



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307006-20

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<b>Development</b>	Demolition of house and construction of a 3-storey apartment development consisting of 8 apartments.
<b>Location</b>	Osprey, Kilrock Road, Howth, Co. Dublin, D13 N259
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F19A/0405
<b>Applicant</b>	Emmet McLoughlin
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission (20 no. conditions)
<b>Type of Appeal</b>	Third Party (2 no.)
<b>Appellants</b>	Ciara Ní Laoi Niall Gleeson and Others
<b>Observers</b>	Hillwatch Daire Ní Laoi
<b>Date of Site Inspection</b>	18/06/2020
<b>Inspector</b>	Conor McGrath

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## 1.0 Site Location and Description

- 1.1. The appeal site is located at the junction of Balscadden Road and Kilrock Road, on the eastern side of Howth village. Balscadden Road provides a one-way east bound connection from the seafront / harbour area to the Cliff Path car park, and is a cul-de-sac east of this junction. Kilrock Road rises to the south along the frontage of the site and is provided with double yellow lines on both sides and a footpath along its western side.
- 1.2. The site has a stated area of 0.169ha and is occupied by a three-storey detached dwelling located close to the southern site boundary. Ground levels on the site fall significantly from the southeastern corner west and northwest. Levels across much of the site are below the level of adjoining roads. The site is traversed south-north on its western side by a surface water drain / culverted stream, which discharges to an open surface water sump / chamber in the northwestern corner of the site. The drain then enters a culvert under Balscadden Road before discharging to the sea to the north. A section of the *Howth Tunnel*, part of the North Dublin Drainage Scheme, runs west – east under the site.
- 1.3. Housing on the western side of Kilrock Road comprises dormer and two-storey houses. To the south of the site, there is a vacant plot which was the subject of a previous grant of permission for residential development. Asgard Park comprises a mature development of detached houses situated above an overgrown embankment bounding the site on its western side.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing house and the construction of 8 no. 2-bed apartments in a three-storey block. The block is generally sited toward the southern part of the site, with parking and open space to the north / front. A new vehicular entrance is proposed at the north-eastern corner of the site. The design of the proposal was revised at additional information stage. The development was subject to a S.97 Exemption Certificate from Fingal County Council.

## 3.0 Planning Authority Decision

### 3.1. Decision

In considering the application the planning authority sought additional information in relation to a range of matters which resulted in some redesign of the development. Following receipt of this additional information, the planning authority decided to grant permission subject to 20 no. conditions, including the following:

3. The applicants shall submit revised plans indicating:
  - a) The amendment of the window located along the rear (southern) elevation at 2<sup>nd</sup> floor level serving apartment no. 7 and 8 to be high level.
  - b) Provide details of the proposed entrances to serve the building and details as to how it is proposed to treat ground floor private amenity space.
  - c) Revised details and finishes to the side (east) and front (north) elevations incorporating high quality pallet, finishes and variety of materials.
4. 20 no. bicycle parking spaces to be provided.
5. a) Details to be agreed for the reduction in the corner radius of the road between Balscadden Road and Kilrock Road.
- 6 a) The design of the soakaway is dependent on the nature and compaction of fill material used in site levelling operations. Infiltration rates shall be determined and the design of the soakaway shall be amended accordingly.
8. Tree bond.
9. Financial contribution in lieu of public open space provision.

### 3.2. Planning Authority Reports

- 3.2.1. Planning Reports: This is an intermediate urban location. A density of 11.5 / ha is consistent with the guidelines. The area has a semi-urban feel and there are protected views along adjoining roads. Views from the East Pier are also protected. There are concerns regarding the visual impacts of the development and the design does not follow pre-planning advise. Some form of apartment development may be accommodated on the site subject to appropriate design not detracting from the visual amenities of the area.

3.2.2. The revised design reduced the scale and massing of the building and satisfied the concerns of the planning officer. The scheme sits into the site and is provided with adequate separation from the western boundary. Inadequate detail has been provided on front elevation treatment, building entrances and ground floor amenity space. The design reduces impacts on protected views. Concerns regarding overlooking of private amenity space to the south can be addressed by condition. The contemporary design is acceptable but variety in proposed colour and materials would be desirable. Agree with the concluding statement of the submitted VIA that with time the development will nestle into the surrounding landscape. Having regard to the RS zoning of the site and the overall need to delivery housing in a logical and phased manner, the development is in accordance with national and local policy and will not detract from adjoining residential amenity.

### 3.2.3. Other Technical Reports

- Parks Division: Conditions recommended
- Water Services: No objection. Surface water conditions recommended.
- Transportation: The sightlines indicated are acceptable having regard to the one-way flow on Balscadden Road and low traffic speeds approaching the junction. The radius of the Kilrock and Balscadden road junction should be reduced and can be dealt with by condition. Provision of one parking space per unit is the minimum practical provision. There is no visitor parking. No objection subject to conditions.

### 3.3. Prescribed Bodies

Irish Water: No objection. Recommended conditions include entry into a Build-Over Agreement with regard to 1500mm sewer tunnel under the site.

### 3.4. Third Party Observations

Issues raised in third party submissions include the following:

- Impact on the character and visual amenities of the area.
- Impacts on views, privacy and residential amenity of adjoining houses.
- Deficiencies in open space provision and daylighting to apartments.

- Potential impacts on stability of the adjoining slope.
- Deficiencies in the information submitted.
- Impacts on the Howth Special Amenity Area.
- Impact on the building line on Kilrock Road and protected views.
- Deficiencies in the road network.
- Loss of existing stone walls / roadside boundaries.
- Inadequate parking provision.
- Impacts on drainage and infrastructure in the area.
- Impact on the setting of adjoining protected structures.
- The extent and effect of filling works on the site are unclear.

## 4.0 Planning History

### 4.1. Subject site

- PA ref. F03A/0235: Permission refused for 2 no. semi-detached houses to the front of the existing dwelling on the site on the basis of impacts on the visual amenities of the area, overlooking of the adjoining house, deficiencies in residential amenity and lack of adequate drainage information.

### 4.2. Site to south of the appeal site:

- PA ref. F14A/0482 / ABP ref. PL06F.244748: Permission granted in August 2015 for two detached houses. These houses have not been constructed.
- PA ref. F03A/1526: Permission granted for a two / three-storey dwelling with detached garage, new entrance onto public road and associated site works.
- PA ref. F03A/0012: Permission granted for the southern of 2 no. proposed two-storey dwellings. Planning permission was refused for the second proposed dwelling on the northern portion of the site.
- PA ref. F01A/0273 ABP Ref. No. PL06F.125142: On appeal, the Board refused permission for a 2/3-storey block consisting of 5 no. apartments, and associated site development works. The reasons for refusal were:

- By reason of its scale, bulk and height, the number of units and its presentation to the street, the development would result in obtrusive over-development of the site, out of keeping with and detrimental to the character of the area. The development would present overbearing and massive elevations to adjacent properties, detrimental to their visual amenity and leading to overshadowing and loss of light. The proposed development would contravene the zoning objective to protect and improve residential amenity.
- Substandard parking arrangements would result in unacceptable on-street parking and manoeuvring on a narrow road close to a junction.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **5.1.1. Fingal County Development Plan 2017 - 2023**

The appeal site is zoned RE: To provide for residential development and protect and improve residential amenity.

The site is located within the buffer around Howth Special Amenity Area. It is an objective to preserve views along Balscadden Road and Kilrock Road.

The property to the northwest of the site, on the seaward side of Balscadden Road is a protected structure – No. 936 Ben Eadair, 16 Balscadden Road - Mid 19th century detached two bay two-storey house.

Chapter 4 sets out the development strategy for Howth. Future development will be strictly related to the indicated use zones including the infilling of existing developed areas rather than further extension of these areas. The strategy for Howth Peninsula is to ensure the conservation and preservation of this sensitive and scenic area, in particular through the implementation of the Howth Special Amenity Area Order.

Objective HOWTH 1: Ensure that development respects the special historic and architectural character of the area.

Objective HOWTH 4: Protect and manage the Special Amenity Area, having regard to the associated management plan and objectives for the buffer zone.

Objective PM44 of Chapter 3 encourages and promotes the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.

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

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

Objective DMS90 requires balconies, ground floor private open space, roof terraces or winter gardens be suitably screened so as to provide an adequate level of privacy and shelter for residents.

The Council has the discretion to accept a financial contribution in lieu of outstanding public open space requirement required under Table 12.5.

#### **5.1.2. Howth Special Amenity Area Order 1999**

The boundary of the SAAO area runs along the adjoining public roads. The appeal site is identified as part of the Special Amenity Area Buffer Zone to be designated in the county development plan.

Nashville Park to the east is a residential area within the Special Amenity Area subject to a maximum net density of 5 units per hectare.

Policy 1.3.1, the council will designate a buffer zone for the special amenity area in the county development plan. In considering planning applications within the buffer it will be Council policy:

- In respect of natural beauty, to preserve prospects of the Special Amenity Area and preserve open views from the area.



- In respect of special recreational value, a) to preserve existing rights of way ....., b) to allow development which utilise the recreational, tourism and educational potential of the special amenity area, provided that such development does not have a significant negative visual impact and that it confirms with the zoning objectives and other development standards of the development plan
- In respect of nature conservation, to protect existing natural and semi-natural habitats and where appropriate, to encourage the creation of new semi-natural habitats in order to enhance the habitat diversity of the peninsula.

Objective 2.1 To preserve views from public footpaths and roads

Policy 2.11 The council will preserve views from the network of footpaths and roads shown on Map B. Applications for permission must take into account the visual impact on views from these paths and roads.....The Council will not permit development which it considers would have a significant negative effect on a view from a footpath or road.

Objective 2.8 To retain existing boundary walls which are important elements of the attractive rural character of an adjacent road.

Policy 2.8.1 All walls shown on Map B should be either preserved or..... replaced by walls of similar construction and appearance.

(This appears to include walls on the oppsite side of Kilrock Road to the appeal site.)

## 5.2. National and Regional Policy

### 5.2.1. National Planning Framework

Acknowledging demographic trends, the aim is to see a roughly 50:50 distribution of growth between the Eastern and Midland region, and other regions.

An emphasis on renewing and developing existing settlements will be required, with a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites.

### 5.2.2. Eastern & Midland Regional Spatial & Economic Strategy (RSES) 2019-2031

The Dublin region is a global gateway to Ireland and the Dublin-Belfast Corridor is the largest economic agglomeration on the island of Ireland. Capacity constraints in housing and infrastructure must be addressed to ensure continued competitiveness as a national economic driver. The key enablers for growth include promoting compact urban growth to realise targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas. The spatial strategy for Dublin City and Suburbs is to support the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built up area.

#### **5.2.3. Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities (2009)**

The guidelines encourage higher densities on residential zoned lands, including inner suburban and infill sites and along public transport corridors subject to appropriate design and amenity standards. Minimum net densities of 50 / ha within 1km of rail stations are identified.

In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

Section 4.21 encourages a more flexible approach to quantitative open space standards with greater emphasis on the qualitative standards. Close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution in lieu of public open space within the development.

#### **5.2.4. Sustainable Urban Housing: Design Standards for new Apartments Guidelines for Planning Authorities (March 2018)**

Specific Planning Policy Requirement 3 sets Minimum Apartment Floor Areas.

The requirement for the majority of all apartments in a proposed scheme to exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3

bedroom unit types, by a minimum of 10%, does not apply to any proposal with less than ten residential units.

SPPR 4 refers to the provision of dual aspect apartments. SPPR 5 sets minimum standards for ceiling heights.

The importance of well-designed communal amenity space is noted. Section 4.6 notes that Communal or other facilities should not generally be imposed as requirements by the planning authority in the absence of proposals from and / or the agreement of an applicant. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space and car parking provision may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and location.

Appendix 1 identifies the minimum standards for apartment design as well as both communal and private amenity space.

#### **5.2.5. Urban Development and Building Heights - Guidelines for Planning Authorities**

It is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. The Guidelines identify broad principles to be considered for buildings taller than prevailing building heights in urban areas and criteria for consideration at the level of the City / town, district / neighbourhood / street and the site / building.

#### **5.3. Natural Heritage Designations**

The appeal site is not designated for any nature conservation purposes. The coast at Balcadden Bay comprises part of Howth Head SAC (000202), immediately north of the appeal site. Howth Head Coast SPA (004113) extends around the coastline to within approx. 300m west / northwest of the appeal site.

Other sites in the wider area include Baldoyle Bay SAC (000199), Rockabill to Dalkey Island SAC (003000) and Irelands Eye SPA (004117) and SAC (002193).

## 5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development within this established urban area connected to mains services, and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

#### 6.1.1. Ciara Ní Laoi

- This prominent corner site is located within the Special Amenity Area buffer zone, whose objective is to preserve the beauty and character of the area.
- The density is above that permitted for the area and constitutes overdevelopment of the site, setting an undesirable precedent for development in the SAAO buffer.
- There are protected views surrounding the site.
- There is a precedent for refusal of permission on the adjoining site to the south (PL06F.125142) due to impacts on the visual amenity and character of the area.
- The revised design proposals moved the block closer to Kilrock Road, breaking the building line and increasing impacts on this protected view.
- Given the constraints on the site, proposed landscaping will not mitigate the visual impacts of the development or override development plan objectives.
- Maximising apartment views will increase the visual impact of the development.
- The extent of site filling work (+4.5m) is not adequately detailed or assessed in the application.
- Details regarding roadside boundaries and levels are unclear and conflicting, and the development is contrary to the SAAO objective to retain such walls.
- Kilrock road cannot accommodate two passing cars and sightlines at the proposed site entrance are deficient.

- Balscadden is an extremely busy route for vehicular and pedestrian access to the cliff path, and suffers traffic jams at busy periods.
- On-street parking creates access difficulties, particularly for emergency vehicles.
- Construction works may have structural impacts on adjoining properties which have already experienced subsidence, including protected structure to the north.
- No detail regarding construction traffic management has been provided.
- The development materially contravenes the objectives of the SAAO and therefore, the development plan.

#### 6.1.2. **Niall and Louise Gleeson, Tony Fernandez**

- All proposed drainage works should be carried out prior to the commencement of other development on the site.
- The application was invalid due to deficiencies in relation to contiguous elevations, lack of Appropriate Assessment, visual impact assessment, and the failure to submit daylight and sunlight analysis.
- The site is not suitable for increased densities given its sensitive location on the edge of the SAAO area and distance from the Dart / public transport.
- Public transport capacity is a consideration for higher densities.
- The development is out of character with the area and is contrary to the zoning objective to protect residential amenity.
- Other relevant development plan objectives are not complied with, including those relating to transitional areas.
- The development would not comply with the objectives of the landscape character assessment for this highly sensitive coastal landscape.
- The height, bulk and design of the development will compromise protected views.
- The submitted landscape visual impact assessment is deficient.
- The site lies within the SAAO buffer and is defined as *Other Area*, "To preserve the beauty and distinctive natural character of the area".
- The density is 2.5 times that permissible on lands to the west of 5/ha.
- A full assessment in the context of the SAAO should be undertaken.
- The development will overbear and overlook houses in Asgard Park, 13m away, due to height, fenestration and balconies on the western elevation.

- Proximity to permitted houses to the south gives rise to potential overlooking.
- The revised designs submitted did not reduce ground floor levels as suggested.
- A lower density, two-storey development would be more appropriate and the omission of first floor accommodation in this regard would address impacts.
- An alternative approach to address visual impacts would be to condition that ground floor levels reflect the original proposed basement level of 23.4mOD and setting a final height of 33mOD.
- The development could destabilise the adjoining embankment. An appropriate retaining wall should be provided at its base to obviate potential impacts.
- The contiguous elevations of development to the south differ from the permitted elevations.
- The western balcony to apartment no. 8 could be removed by condition and privacy screens applied to front, with windows replaced with high level windows.

## 6.2. Applicant's Response

In response to the appeal submissions, the first party make the following points:

- There are extant permissions for development in the surrounding urban area which will become more densified in the future.
- Continuation of the existing pattern of development is an inefficient use of such zoned, serviced lands.
- The proposed density of 11.5 / ha is low but appropriate for this sensitive site.
- The site is suitable for development of this nature and ground levels are such that it cannot give rise to overlooking.
- The referenced historic refusal of permission for apartments to the south was made in a different policy context and is not comparable in terms of impacts.
- There is no other precedent for refusal of permission in this case.
- The presence of the existing house on the site is such that there will be no significant change to the character and setting of views along Kilrock Road.
- The impacts have been fully assessed in the VIA which confirms that there will be no adverse impact on views.
- The appellant's visual images are not verified views of the development.

- Landscaping proposals have been submitted and are subject to condition no. 7.
- Levels are such that there will be no impact on views from neighbouring houses.
- The application included details of the boundary treatment which adhere to guidance in the Howth SAAO, and may be subject to suitable conditions.
- The boundary wall will be 800mm high measured from the public footpath.
- The entrance design is acceptable and is provided with adequate sightlines.
- There is no impact on walking routes in the area.
- Asgard Park is approx. 9m+ above ground levels of the existing dwelling.
- Proposed parapet level will be at approx. ground level of houses in Asgard Park and adequate separation is provided to avoid impacts on residential amenity.
- Impacts in terms of overshadowing or loss of light cannot arise.
- The original engineering report concluded that the development will not impact on the structural stability of the embankment.
- Correct elevation and contiguous elevation drawings were submitted.
- There were no procedural issues in the consideration of the application.
- Claims that the development is contrary to the NPF are erroneous.
- The development is consistent with Development Plan policies, including DMS44, DMS39, DMS28, VP01, and maintains the physical and residential character of the area.
- There are no opposing first floor windows and the design considers potential impacts on adjoining lands.
- The development results in greater separation from permitted housing to the south than the existing dwelling.
- The development has regard to the provisions of Howth SAAO and will not impact on views or landscape of the area.
- Reference to the density limit to the east are not relevant to this site.
- Revisions at further information stage fully addressed the concerns of the planning authority and reduced the height of the block by 2m.
- Removal of an additional floor would result in an unviable development and inefficient use of lands, without changing views from Kilrock Road.
- Removal of balconies or reduction of windows at second floor level is not justified given separation distances arising and will reduce residential amenity.

### 6.3. Planning Authority Response

In response to the third-party appeals, the planning authority make the following comments:

- The proposal was assessed against relevant development plan and national policies and objectives and impacts on the character of the area and adjoining neighbours were considered.
- The development was revised at further information stage to address concerns regarding visual and residential amenity impacts.
- The development will not detract from adjoining amenity subject to compliance with conditions.
- Conditions no. 8, 9, 19 and 20 should be included in any decision to grant permission in this case.

### 6.4. Observations

#### 6.4.1. Hillwatch

- The rural character of Balscadden Road is part of its attraction for visitors and the SAAO seeks to maintain such character.
- This urban development is out of character with the surrounding pattern of development and does not respect the height and mass of its surroundings.

#### 6.4.2. Daire Ni Laoi

- The development is contrary to the SAAO objectives, relating to preservation of view from roads and footpaths, boundary treatment and preservation of the profile of the peninsula in surrounding views.
- This urban development would be a dominant and obtrusive structure in the landscape and detrimental to the character of the area.
- Run-off from the development to the stream traversing the site would damage the fragile ecology of the area, part of the Dublin Bay Biosphere.
- Construction activity has the potential to impact structurally on adjacent protected structures and other dwellings in this area where there is a history of subsidence.
- Coastal erosion is threatening the road and surrounding lands.
- Previous road surfacing works caused damage to seaward properties.



- Balscadden road is not suitable for construction traffic, in line with findings of the Board under ref. ABP-305828-20, while other access roads are constrained.
- There is no space or capacity for parking of construction vehicles on adjoining roads and the planning authority did not adequately consider access to the site.
- Inadequate detail and consideration was given to the extent of ground filling proposed.
- No consideration was given to the refusal of permission for apartments on the adjoining site to the south under PL06F.125142.

## 7.0 **Assessment**

7.1. It is proposed to consider the development under the following broad headings

- Land use and development principle
- Design and layout
- Impacts on residential amenity.
- Access and parking
- Drainage
- Groundworks

### 7.2. **Land use and development principle**

The appeal site is zoned for residential use, RS, and is currently occupied by a single detached property. This property is not of particular architectural merit and the northern part of the site appears overgrown, such that the site does not currently contribute positively to the amenities of the area. The demolition and replacement of the existing house with new residential development is acceptable in principle and would accord with national and regional guidance in relation to the consolidation of urban areas.

It is clear from Map A of the of the Howth SAAO, that the site is located outside of the special amenity area but lies within the defined buffer area. It is not zoned as *Other areas within the Special Amenity Area* as suggested in submissions on the file. While lands to the east of Kilrock Road at Nashville Park, within the Special Amenity

Area, are subject to a restriction on residential densities of 5/ha, such restrictions do not apply to the appeal site.

### **7.3. Design and layout**

- 7.3.1. Kilrock Road forms a boundary between the more urban / built-up area of Howth Village and lower density / transitional lands to the east. The development provides 8 no. apartments over three floors, with a basement / sub-ground store and plant room. First party documentation is inconsistent with regard to the area of the site. The site is understood to extend to approx. 0.169ha resulting in a proposed density of approx. 47 / ha rather than 11.5 as argued by the first party. Notwithstanding these inconsistencies, I would not regard such density as unacceptable for this location subject to the protection of the residential and visual amenities of the area and the achievement of an adequate standard of design on the site. It is not considered that such densities would compromise the adjoining lands to the east which are subject to a residential density ceiling under the SAAO.
- 7.3.2. The proposal will introduce a modern form of development to this location, however, in the context of the surrounding pattern of suburban development to the west and south it is considered that there is scope to accommodate such development. Existing ground levels on the site vary significantly and the development was revised during the course of the application process, reducing the overall height of the building. The proposed ground floor level at 24.7mOD is slightly above the lower ground floor level of the existing dwelling on the site (24.39mOD). The proposed block rises to 9.5m over ground level and the final height is approx. 1m lower than the ridge height of the existing. Notwithstanding comments in third party appeals, I note that such revisions reduced the height of the proposed block by 2m. I note also comments regarding the misrepresentation in application drawings of the permitted development to the south, however, I do not consider that any difference in these drawings arises which would be material to the consideration of this appeal.
- 7.3.3. The proposed apartments generally accord with standards set out in the Apartment Design Guidelines in terms of layout and floorareas. Generous balconies, while north-facing, take advantage of the scenic qualities of the area and are considered to provide satisfactory levels of amenity. I consider that ground floor ceiling heights

could be increased to 2.7m in line with SPPR 5 without material impacts on the design of the development and would address concerns regarding daylighting. While it is not specifically called out in the application, the provision of dedicated residential storage at basement level would be beneficial.

- 7.3.4. The development plan identifies protected views along Kilrock Road, Balscadden Road and from the East Pier of the Harbour. The primary view from Kilrock Road is north to Irelands Eye and the sea. The view is not expansive and is framed by existing houses to the west and trees to the east as one moves north along the road. The existing house is set back approx. 6-7m from the roadside boundary and maintains the building line of houses to the south. The currently undeveloped nature of the adjoining site to the south increases the prominence of this house. The proposed block is located 2.4 - 4.2m back from this eastern boundary, however this set back increases to approx. 4.2 – 6m at second floor level. Given the topography along the road, it is not considered that the positioning of the lower levels of the block would negatively impact on the views or wider visual amenities of the area. Some increased set-back of second floor accommodation to reflect the building line to the south and avoid intrusion to protected views north from the road would be appropriate, however.
- 7.3.5. While views along Balscadden Road are also protected, I consider that this protection relates to views seaward and toward Irelands Eye, rather than to the appeal site. The development will not encroach or intrude upon amenity views from this road. The development will be visible from the East Pier however, such visibility is limited, and I do not consider that the proposal would be obtrusive in such views having regard to its urban context. It will feature to the rear of the protected structure to the north, however, it is not considered that significant impacts will arise due to its context and separation distances arising.
- 7.3.6. The northern part of the site is currently something of a hollow, being lower than adjoining lands / roads. Existing ground levels on the site vary from approx. 27.5mOD in the southeastern corner, to 23.6 in the southwestern corner and approx. 19.5m at a low point on the western site boundary. Ground levels to the north of the block and along the western boundary are to be raised to 23.95mOD – 24.4m OD. No details regarding the nature of such fill have been supplied or what extent of cut and fill may be undertaken on the site. Site section drawings do not accurately

reflect existing road levels or the area of fill to be undertaken on the site, although the drainage section drawing appears to be more accurate in this regard. The relationship with the adjoining road should be more fully detailed in the application. Furthermore, the application does not detail the relationship with third party lands to the west of the site immediately adjoining these elevated site levels. In the northwestern corner of the site, the difference in ground levels arising will be 4m+/- and it is not clear whether retaining structures or graded slopes will be utilised at these locations.

- 7.3.7. There is a short section of attractive stone wall along the roadside boundary adjoining the junction and the application proposes that this be replicated around the perimeter of the site. Otherwise, the existing roadside boundaries are not of great amenity value. I consider that these proposals are generally satisfactory and in line with policy guidance and that this matter could be subject to appropriate conditions.
- 7.3.8. A stated area of 230m-sq.m. of communal open space is provided to the north of the block with additional landscaped space along the southern boundary. There is a lack of clarity on the treatment of ground levels within this area and the relationship with the adjoining roads, however. Having regard to the amenities in the wider area I consider that adequate levels of private and communal open space are achieved within the site and that financial contributions in lieu of public open space provision in line with the provisions of the development would be appropriate in this instance.

#### **7.4. Impacts on Residential Amenity**

- 7.4.1. Adjoining lands to the south remain undeveloped and the outstanding permission on that site is due to expire in Autumn 2020. Notwithstanding the lack of development on the site to date, the design of the proposed development seeks to mitigate overlooking impacts on that site and these measures are regarded as generally satisfactory. I note condition no. 3(a) of the planning authority decision but consider that this could be limited to the southfacing Kitchen / Living area windows in Apartment no. 8 only. Some set back of the western balcony serving this apartment from the southern elevation would also be appropriate.
- 7.4.2. Residents of Asgard Park have raised issues of visual impact, overlooking and loss of privacy due to the height of development and fenestration proposed. In this

regard I refer to site section drawings illustrating the relationship between the proposed block and houses to the west. These houses enjoy wide views to the sea and having regard to the height of the proposed block, there should be no material interference with such views, although the proposed block will be visible. I do not therefore consider that a reduction in height of the proposed block is justified in this regard.

- 7.4.3. Based on the architectural drawings submitted, second floor apartments are situated below ground level of houses in Asgard Park and over 24m distant from the main rear building line. Having regard to such separation and levels, I do not consider that undue loss of privacy of these properties would arise and the omission of balcony and windows at second floor level on this elevation are not therefore necessary. There may, however, be potential for some overlooking of the proposed second floor apartments from Asgard Park and in this regard it may be considered appropriate to provide opaque screens to the western side of the second floor balcony to protect the amenities of future residents.
- 7.4.4. Notwithstanding the above, however, I note that there is a level of inconsistency in the application in relation to the adjacent embankment and topographic surveys do not identify existing levels on this embankment. See further comments in section 7.7 below.

## **7.5. Access and parking**

- 7.5.1. A new entrance to the site is proposed close to the junction of Balscadden and Kilrock Road. The proposed entrance is set-back from the road edge to provide adequate waiting area for cars entering and exiting the site. I note the availability of sightlines at this proposed entrance to the west and south, however, sightlines to the east are restricted. Traffic flow on Balscadden Road is one-way and traffic speeds at this location are low. I note the report of the Transportation Section on this case and generally concur with the conclusions thereof. Condition no. 5(a) of the planning authority decision regarding the reduction in the curve radius at this junction is considered to be reasonable and appropriate.
- 7.5.2. The development provides 8 no. parking spaces on the site, one per dwelling unit, which was acceptable to the planning authority. Having regard to the nature of the

adjoining road network and the negative effects that any on-street parking would have, however, I consider that two additional spaces should be provided on-site. This would be in line with the Apartment Design Guidelines and I consider that this can be achieved without compromising the residential amenities within the development.

- 7.5.3. The proposed development is modest in scale and it is not considered that it would give rise to congestion or the creation of a traffic hazard. I note the double yellow line markings on the adjoining roads and the submissions of appellants in this case. The development will not result in or contribute to congestion during the referenced peak periods which relates to a traffic management and enforcement associated with the popularity of Howth Head as an amenity. I do not consider that a refusal of permission on this basis would be warranted.

## 7.6. **Drainage**

- 7.6.1. A culverted stream / surface water drain runs south-north through the site, traversing Balscadden Road before discharging to the sea. The line of this drain and the entry to the culvert under the public road are reflected in the topography of the site. Application documentation provides analysis of the capacity and constraints of this drain and the first party propose to lay a new, increased capacity drain through the site and replace the existing open chamber with a new backdrop manhole. These proposals are considered to be reasonable and were acceptable to the Water Services section of the planning authority.
- 7.6.2. The site is not at risk of coastal flooding and the assessment submitted notes that historical pluvial flooding in the northwestern corner of the site arose from overland flows. The proposed drainage arrangements, including the improvement and upsizing of existing culverts and road drains, would not preclude the implementation of any wider drainage / flood relief measures in this area as referenced in the application. Based on the information submitted and internal planning authority reports, it is not considered that the development would give rise to the creation of a risk of flooding to existing or proposed development.
- 7.6.3. Surface water run-off from the proposed development is to be attenuated and directed to a soakaway. I note condition no. 6(a) of the planning authority decision

and the dependency of the design of this soakaway on the nature of fill material to be used on-site. In the event of a decision to grant permission in this case, a similar condition should be attached.

- 7.6.4. The site is also traversed by an historic foul sewerage tunnel, which outfalls to Dublin Bay. This tunnel is located in rock at a depth of approx. 17m below the site. I note the submission received from Irish Water and the requirements to enter into particular agreements in relation to development over this tunnel. There was no objection otherwise to the proposed development in this regard.

## 7.7. Groundworks

- 7.7.1. Submissions on the file raise concerns regarding structural impacts on adjoining lands and properties due to works on the site. I note the form of construction proposed, being auger rather than driven piles. Apart from drainage works, works in the northern part of the site involve the raising of ground levels, landscaping and boundary works. No rock excavation or works on the existing culvert under Balscadden Road are proposed and I note that there were no objections raised by the transportation section of the planning authority in relation to the structure of Balscadden Road. Subject to compliance with best construction practice significant vibration emissions are considered unlikely. The application states that monitoring of emissions will be undertaken and works undertaken in compliance with relevant BS and BRE standards. These measures could be subject to inclusion in a construction management plan to be agreed with the planning authority prior to the commencement of development.
- 7.7.2. The engineering report accompanying the original planning application described the western embankment as 8.5m high with a slope of 37 degrees at its steepest point, made up of compact gravel. No stability issues with this slope were identified, although no section or survey drawings of this slope were provided. The report identifies that such materials have an angle of repose of up to 45 degrees.
- 7.7.3. I note that the architectural drawings submitted to the planning authority identify an embankment slope of varying heights and a slope gradient approx. of 45 degrees, which are not consistent with the engineering assessment above. Having regard to these inconsistencies, I consider that greater certainty regarding gradients and the

stability of the adjoining slope would be appropriate, along with any required measures to avoid impacts on adjoining lands. I have already commented above on the lack of detail provided regarding the treatment of the difference in existing and proposed ground levels along the western site boundary.

The extent of filling works on the site may require the importation of significant volumes of fill material, which is not described or quantified in the application. While this matter was raised in third party appeals, the first party response does not provide any additional information in this regard. I note the conclusions of the Board in relation to a nearby SHD application under ref. ABP-306828-19 and potential construction traffic impacts on the adjoining road structure, and consider that further detail in this regard would be required to reach a conclusion in relation to such impacts.

## **8.0 Appropriate Assessment Screening**

8.1. The appeal site is not designated for any nature conservation purposes. The coast at Balcadden Bay, immediately north of Balcadden Road comprises part of Howth Head SAC (000202). Howth Head Coast SPA (004113) extends around the coastline to within approx. 300m west / northwest of the appeal site. Irelands Eye SPA (004117) and SAC (002193) lie approx. 1km and 1.4km off-shore respectively. Other sites in the wider area include Baldoyle Bay SAC (000199), Rockabill to Dalkey Island SAC (003000). There are no other Natura 2000 sites upon which the proposed development would have the potential to have an effect, given the nature, scale and location of the proposed development relative to other Natura 2000 sites.

8.2. The conservation objectives for these sites are as follows:

- Howth Head SAC (000202): to maintain the favourable conservation condition of the habitats of vegetated sea cliffs and European dry heaths.
- Howth Head Coast SPA (004113): to maintain or restore the favourable conservation condition of the species Kittiwake.
- Irelands Eye SPA (004117): to maintain or restore the favourable conservation condition of the species Cormorant, Herring Gull, Kittiwake, Guillemot and Razorbill.



- Irelands Eye SAC (002193): To maintain the favourable conservation condition of Perennial vegetation of stony banks and Vegetated sea cliffs of the Atlantic and Baltic coasts.
- Rockabill to Dalkey Island SAC (003000): To maintain the favourable conservation condition of Harbour porpoise and Reefs within the SAC.
- Baldoyle Bay SAC (000199): to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide, of Salicornia and other annuals colonizing mud and sand, of Atlantic salt meadows, of Mediterranean salt meadows.

8.3. The appeal site is currently in residential use and partly comprises overgrown / disturbed ground. The site does not appear to constitute ex-situ foraging or nesting habitats that support the conservation objectives of the identified SPAs. Having regard to the scale of the site and proposed development, and separation from the SPA's the development would not be likely to result in significant effects or disturbance at construction or operational stages on species of conservation interest or loss of habitats.

8.4. The application site is on serviced land within the urban area and can connect to mains wastewater services on Balscadden Road. Having regard to the scale of development proposed, significant operational impacts resulting from discharge to the foul drainage network are unlikely.

8.5. The site does not contain or involve direct disturbance of any habitats that are the subject of the conservation objectives of the SAC, however, the SAC extends to within approx. 10m of the site. Drainage works proposed as part of the development include the replacement of an existing surface water culvert and open chamber on the site, which discharges to the sea cliffs north of Balscadden Road within the SAC, via a culvert under Balscadden Road. Development works on the site include the filling and raising of ground levels by 4-5m in parts. At construction stage there is potential for run-off of silt and other materials from the site due to extent of such drainage and site filling works. No detail in relation to these works has been provided in the application nor has any assessment of potential effects on vegetated sea cliffs within the SAC been undertaken.

- 8.6. Having regard to existing and proposed surface water drainage arrangements, significant operational impacts arising from the proposed development are not considered likely.
- 8.7. Construction activity and the importation of fill material to the appeal site would generate a potentially significant number of HGV movements. The logical haul route would be via Balscadden Road with potential for impacts on the SAC in terms of vibration, dust and spillage, however, in the absence of any information or assessment of the nature or volume of potential vehicle movements I am not in a position to reach a conclusion on this matter. In this regard, I note the Appropriate Assessment Screening conclusion of the Board in relation of ABP-305828-20 to this issue.
- 8.8. It is therefore concluded that there is not sufficient information available on the file for the Board to determine that the proposed development for which permission is sought either individually or in combination with other plans or projects, would not be likely to have a significant effect on Howth Head Special Area of Conservation 000202, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

## **9.0 Recommendation**

- 9.1. That permission for the proposed development be refused.

## **10.0 Reasons and Considerations**

1. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Howth Head Special Area of Conservation 000202, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission for the proposed development. In particular, the Board considered that there was inadequate information in relation to the nature and

extent of filling operations to be carried out on the site and associated construction traffic movements and the potential effects of these activities on European Sites.

2. There is significant variation in ground levels on the site of the proposed development and proposed development involves the raising of ground levels on parts of the site by several metres. The Board is not satisfied that a satisfactory level of information has been provided in relation to these works, including in particular:
- a) The extent of fill to be undertaken across the site and the relationship between the proposed development site and adjoining lands to the west and north having regard to existing and proposed ground levels.
  - b) the nature and volume of fill material which will be required as part of the site development works and the traffic movements associated with the importation of such materials.
  - c) the gradient and stability of the embankment to the west of the site having regard to inconsistencies in the information provided in this regard.

In the absence of such details, the Board is not satisfied that the proposed development would not impact on adjoining lands or result in an unsatisfactory standard of development on this site. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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**Conor McGrath**

**Senior Planning Inspector**

**07/07/2020**