



An
Bord
Pleanála

Inspector's Report ABP 308485-20

Development	Permission for new 2 storey detached dwelling, new vehicular entrance from Holmpatrick Cove, and all associated site works.
Location	Rear of 47 Holmpatrick and accessed, From Holmpatrick Cove, Skerries, Co. Dublin,
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0057
Applicant(s)	Martin & Caroline Walsh
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Garry Mellows Phillip Payne
Observer(s)	None
Date of Site Inspection	15 th March 2021

Inspector

Brendan Coyne

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
4.0 Planning History.....	7
5.0 Policy and Context.....	9
5.1. Development Plan.....	9
5.2. Natural Heritage Designations	11
5.3. EIA Screening	11
6.0 The Appeal	12
6.1. Grounds of Appeal	12
6.2. Applicant Response	14
6.3. Planning Authority Response	17
6.4. Observations.....	17
6.5. Further Responses.....	17
7.0 Assessment.....	17
8.0 Recommendation.....	28
9.0 Reasons and Considerations.....	28
10.0 Conditions	28

1.0 Site Location and Description

1.1. The site (0.03 Ha) is located to the rear (west) of No. 47 Holmpatrick, also known as the 'The Malting House' in Skerries, Co. Dublin. The 'The Malting House' is a public house and the subject site comprises a separate yard to its rear. A housing estate known as 'The Kybe' is located to the north of the site with a detached two storey house, known as No. 4 Holmpatrick Cove adjoining the northern boundary of the site. A T-shaped cul-de-sac serving the dwellings of Holmpatrick Cove ends at the north-western corner of the site. The proposed development would be accessed from this cul-de-sac. The rear gardens of a pair of two-storey semi detached dwellings, Nos. 7 & 8 The Maltings, adjoin the western boundary of the site and land to the rear of No. 46 Holmpatrick adjoins the southern boundary. A pair of two storey semi-detached dwellings (Nos. 3 and 4 The Maltings) are located further to the south. The boundaries of the site are defined with walls over 2 metres in height on all four sides. A pedestrian gate at the north-western corner provides access to the site. The site is relatively level and is overgrown with grass and vegetation. 3 no. cordyline trees are planted along the northern boundary of the site in Holmpatrick Cove.

2.0 Proposed Development

2.1.1. Application as lodged on the 10th February 2020 – Permission sought for the construction of the following;

- Detached two storey 3 -bedroom dwelling (stated floor area – 140.5 sq.m.),
- New vehicular entrance from Holmpatrick Cove,
- Provision of 2 no. car parking spaces,
- All associated site works.

2.1.2. Revised Proposal submitted by way of Significant Further Information on the 10th August 2020: Revisions included:

- Provision of a pedestrian entrance to the site from Holmpatrick Cove.

2.1.3. Documentation submitted includes;

- Planning Report. This includes an autotrack analysis detailing the movements of vehicles into the site.
- Revised elevations / section drawings,
- Proposed parking layout drawing.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council GRANTED permission for the proposed development subject to 13 no. Conditions. Noted Conditions include:

No. 2 The Cordyline tree to the front of No. 4 Holmpatrick Cove shall not be removed.

No.3 All bathroom / ensuite windows shall be permanently fitted with obscure glazing.

No. 4 The flat roofs shall not be used as a balcony or terrace.

3.2. Planning Authority Reports

3.2.1. Planning Report No. 1

- The arrangement of window opes at first floor level would minimise overlooking of neighbouring properties.
- The shadow analysis submitted demonstrates the proposal would not unduly impact neighbouring property by way of overshadowing.
- The positioning of the dwelling would allow for adequate maintenance and access to the rear of the property.
- The contemporary design of the proposed dwelling is acceptable and would not impact on the visual amenity of the area.

- The Water Services Dept. report noted the site is partly located within an area at risk of flooding. A flood risk assessment was submitted with the application. The Water Services Dept. raised no concerns regarding the proposal.
- The applicant has submitted a certificate of exemption from the provisions of social and affordable housing.
- The proposal overcomes the reasons for previous refusal.

3.2.2. Further information was requested requiring the following:

1. A swept path analysis indicating the minimum width required to facilitate access / egress for 2 no. parking spaces. The vehicular access should not exceed a width of 4 metres and the height of the entrance wall should not exceed 900mm to ensure adequate visibility.
2. Revised drawings showing the provision of a pedestrian footpath onto the public footpath.
3. Submit details demonstrating the applicant has sufficient legal interest to provide for the proposed vehicular entrance and removal of the existing cordyline tree, to facilitate the entrance.
4. Submit details of proposed external elevation and roof finishes.

3.2.3. Planning Report No. 2

- The swept path analysis and site entrance details submitted are acceptable.
- Fingal County Council maintains the public road and footpath at Holmpatrick Cove.
- Proposed external elevation and roof finishes are acceptable.

3.2.4. **Other Technical Reports**

Water Services Dept. - No objection subject to Conditions.

Transportation Planning Section - No objection subject to Conditions.

Irish Water – No objection subject to Conditions.

4.0 Planning History

F19A/0338 Permission REFUSED in 2019 to C. & M. Walsh for a new 2 storey detached dwelling, new vehicular entrance from Holmpatrick Cove and all associated site works. The Reasons for Refusal were as follows;

1. The subject site is within the 'RS' zoning objective under the Fingal Development Plan, 2017 – 2023, the objective of which is 'to provide for residential development and protect and improve residential amenity.' The proposed development by virtue of the constrained nature of the site, the poor level of amenity which would be afforded to the occupants of the dwelling (given the relationship of the proposal to site boundaries) and the level of overlooking of the adjoining dwelling to the north results in a proposal which would constitute overdevelopment, would seriously injure the amenities of and depreciate the value of property in the vicinity and would be contrary to the 'RS' zoning objective for the area, 'to provide for residential development and protect and improve residential amenity'.
2. The subject development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential amenities of the area, would seriously injure the amenities and depreciate the value of property in the vicinity.
3. The subject site is located within an area that is at risk of flooding. The applicant has not submitted sufficient details to demonstrate that the proposed development would not be at risk of flooding or give rise to increased risk of flooding elsewhere. It is therefore considered that in the absence of satisfactory details in relation to this matter that the proposed development, if permitted, would be liable to flooding.
4. The applicant has not submitted sufficient details in relation to foul water drainage in respect of the proposed development. It is considered that in the absence of such details the proposed development, if permitted, would be prejudicial to public health.

F16A/0288 Outline Planning Permission GRANTED in 2016 to Peter Boylan for a 2 storey dwelling, new vehicular entrance from Holmpatrick Cove via The Kybe and extinguish existing access from Holmpatrick.

F03A/1412 Permission REFUSED in 2004 to Orticane Ltd. for the construction of 4 no. two bedroom apartments in a two storey extension to the rear of The Malting House Inn. The Reasons for Refusal were as follows;

1. Having regard to the height, scale and mass of the proposed building it is considered that the proposed development would be visually obtrusive at this location and would be out of character with the surrounding residential development. The proposed development would therefore be contrary to the proper planning and development of the area.
2. The proposed development is considered to be an over-development of the site, which would seriously injure the amenity of the surrounding properties. The proposal thus materially contravenes the development objective of the area, 'to protect and improve residential amenity in established residential areas' and would be contrary to the proper planning and development of the area.
3. The proposed development by virtue of the deficiency of semi-private open space would contravene the requirements set out in section 4.7.4 of the Fingal County Council Development Plan and would not provide an adequate standard of residential amenity for the occupants of the proposed apartments. The proposed development would therefore be contrary to the proper planning and development of the area.
4. The proposed development by virtue of the deficiency in car parking would contravene the requirements set out in section 5.2.2 of the Fingal County Council Development plan and would therefore be contrary to the proper planning and development of the area.

F02A/0981 Permission REFUSED in 2002 to Orticane Ltd. for the construction of 4 no. 2 bedroom apartments to the rear of The Malting House Inn. The Reasons for Refusal were as follows;

1. Having regard to the height, size and bulk of the proposed building, it is considered that the proposed development would be visually obtrusive at this location and would be out of character with the surrounding residential development. The proposed development would therefore be contrary to the proper planning and development of the area.
2. The proposed development is considered to be an overdevelopment of the site, which would seriously injure the amenity of the surrounding properties. The proposal thus, materially contravenes the development objective of the area, 'to protect and improve residential amenity in established residential areas' and would be contrary to the proper planning and development of the area.

5.0 Policy and Context

5.1. Development Plan

Fingal County Development Plan 2017-2023 is the statutory plan for the area. The following provisions are considered relevant:

Zoning: The site is zoned objective 'RS' which seeks 'to provide for residential development and protect and improve residential amenity'. Residential use is 'permitted in principle' under this zoning objective.

Objective PM44 Encourage and promote 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 PM45 Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

Objective DMS24 Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3.

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

Objective DMS39 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 DMS40 New corner site development shall have regard to:

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- The existing building line and respond to the roof profile of adjoining dwellings.
- The character of adjacent dwellings and create a sense of harmony.
- The provision of dual frontage development in order to avoid blank facades and maximise surveillance of the public domain.
- Side/gable and rear access/maintenance space.
- Level of visual harmony, including external finishes and colours.

Objective DMS44 Protect areas with a unique, identified residential character which provides a sense of place to an area through design, character,

density and/or height and ensure any new development in such areas respects this distinctive character.

Objective DMS85 Ensure private open spaces for all residential unit types are not unduly overshadowed.

Objective DMS86 Ensure boundary treatment associated with private open spaces for all residential unit types is designed to protect residential amenity and visual amenity.

Objective DMS87 Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:

- 3 bedroom houses or less to have a minimum of 60 sq m of private open space located behind the front building line of the house.

Table 12.8 Car Parking Standards

Objective PM64 Protect, preserve and ensure the effective management of trees and groups of trees.

5.2. Natural Heritage Designations

5.2.1. The site is located c. 0.9km to the west of the Skerries Islands SPA (Site Code 004122).

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development and its location within a fully serviced urban environment, it is considered that 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. Two third party appeals against the decision of the Planning Authority were received from;

- Gary Mellows of No. 4 Holmpatrick Cove, Skerries, Co. Dublin.
- Philip Payne of No. 7 The Maltings, Sutton, Dublin 13.

6.1.2. The grounds of appeal of both appellants are synthesised under the headings below.

6.1.3. Scale of Development:

- The height, scale and bulk of the proposed dwelling would have an overbearing impact on neighbouring dwellings No. 4 Holmpatrick Cove and No. 7 The Maltings.
- The size of the house within a restricted site would comprise overdevelopment of the site.
- Concerns with regards the stated different floor levels of the proposal, resulting in an increased height and thereby greater impact on No. 4 Holmpatrick Cove.
- Concerns with regards anomalies in the positioning of the proposed dwelling in drawings submitted, with particular reference to the shadow report and the parking layout drawing.

6.1.4. Overshadowing:

- The proposal would block daylight and sunlight reaching the rear garden and first floor side elevation window of No. 4 Holmpatrick Cove.

6.1.5. Overlooking:

- The proposal would be located approx. 6.7m from the rear elevation of No. 47 Holmpatrick and thereby would not comply with Objective DMS28 of the Fingal Development Plan which requires a minimum of 22 metres between directly opposing first floor windows.
- No. 7 The Maltings would overlook the proposed dwelling.

- The proposed development would be contrary to the zoning objective of the area which seeks to 'protect and improve residential amenity'.

6.1.6. **Access and Parking:**

- The proposed vehicular entrance would be unsafe and give rise to vehicular conflict with vehicles accessing / egressing house nos. 3 and 4 Holmpatrick Cove and put the safety of children playing on the street at risk.
- Vehicles would need to exit from the proposed dwelling in reverse gear. There is not sufficient space to do this manoeuvre safely. The autotrack layout submitted confirms same.

6.1.7. **Removal of Trees and Boundary Walls:**

- An existing tree at the location of the proposed vehicular entrance will be removed. Such development would be contrary to Development Plan Objective PM64 which seeks to protect and preserve trees.
- The removal of the boundary wall would be contrary to Development Plan Objective DMS39 which to retain the physical character of an area including boundary walls.

6.1.8. **Construction Impacts:**

- The construction of the proposed development would severely impact the day-to-day amenities of neighbouring property.
- Proposed works to the boundary wall would compromise the stability of the boundary wall of neighbouring property No. 7 The Maltings.
- The applicant has not submitted a Construction Environmental and Management Plan.

6.1.9. **Depreciation of the value of neighbouring property:**

- The proposal would depreciate the value of No. 4 Holmpatrick Cove by way of overlooking of the private amenity space to the front and rear and vehicular conflict.

- The proposal would depreciate the value of No. 47 Holmpatrick by way of overlooking.

6.1.10. **Appropriate Assessment:**

- Screening for Appropriate Assessment has not been submitted with the application.

6.1.11. **Flood Risk:**

- While a Flood Risk Assessment was submitted with the application, it does not appear to refer to the Fingal East Meath Flood Risk Assessment Maps (FEMFRAMS) which places the site within a 1:1000 year flood zone. It is not clear therefore that the proposal takes into account flood risk.

6.2. **Applicant Response**

6.2.1. The response received from Hughes Planning & Development Consultants representing the Applicant, is summarised as follows;

6.2.2. **Scale of Development:**

- The height and scale of the proposed dwelling is appropriate and has considered the form of neighbouring property.
- The proposal would have no undue impact on the visual amenity of the area.
- The height of the proposed dwelling at 10.1m is less than the height of No. 7 The Maltings at 11.49m, No. 4 Holmpatrick Cove at 13.94m and Maltings House at 12.87m.
- The height and scale of the proposal has been appropriately scaled relative to existing property in the immediate vicinity.
- The height and design of the proposal mitigates against overlooking and overshadowing of neighbouring property.

- The proposal presents an improved standard of visual amenity while improving security in the area through the removal of a disused yard, which could accommodate anti-social behaviour.
- The positioning of the proposed dwelling would have limited impact on the residential amenity of neighbouring dwelling No. 4 Holmpatrick Road.
- The separation distance of 9m from the private amenity space of No. 4 reduces any level of impact to a near-imperceptible extent.
- The drawings submitted accurately show the positioning of the proposed dwelling. The shadow analysis is 3-dimensions while drawing no. 18-147-PL-12 is 2 dimensional.
- Concerns with regards anomalies in the positioning of the proposed dwelling in drawings submitted, with particular reference to the shadow report and the parking layout drawing.

6.2.3. **Overshadowing:**

- The shadow diagram analysis shows that the proposal would not unduly overshadow No. 4 Holmpatrick Cove.
- The first floor window opening on the side elevation of No. 4 Holmpatrick Cove serves a bathroom (non-habitable room), as permitted under P.A. Ref. F07A/0163.

6.2.4. **Overlooking:**

- The proposed dwelling does not directly oppose any residential accommodation at first floor level, and thereby would not be contrary to Objective DMS 28 of the Fingal Development Plan.
- Private amenity space of neighbouring property would be adequately screened by the existing boundary walls.

6.2.5. **Access and Parking:**

- The Transportation Planning Section confirms that the visibility at the entrance to the site is acceptable.

- The swept path analysis submitted confirms that there is sufficient space within the hammerhead turning point at the end of Holmpatrick Cove to safely exit the site in reverse gear.
- When there is only 1 car parked within the site, this car will be able to exit in forward gear.

6.2.6. **Removal of Trees and Boundary Walls:**

- There is not a tree preservation order on the proposed tree to be removed.
- Whilst the removal of this tree is regrettable, it is submitted that its removal enables the provision of a new family home on the subject site.

6.2.7. **Construction Impacts:**

- The applicant would welcome a Condition, should permission be granted, requiring the submission of a construction and waste management plan, for review by Fingal County Council.

6.2.8. **Depreciation of the value of neighbouring property:**

- The impact to property value does represent a valid planning consideration.
- The proposed dwelling cannot overlook the private amenity space to the rear of No. 4 Holmpatrick Cove.
- Front gardens are not considered private amenity space due to their visibility from the wider public realm.
- The angle of the front bedroom windows of the proposed dwelling face towards 'The Kybe' rather than directly towards the front garden of No.4 Holmpatrick Cove.
- The proposed development would not impact on the usability of the 2 no. car parking spaces to the front of No.4 Holmpatrick Cove.
- The Site Layout Plan approved under P.A. Ref. F07A/0163 illustrates the 2 no. car parking spaces to the front of No.4 Holmpatrick Cove, right up to the front windows of the dwelling.

6.2.9. **Appropriate Assessment:**

- The Planning Authority report confirms Appropriate Assessment is not required for the proposed development.

6.2.10. **Flood Risk:**

- A Flood Risk Assessment was submitted with the application.
- The Planning Authority raised no concerns on foot of the percolation test report submitted.

6.2.11. The Applicants also submit a Personal Statement outlining their reason for the purchase of the site, site clearance works undertaken and a rationale for the layout and design of the proposed dwelling.

6.3. **Planning Authority Response**

The Planning Authority confirms that it has no further comment to make. In the event that the Planning Authority's decision is upheld, the Planning Authority requests that Condition No. 13 be included in An Bord Pleanála's determination.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Scale of Development
- Overshadowing
- Overlooking
- Access and Parking
- Removal of Trees and Boundary Walls
- Construction Impacts
- Flood Risk
- Appropriate Assessment

These are addressed below.

7.2. Scale of Development:

- 7.2.1. The appellants object to the proposed development on the grounds that its height, scale and bulk would have an overbearing impact on neighbouring dwellings No. 4 Holmpatrick Cove and No. 7 The Maltings. Furthermore, the appellants object to the proposal on the grounds that the size of the house within a restricted site would comprise overdevelopment of the site. The applicants contests this ground of appeal, as detailed in Section 6.2 above.
- 7.2.2. The site is zoned objective 'RS - residential' which seeks 'to provide for residential development and protect and improve residential amenity'. Under such zoned lands, the use class 'Residential' is 'Permitted in Principle', as detailed in Chapter 11 of the Development Plan. As such, the proposed development is acceptable in principle, subject to accordance with relevant policies and objectives in the Fingal County Development Plan 2017-2023.
- 7.2.3. The site of the proposed development comprises an undeveloped, over-grown and un-utilised site, on a corner site located at the end of Holmpatrick Cove. It is considered that the development of this site would accord with Objective PM44 of the Development Plan which refers to corner sites and seeks to encourage and promote the development of underutilised corner sites in existing residential areas subject to the character of the area and environment being protected. Furthermore, such development would accord with the objectives of Section 4.5 of the National Planning

Framework, which seeks to make better use of under-utilised / infill land within urban area.

- 7.2.4. The character of the surrounding area is mostly residential, with No. 47 Holmpatrick comprising a public house. Lands adjoining the site to the north, south and west comprise 2 storey residential dwellings within Holmpatrick Cove and The Maltings. No. 47 Holmpatrick, also known as the 'The Malting House' comprises a two storey premises.
- 7.2.5. The roof profile of the proposed dwelling is flat with a roof ridge height of 5.75m. The Section Drawings submitted show that the height of the proposed dwelling would be significantly lower than the height of No. 4 Holmpatrick Cove at 13.9m and Nos. 6 and 7 The Maltings at 11.49m.
- 7.2.6. The proposal would maintain a separation distance of 2m from the northern boundary of the site and 4m from the southern side elevation of No.4 Holmpatrick Cove, at its closest point. The proposal would maintain a separation distance of 4.9m from the western side boundary shared with house nos. 6 and 7 The Maltings. A separate distance of 19.5m would be maintained between the southern elevation of the proposal at first floor level and house nos. 3 and 4 The Maltings to the south.
- 7.2.7. The private amenity space to the rear of the proposed dwelling at 92 sq.m. complies with the requirements of Objective DMS87 of the Development Plan which requires a minimum of 60 sq.m. private open space for a 3-bedroom dwelling.
- 7.2.8. The elevation drawings submitted detail that the materials and finished of the proposed dwelling would comprise nap plaster finish and cut limestone. These are considered acceptable.
- 7.2.9. Having reviewed the drawings submitted, it is my view that the height, scale and design of the proposed dwelling is acceptable and would not detract from the character or visual amenity of the surrounding streetscape along Holmpatrick Cove and surrounding area. Adequate separation distance is maintained between the proposed dwelling and neighbouring property and private amenity space complies with Development Plan standards. It is my view that the proposed development would not comprise overdevelopment of a restricted site. Concerns with regards overlooking and overshadowing are addressed below. On this basis, I recommend that the appeal should not be upheld in relation to this issue.

7.3. Overshadowing:

- 7.3.1. The appellants express concern that the proposed dwelling would block daylight and sunlight reaching the rear garden and first floor side elevation window of No. 4 Holmpatrick Cove.
- 7.3.2. The proposed dwelling has a flat roof profile with a roof ridge height of 5.57 metres. As detailed above, the proposal would maintain a separation distance of 2m from the northern boundary of the site and 4m from the southern side elevation of No.4 Holmpatrick Cove, at its closest point. The rear / eastern building line of the proposal is recessed c. 2.4m behind the rear building line of No.4 Holmpatrick Cove.
- 7.3.3. The shadow analysis submitted illustrates and details the shadow cast by the proposed dwelling on adjoining property on the 21st December and the 23rd March, 21st June and 23rd September for the hours 9 am, 12 noon and 6 pm. The shadow analysis indicates the following on these dates;
- December 21st: Some additional overshadowing of the amenity space to the front (northern end) of No. 4 Holmpatrick Cove at 12 pm. No additional overshadowing at 9am or 6pm (no daylight).
- 23rd March: Some additional overshadowing of the amenity space to the front of No. 4 Holmpatrick Cove at 12 pm (southern end).
- 21st June: No significant additional overshadowing at 9am, 12 pm and 6pm.
- 23rd September: Some additional overshadowing of the amenity space to the front of No. 4 Holmpatrick Cove at 12 pm (southern end).
- 7.3.4. With regard Daylight, Sunlight and Overshadowing, Objective DMS30 of the Fingal Development Plan 2017-2023 seeks to ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.
- 7.3.5. Having regard to the orientation, layout, and height of the proposed dwelling and having reviewed the shadow analysis submitted, I am satisfied that the proposed dwelling would not cause any significant overshadowing of No.4 Holmpatrick Cove. While the shadow analysis does not show the shadow cast on the front elevation of No.4 Holmpatrick Cove I am satisfied that the elevations of No. 4 would receive in

excess of 25% of annual probable sunlight hours, including at least 5% of annual probable sunlight hours in the winter months between the 21st September and 21st March, in accordance with the recommendations of Section 3.2 of the Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.E. 2011). The proposal would not cause significant additional overshadowing of the private amenity space to the rear of No.4 Holmpatrick Cove. I recommend, therefore, that the appeal should not be upheld in relation to this issue.

7.4. Overlooking:

- 7.4.1. The third-party appellants express concern that the separation distance of c. 6.7m between the proposed dwelling and the rear elevation of No. 47 Holmpatrick does not comply with the requirements of Objective DMS28 of the Fingal Development Plan which requires a minimum of 22 metres between directly opposing first floor windows. Furthermore the appellants express concern that neighbouring dwelling No. 7 The Maltings would overlook the proposed dwelling. On this basis, the appellants consider the proposal would be contrary to the zoning objective of the area which seeks to 'protect and improve residential amenity'.
- 7.4.2. The Planning Authority in its assessment detail that the proposal provides 2 no. windows opes fitted with obscure glazing serving first floor non-habitable rooms and a window serving the first floor landing to the rear (south) elevation of the proposed dwelling, which will be 7.5m from the rear boundary and 22 metres from the rear first floor window opes of No. 4 The Maltings located to the south of the site. The Planning Authority determine that the obscured nature and non-habitable first floor rear windows would not overlook neighbouring properties to the south. With regard overlooking to the north, the Planning Authority consider the bedroom window overlooking the front garden of No. 4 Holmpatrick Cove is angled so as to reduce potential overlooking. With regard overlooking to the east, the Planning Authority note that the bedroom windows overlook the rear of No. 47 Holmpatrick – a commercial premises (public house).
- 7.4.3. A separation distance of c. 23m would be maintained between the stairwell window ope on the first-floor rear elevation of the western wing of the proposed dwelling and

house Nos. 3 and 4 The Maltings, located to the south of the site. This accords with the requirements of Objective DMS28 of the Fingal County Development Plan which requires a minimum 22 metres separation distance between directly opposing rear first floor windows. The other two window opes on this elevation at first floor level are detailed as comprising obscured glazing, serving an ensuite w.c. and wardrobe. As such overlooking from these window opes would not occur. There are no window opes on the first-floor rear southern-most elevation of the proposed dwelling.

- 7.4.4. The proposal provides 3 no. window opes on its eastern side elevation at first floor level, serving 2 no. bedrooms and a w.c. / shower room. A separation distance of c. 24m would be maintained between these window opes and the window opes on the rear / western elevation of No. 47 Holmpatrick. This complies with the minimum 22 metres separation distance required under Objective DMS28 of the Development Plan. Given the ground floor commercial nature of No. 47 Holmpatrick which is a public house, overlooking of the yard to the rear of this premises is not an issue.
- 7.4.5. The positioning of the proposed dwelling would not overlook the private amenity space to the rear of No. 4 Holmpatrick Cove. The proposal provides 2 no. first floor window opes on the front elevation of the western wing of the house. Given a) the angled north-easterly orientation of the western wing of the proposal away from No. 4 Holmpatrick Cove and b) the separation distances of c 2.7m – 5.1m from the northern boundary, it is my view that the proposal would not adversely impact the residential amenity of No. 4 Holmpatrick by way of overlooking. The window ope on the southern side elevation of No. 4 Holmpatrick at first floor level serves a non-habitable room, as permitted under P.A. Ref. F07A/0163. As such overlooking of this elevation is not an issue.
- 7.4.6. The proposal does not provide any window opes on the western elevation of the western wing of the proposal at first floor level and the window ope at ground floor would serve a utility room (non-habitable). A separation distance of 13m - 16.4m would be maintained between the proposal and House No 6 The Maltings, located on adjoining lands to the west. As detailed above, the window opes on the rear southern first floor elevation of the western wing would not serve habitable rooms. As such overlooking from/of these would not occur. While the study and living room within the proposed dwelling at ground floor level may be visible from the first floor window opes of No 6 The Maltings, I consider the c. 1.8m high boundary wall and angled orientation

of these window openings would minimise overlooking of these rooms and the private amenity space to the rear of the dwelling.

7.4.7. Having regard to the above, it is my view that the proposed development would not result in overlooking of neighbouring property and the proposed dwelling would not be significantly overlooked by neighbouring dwelling to such an extent to warrant refusal of permission. The proposed development complies with Development Plan policy with regards overlooking. I recommend, therefore, that this ground of appeal should not be upheld.

7.5. Access and Parking:

7.5.1. The appellants express concern with regards the proposed vehicular entrance and possible vehicular conflict with vehicles accessing / egressing house Nos. 3 and 4 Holmpatrick Cove. The appellants put forward that vehicles would need to exit from the proposed dwelling in reverse gear before turning, most likely in the direction of No. 4 where there does not appear to be sufficient circulation space to do this safely, particularly when there is the risk of a vehicle reversing out of No. 4 at the same time. The appellants put forward that such development would put the safety of children playing on the adjoining street at risk. The applicant contests this as detailed in Section 6.2.5 above.

7.5.2. The proposed development provides 2 no. car parking spaces within the curtilage of the site. This complies with relevant car parking standards, as set out in Table 12.8 of the Fingal County Development Plan. The applicant has submitted a swept path analysis showing that cars egressing the site would reverse into the western end of the adjoining hammerhead of Holmpatrick Cove, before continuing in a forward direction along the Kybe Road. The configuration of the parking spaces on the site show that when there is only 1 no. car parked within the site, this car will be able to exit in forward gear.

7.5.3. Having reviewed the swept path analysis submitted, I am satisfied that there is adequate turning space within the hammerhead end of Holmpatrick Cove to enable cars reverse in a safe manner without causing an unacceptable risk to traffic, cars accessing / egressing house Nos. 3 and 4 Holmpatrick Cove or pedestrian safety. I note that in response to the swept path analysis submitted by way of Further

Information response, the Transportation Planning Section report of the Planning Authority outline no objections to the proposed development subject to standard Conditions. On this basis, I recommend that the appeal should not be upheld in relation to this issue.

7.6. Removal of Trees and Boundary Walls:

- 7.6.1. The appellants object to the proposed development on the grounds that an existing tree at the location of the proposed vehicular entrance will be removed. The appellants put forward that such development would be contrary Objective PM64 of the Development Plan which seeks to protect and preserve trees. Furthermore, the appellants object to the proposal on the grounds that the removal of the boundary wall of the site would be contrary to Objective DMS39 of the Development Plan which to retain the physical character of an area including boundary walls.
- 7.6.2. There are 3 no. cordyline trees planted along the northern boundary of the site within Holmpatrick Cove. The proposed development seeks to remove the most western of these trees to facilitate the new vehicular entrance serving the proposed dwelling. These trees are not subject to a tree preservation order. I acknowledge the case put forward by the appellants that the removal of trees would be contrary to Objective PM64 of the Development Plan which seeks to 'protect, preserve and ensure the effective management of trees and groups of trees'. Notwithstanding this, it is my view that the removal of this semi-mature tree would not have a detrimental impact on visual amenity of the streetscape and its removal is not a sufficient reason to warrant refusal permission for the proposed dwelling. I noted during site inspection that there are 3 no. semi-mature trees located further to the west at the end of Holmpatrick Cove.
- 7.6.3. The proposed development will retain the existing boundary walls around the site, with the exception of a section of the wall at the north-western corner to enable to the provision of the new vehicular and pedestrian entrance serving the site. It is my view that the extent of boundary wall to be removed is not significant enough to warrant refusal of permission of the proposed dwelling. Such development would not be contrary to Objective DMS39 of the Fingal County Development Plan. On this basis, I recommend that the appeal should not be upheld in relation to this issue.

7.7. Construction Impacts:

- 7.7.1. The appellants express concern that the construction of the proposed development would severely impact the day-to-day amenities of neighbouring property and would compromise the stability of the boundary wall of neighbouring property No. 7 The Maltings. The appellants put forward that the applicant has not submitted a Construction Environmental and Management Plan.
- 7.7.2. With regard construction works and impact on services and the structural integrity of the walls of neighbouring property, I consider that this issue is controlled under separate Building Regulations. I note that the Planning Authority imposed a Condition (No. 10) requiring the developer be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from construction work and make good any damage to the satisfaction of the Planning Authority. In order to alleviate the concerns of the appellants and ensure the proposal does not impact on the amenity of services and the structural integrity of adjoining property, I consider it appropriate that in the event of a grant of permission, a Condition should be imposed requiring the developer to submit for the agreement of the Planning Authority a Construction Management Plan for the proposed development. On this basis, I recommend that the appeal should not be upheld in relation to this issue.

7.8. Flood Risk:

- 7.8.1. The appellants express concerns that the proposal does not take into account flood risk on the basis that the flood risk assessment submitted does not appear to refer to the Fingal East Meath Flood Risk Assessment Maps (FEMFRAMS).
- 7.8.2. The Planning Authority in its assessment refers to a Water Services report relating to a previous application on the site which noted that the subject site is partly located within an area which is at risk of flooding. The Planning report notes that a flood risk assessment was submitted with the subject planning application and that the Council's Water Services Department raised no concerns with this regard.
- 7.8.3. The applicant has submitted a Flood Risk assessment with the application. The report addresses flood impact having regard to the OPW National Flood Hazard Mapping services, which summarises all flood events within 2.5km of the site. The report provides a summary local area report which indicates that flooding has not occurred

on the site of the proposed development. The report concludes that there is no coastal or fluvial risk to the existing or proposed buildings on the site and that there is no risk to the immediate area as a consequence of the proposed works provided all works are carried out as indicated in the proposed drawings and details in accordance with the requirements of Fingal County Council Drainage Department.

- 7.8.4. Strategic Policy 20 of the Fingal County Development Plan 2017-2023 seeks to ensure new development has regard to the requirements of the Planning System and Flood Risk Management Guidelines (2009). In accordance with the Guidelines, a Strategic Flood Risk Assessment (SFRA) was commissioned by Fingal County Council as part of the Development Plan to assess flood risk within the plan area.
- 7.8.5. Map 6 of the SFRA identifies that the site is located in a Flood Zone B area where the SFRA states that probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding).
- 7.8.6. Table 3.2 of the Flood Risk Management Guidelines provides a matrix of vulnerability versus flood zone to illustrate appropriate development and that which requires a Justification Test. The Table identifies that highly vulnerable development which includes dwelling houses located within Flood Zone B require a justification test.
- 7.8.7. Section 5.15 of the Guidelines requires that where a vulnerable development which includes housing is located in a flood zone A or B, the planning authority must be satisfied that the proposed development complies with the requirements of a justification test in that the lands are (i) zoned; (ii) will not increase flood elsewhere; (iii) includes measures to minimise flood risk; (iv) that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design and (v) development is compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes. The Guidelines categorises dwellings as 'highly vulnerable'.
- 7.8.8. Having regard to the above, I consider the following;
 - The site is zoned objective 'RS' which seeks 'to provide for residential development and protect and improve residential amenity'. The proposed development is acceptable in principle under this zoning.

- The zoning of the subject lands under the current Fingal County Development Plan was subject to a Strategic Flood Risk Assessment, in accordance with the Planning System and Flood Risk Management Guidelines (2009).
- The OPW Flood Maps show that the area of Skerries is 'under review .. following an objection, submission and/or further information received'.
- The proposed development would not significantly increase flood risk elsewhere. The proposed dwelling would result in a maximum loss of 140.5sq.m. of the floodplain area. Any displacement of flood water would be accommodated within the remainder of the site. The applicant proposes that all surface water run-off from the development shall discharge into a soakpit on the site. The soakpit will be in accordance with BRE digest 365 and allow for a 1 in 30 year critical storm event and 10% climate change.
- The applicant has proposed SuDS measures with all hardstanding and pavements comprising permeable materials or discharge to the proposed soakpit.
- The site is located 170m from the nearest coastline and 3.9m OD. The Greater Dublin Strategic Drainage Study – Volume 5 Climate Change Technical Document recommends that 'because there is a degree of uncertainty in both the climate change model and the historical tidal data, it is recommended that 2.95m OD (Malin Head) is taken as being the present day 200 year water level.
- The site is surrounded by residential dwellings and a public house which are subject to the same flood risk.
- The OPW Past Flood Events Maps shows that the subject appeal site has not been subject to a past flood event.
- During site inspection I saw no evidence of flooding on the subject site.

7.8.9. Having regard to the foregoing, I consider that that the risk of flooding to the proposed development is low and will not exacerbate flood levels within the site or surrounding area. On the basis of the above, I am satisfied that the proposed development passes the Justification Test in accordance with Box 5.1 of the Flood Risk Management Guidelines and the proposed development is deemed appropriate to be located within Flood Zone B. It is my view that the proposed development would not raise significant flooding issues and the risk of flooding to the proposed dwelling is minimal. Residual risks are minimal. On this basis, I recommend that the appeal should not be upheld in relation to this issue.

7.9. Appropriate Assessment:

- 7.9.1. Having regard to nature and scale of the proposed development to provide one additional house in a fully serviced and zoned residential area and the nature of the receiving environment and the distance and lack of connections to the nearest European site, the Skerries Islands SPA (Site Code 004122), no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the residential land use zoning of the site, the pattern of development in the area, the size of the site and the layout and design of the proposed development, it is considered that, subject to compliance with the Conditions set out below, the proposed development would not adversely impact on the residential amenity of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 10th day of August 2020, 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
----	--

	<p>authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.</p> <p>Reason: In the interest of public health.</p>
4.	<p>(a) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900 millimetres, which would interfere with or obstruct (or could obstruct over time) the required visibility envelopes.</p> <p>(b) All underground or overhead services and poles shall be relocated, as may be necessary, to suitable locations at the applicant/developer's expense.</p> <p>(c) The footpath and kerb shall be dished at the developed at the applicant/developer's expense to the satisfaction of the Planning Authority.</p> <p>Reason: In the interests of traffic and pedestrian safety.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>

7.	<p>Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>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.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
9.	<p>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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
--	--

Brendan Coyne
Planning Inspector

16th March 2021