



An  
Bord  
Pleanála

## Inspector's Report ABP 309979-21

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<b>Development</b>	Split level dwelling to rear of existing house.
<b>Location</b>	Fedrico. Thormanby Road, Howth, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F20A/0094
<b>Applicant</b>	Denis Walsh
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellant</b>	Nael G. Bunni
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	16/07/21
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The appeal site which has a stated area of 0.194 hectares, is located on the eastern side of Thormanby Road in Howth, Co. Dublin. The immediate vicinity is characterised by detached and semi-detached houses on large sites, with more recent infill developments to the rear of some the houses. A scheme of large detached houses (Thormanby Hill) is located on the opposite side of Thormanby Road.

The site comprises the rear garden of a semi-detached dwelling (Federico). There is a detached garage to the side of the dwelling. The garden area is somewhat overgrown with mature trees therein. It slopes up eastwards with a difference of approx. 8 metres between the entrance off Thormanby Road and the eastern site boundary. The rear section of the site is accessed by steps. Houses have been developed to the rear of the houses to the north and south of the site. The appellant's dwelling is to the north, is single storey and flat roofed in design. It is set back approx. 5 metres from the shared boundary which is delineated by a stone wall backed by trees/planting in part. The appeal site is marginally lower than the said dwelling. The single storey dwelling to the south which has a pitched roof is close to the shared boundary delineated by a hedge and a wall.

To the east of the appeal site is an area of coniferous plantation, beyond which are areas of gorse and amenity pathways at various levels.

## 2.0 Proposed Development

The application was lodged with the planning authority on the 02/03/20 with further plans and details received 12/11/20 and 23/02/21 following requests for further information (FI) and clarification of FI dated 10/06/20 and 04/12/20 respectively.

As amended, the proposal entails the construction of a single storey split level 3 bedroom dwelling. The roof has an apex of 6.093 metres.

A setback of between 1.95 and 2.366 metres is proposed to the northern boundary with a setback of between 1.201 and 1.809 metres to the southern boundary.

The detached garage to the side of the existing dwelling is to be removed to allow for access with alterations to the existing entrance proposed to improve sight lines.

The application is accompanied by:

- Assessment of Flood Risk report
- Architectural Assessment report
- Landscape Visual Impact Assessment
- Tree Survey and Landscaping Plan
- Vehicle Entrance Sightlines

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Grant permission subject to 12 conditions. Of note:

Condition 6: Appointment of arboricultural consultant.

Condition 7: Tree bond of €5000 to ensure trees are protected.

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

##### 3.2.1. Planning Reports

The **1<sup>st</sup> Planning Officer's** report considers that the proposal constitutes overdevelopment of the site, would be overbearing and would have a negative impact on adjoining properties. Overshadowing is not considered to be a concern. FI required. The **2<sup>nd</sup>** report following FI considers that the applicant has failed to acknowledge that the subject site is more restricted than the surrounding precedent sites as a result of the width and the location of mature trees. The scale of the dwelling should be reduced further. The dwelling will not be visually obtrusive in views that are protected from the Upper Cliff Path. Clarification of FI recommended. The **3<sup>rd</sup>** report following clarification of FI notes that the omission of a large internal atrium has allowed for the northern elevation of the dwelling to be set back further from the northern boundary. The dwelling is now considered to be of an appropriate scale and provides for adequate separation distances from the boundaries. A grant of permission subject to conditions recommended.

##### 3.2.2. Other Technical Reports

Water Services Department has no objection subject to conditions.

The 1<sup>st</sup> and 2<sup>nd</sup> reports from Transportation Planning Section requires further information on how sightlines of 49 metres are to be achieved. The 3<sup>rd</sup> report considers the proposal to be acceptable and has no objection subject to conditions.

The 1<sup>st</sup> report from Parks Division recommends further information seeking a tree survey including an Arboricultural Impact Assessment and Landscape Visual Impact Assessment. The 2<sup>nd</sup> report following FI recommends that the dwelling layout be revised to allow for a further setback from retained trees. The 3<sup>rd</sup> report following clarification of FI sets out conditions should permission be granted

### **3.3. Prescribed Bodies**

Irish Water has no objection subject to conditions.

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

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to size and scale of dwelling, removal of trees, separations distances from adjoining properties and impact on amenities of adjoining property.

## **4.0 Planning History**

**ABP 305272-19** – permission granted for demolition of house and outbuildings and construction of 5 houses at Lindisfarne (No.44) to the north of the appeal site.

## **5.0 Policy Context**

### **5.1. Fingal County Development Plan, 2017**

The site is within an area zoned 'RS' the objective for which is to provide for residential development and to protect and improve residential amenity. The appeal site is also located within the Buffer Zone of the Howth Special Amenity Area Order.

The lands immediately to the east and north of the appeal site are zoned 'HA' ("to protect and improve high amenity areas") and are located within the Howth SAO

proper. The Howth cliff paths are located to the east of the appeal site and there is a mapped objective to preserve views along the paths.

The following objectives are noted:

**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.

**PM45:** Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

**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.

**DMS29:** Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units.

**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.

**DMS87:** Relates to minimum open space provision for dwelling houses.

## 5.2. Natural Heritage Designations

The nearest designated site is appeal site is Howth Head SAC (Site Code 000202) c. 100 metres to the east.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The 3<sup>rd</sup> party appeal can be summarised as follows:

- There is no objection in principle to development on the site.
- The size and scale of the dwelling is too large for the site and is excessively disproportionate to neighbouring properties.

- It will adversely impact the visual amenities of adjoining property. The design entails a 21.5 metre long solid wall of up to 4 metres in height with the roof apex up to 6 metres.
- At over 6 metres high it will overshadow the appellant's property, eliminating sunshine completely and adversely reducing the quality of natural light.

## 6.2. Applicant Response

The submission by BPS Planning Consultants, which is accompanied by a shadow study, can be summarised as follows:

- Almost every original dwelling along this section of Thormanby Road has obtained permission for a backland, infill dwelling to the rear.
- Under ref. ABP - 305272 (F18A/0468) the Board granted permission for 2 no. 2 storey flat roofed houses and 3 no. split level 1 ½ storey dwellings to the rear of 44D Thormanby Road (to the north of appeal site).
- The proposal has been sensitively sited, designed and scaled relative to adjoining properties and to development granted in the vicinity. The split level design responds to the existing ground levels.
- The size, scale and design of the dwelling is lower than many other infill dwellings in the vicinity.
- The dwelling mirrors the siting and footprint of the dwelling to the south.
- The cross section submitted at FI stage shows that the appellant's property which is at a higher level, being flat roofed and quite tall appears bulkier than that proposed.
- The proposed dwelling is 5.104 metres in height at its west end and 4.47 metres at its east end. The central section is 6.093 metres. The roof design serves to mitigate the visual impact of the dwelling with the tallest part of the roof located furthest from the appellant's property.
- The setbacks provided to adjoining properties comply with the requirements of the Fingal County Development Plan.

- Overshadowing already arises from existing trees. The appellant's property is located on an east-west axis. Shadow diagrams prepared show that there would be no additional overshadowing.
- Privacy will be maintained by the retention of the existing trees along the boundary and limited window openings along the northern elevation.
- The proposal is not visible from the SAAO zoned lands to the east. The dwelling is of an appropriate size, scale and architectural quality such that it fully accords with the management plan and objectives for the buffer zone.
- The proposal complies with national and local planning policy.

### 6.3. Planning Authority Response

No further comment. It requests that conditions 7 and 12 are included should the Board grant permission.

### 6.4. Further Responses

The applicant's response to the grounds of appeal were circulated for comment.

#### 6.4.1. The response from the 3<sup>rd</sup> Party appellant can be summarised as follows:

- Each of the backland developments on Thormanby road are unique to their site and surroundings.
- The existing trees and shrubs are not so dense that they block light.
- The trees are not greater in bulk and width than the proposed development.
- The images used in the applicant's submission do not take into account of sight lines at ground level.
- The proposed development will have a disastrous effect on both the view and quality of natural light which cannot be adequately measured by a shadow survey.
- The relevant planning policies as set out in the county development plan and Guidelines on Sustainable Residential Development in Urban Areas require the protection of amenities of adjoining property.

- The dwelling will be an imposing structure that will dominate. It is excessively disproportionate.

6.4.2. The planning authority has no further comment.

## 7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings.

- Principle of Development
- House Design and Impact on Amenities of Adjoining Property
- Other Issues

### 7.1. **Principle of Development**

The site which comprises part of a rear garden serving a 2 storey semi-detached period dwelling is located within an area zoned RS in current Fingal County Development Plan the objective for which is to provide for residential development and to protect and improve residential amenity. The plan by way of objective PM44 also 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.

Infill/backland development is well established in the vicinity with dwellings noted immediately to the north and south. Thus, the proposal is acceptable in principle however there is an obligation to reconcile the need to meet the requirements of the applicant with the requirement that such works should not compromise the residential amenities of adjoining properties.

### 7.2. **House Design and Impact on Amenities of Adjoining Property**

The site is relatively narrow with a number of mature trees within and along the site boundaries. The appellant's property is immediately to the north and is marginally higher than the subject site. It is single storey in design with a flat roof and has a setback of approx. 5 metres from its southern boundary. There is a window which wraps around the south-western corner serving a habitable room. To the south is a single storey dwelling with a pitched roof which has a minimal setback of in the



region of 1 metre from the shared boundary. It has a rear door in the northern elevation fronting onto the appeal site with roof lights noted.

The dwelling design has been amended during the planning application process and the final iteration submitted by way of clarification of FI entails a split level single storey dwelling with an approx. floor area of approx. 200 sq.m (reduced from 267 sq.m.) This has allowed for greater setbacks from the northern and southern site boundaries. The setback from the northern boundary is to range between 1.950 and 2.2360 metres and thus maintains a setback from the appellant's property of a minimum of 7 metres. The setback from the southern boundary is to range from 1.201 to 1.809 thereby maintaining a minimum separation of 2.2 metres from the adjoining dwellings. The provisions largely comply with the development plan requirements of 2.3 metres between the side walls of detached dwellings as set out in objective DMS29.

While Objective DMS39 of the Development Plan states that infill development shall respect the height and massing of existing residential units, I note that Objective PM45 seeks to promote the use of contemporary and innovative design solutions subject to the design respecting the character of the area.

The house is contemporary in design with a roof profile that, at its apex, is 6.093 metres in height. As noted from the contiguous elevation drawings submitted by way of FI the dwelling will be marginally higher than the appellant's dwelling (c. 0.7 metres) and the dwelling to the south (c.0.5 metres). I note that the said drawings do not account for the further reduction in floor area in response to the clarification of FI and I am of the opinion that its massing and bulk relative to those adjoining is acceptable.

The appellant's property currently benefits from the undeveloped nature of the subject site with gaps in the boundary planting allowing for views into same. As per the tree survey and landscaping plan submitted by way of FI 8 no. trees are to be felled in addition to part of a boundary hedge. The proposal entails the retention of the existing trees along the boundary as far as practicable and to supplement same with further planting. On this basis the dwelling will be screened from the appellant's site. I consider that the protection of the trees can be secured by way of condition.

I note that the appellant considers that a shadow analysis cannot adequately measure the impact on the view and quality of natural light. Notwithstanding I submit that such a study is a useful tool to assist in the assessment of the proposal. I submit that having regard to the existing tree cover along the shared boundary albeit with gaps, the height of the dwelling and setback from the appellant's property, no issues of overshadowing will arise. This is confirmed in the said shadow analysis.

In terms of the property to the south windows in the southern elevation are to have obscure glazing. The height will have no impact on light to the roof lights.

I consider that the development as proposed is acceptable in design and layout and subject to conditions, will not have an adverse impact on the amenities of adjoining property.

### **7.3. Other Issues**

The dwelling would provide a good level of residential amenity for future occupants and I note that it exceeds the minimum standards set out in the Development Plan and thereby will be compliant with Objective DMS24. The provision of private open space would also be compliant with the Development Plan requirements.

The dwelling is to share the vehicular access with the existing dwelling and corresponds to the access arrangements for other infill/backland development in the vicinity. Modifications to the access is proposed to allow for 49 metres sightlines in both directions.

The appeal site is located in the area designated as a Buffer Zone for the Howth Special Amenity Area Order. A Visual Impact Assessment was submitted by way of further information. I have inspected both the site and its surroundings, as well as views towards the site from the upper cliff path, which is within the SAA proper, and from which views are to be protected. As a result of the topography of the area, the relative levels of the proposed house and the cliff path, and the height of the proposed house, I am satisfied that the proposed development will not be visible from the upper cliff path (and by extension from the lower cliff path), and that there will therefore be no impact on views or prospects to, from or within the SAAO area.

*Appropriate Assessment*

The appeal site is located c. 100m to the west of the Howth Head SAC boundary (Site Code 000202) and c. 340m west of the Howth Head Coast SPA (Site Code 004113).

Having regard to the location of the site within a serviced and residentially zoned area, with existing residential development to the north, west and east and forestry plantation to the east and to the limited scale of the development, namely a single dwelling, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

## **9.0 Reasons and Considerations**

Having regard to the provisions of the Fingal Development Plan 2017-2023, including the residential zoning objective for the site and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be detrimental to the character or amenities of the Howth Special Amenity Area, would be acceptable in terms of traffic safety and would constitute an acceptable form of development at this location. 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 12<sup>th</sup> day of November, 2020 and on the 23<sup>rd</sup> day of February, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity

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

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

3. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

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

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

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

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located

underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

6.
  - (a) Prior to commencement of development details of the tree protection measures to be incorporated during the construction phase shall be submitted for the written agreement of the planning authority.
  - (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees to be retained have been protected by the agreed protective measures.
  - (c) A suitably qualified arboricultural consultant shall be retained to supervise works all tree protection measures to be carried out.

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

7. The landscaping scheme shown on drawing no. FH.01-021 received by the planning authority on the 12<sup>th</sup> day of November 2020 shall be carried out within the first planting season following substantial completion of external construction works.

Any plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise

management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of public safety and residential amenity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**July, 2021**