaced with the full details of these works to be in accordance with the Howth SAAO Design Guidelines and these works together with a time frame for their completion submitted for written agreement with the Planning Authority.
- (g) All necessary measures shall be taken to prevent the spillage or deposit of any materials including soil, rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developer's expense.
- (h) The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of the Planning Authority or pay the Planning Authority the cost of making good any such damage upon issue of such a requirement by the Council.
- (i) Prior to occupation of the dwelling house permitted, the applicant/developer shall submit to and agree in writing with the planning authority full details all external lighting, including the lighting levels within open areas of the development. Future external lighting to be provided will be in accordance with this agreed scheme.

**Reason:** In the interests of the proper planning and development of the area and in order to protect the amenities of the area.

- 8. Site development and building works shall be carried out only between the hours of 0800 to 1800 hours Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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



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

**Reason:** In the interest of sustainable waste management and in order to protect the amenities of the area.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

11. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

**Reason:** In the interest of orderly development and the visual amenities of the area.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the

authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

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Patricia-Marie Young  
Planning Inspector

20<sup>th</sup> day of February, 2020.