



An
Bord
Pleanála

Inspector's Report ABP 310278-21

Development	Demolition of dwelling and construction of three houses.
Location	806, Howth Road, Dublin 5, D05A060.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3800/20
Applicants	David Owens & Karen McElhinney
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions.
Type of Appeal	Third Party
Appellant(s)	Sinead Conroy Paula Hannan Martin Kennedy Margaret Kennedy John K. Kenny
Observer(s)	None.
Date of Site Inspection	31 st March 2022

Inspector

Brendan Coyne

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 1.08 ha, is located on the northern side of Howth Road, in Dublin 5. The site is curved rectangular in shape with a road frontage width of c. 12.2m and a length of c. 84m. The site contains a detached two-storey dwelling, with a single storey flat roof extension and garage to its western side and a single storey extension to the rear. The dwelling has a stated floor area of 154.9 sq.m. The roof profile of the dwelling is hipped, and its elevation finishes are rendered. The front elevation is characterised with a two-storey bay window. The front garden is cobble-locked providing car parking for the dwelling. The rear garden contains two sheds located along the north-western rear boundary and western side boundary. Tall mature trees and hedging are planted along the rear and side boundaries of the rear garden.
- 1.2. Adjoining land to the west contains a two-storey semi-detached dwelling (No. 804) and a detached two-storey dwelling to the east (No. 808). A two-storey apartment block known as 'Island View Court' is located on land adjoining the north-eastern boundary. The front garden of a detached two-storey dwelling, No. 12 Island View, adjoins the north-western/rear boundary. North Dublin Bay is located opposite the site, on the southern side of Howth Road. A Dublin Bus stop is located on the opposite side of the Howth Road and c. 100m to the southwest on the same roadside. These serve bus routes Nos. 6, H2 and H3, linking Dublin city centre with Howth station, Malahide Village, and Howth summit. Kilbarrack Railway Station is located c.1.4km (18-minute walk) to the north of the site, and Howth Junction and Donaghmede Railway Station is located c. 1.4 km (18-minute walk) to the northeast of the site. Greendale Shopping centre is located c. 1 km (12-minute walk) to the north-west of the site.

2.0 Proposed Development

2.1. Application as lodged to the Planning Authority on the 24/11/2020

- 2.1.1. Permission sought for the following, as described in public notices;
 - Demolition of existing two-storey dwelling, attached garage and sheds to the rear;
 - Construction of 1 no. detached three storey 4-bedroom dwelling (House Type A) fronting Howth Road, featuring a one bedroom granny flat with own door access at ground floor level & front terrace at second floor;

- Construction of 2 no. semi-detached two storey 3-bedroom dwellings (House Types B&C) to the rear of site.
- All houses are accessible off Howth Road via a shared internal driveway which provides access to 4 no. on-curtilage vehicular parking spaces (2 no. serving House A, 1 no. serving House B & 1 no. serving House C);
- Relocation and remodelling of the existing vehicular entrance off Howth Road;
- Other works as part of the development include rooflights, landscaping, boundary treatments, SuDS drainage and all associated works necessary to facilitate development.

2.1.2. A Natura Impact Statement (NIS) accompanies the application.

2.1.3. Along with the standard drawings, information and N.I.S submitted; the application included the following:

- Ecological Impact Assessment
- Engineering Report
- Internal Daylight Assessment
- Technical Note Traffic and Transport Statement
- BRE Digest 365 Report
- Tree Schedule

2.1.4. **Further Information submitted on 31/03/2021 included the following;**

- Planning Report
- Floor Plans, Elevations, Section Drawings
- Site Map and Proposed Master Plan
- Proposed Entrance Sightlines Layout
- Proposed Swept Path Analysis

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council GRANTED permission for the proposed development subject to 16 no. Conditions. Noted Conditions include:
- C.2 A development contribution of €41,813.40 to be paid to the Planning Authority as a contribution towards expenditure that was and/ or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the administrative area of the Authority in accordance with Dublin City Council's Section 48 Development Contribution Scheme.
 - C. 3 The developer shall lodge with the planning authority a cash deposit or a bond of an insurance company/bank to (a) secure the satisfactory maintenance, completion and any reinstatement of services/infrastructure currently in the charge of Dublin City Council, including roads, open spaces, car parking spaces, public lighting, sewers and drains. or (b) secure the satisfactory completion of services until taking in charge by a Management Company or by the Local Authority of roads, footpaths, open spaces , street lighting, sewers and drains to the standard required by Dublin City Council.
 - C.5 Development shall not commence until a landscape scheme prepared by a suitably qualified person comprising full details of the size, species and location of all trees and shrubs to be planted and the treatment of all external ground surfaces, has been submitted to and agreed in writing by the Planning Authority and implemented in the first planting season following completion of the development.
 - C.6 Prior to commencement of any works, submit for the agreement of the Planning Authority a Construction and Demolition Waste Management Plan, having regard to Circular WPR 07/06 – Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects (2006).

- C. 13 a) The proposed vehicular and pedestrian entrance shall be in accordance with the revised drawing, Drawing No. 2019-32-FI-100, submitted on the 31st March 2021.
- C. 14 All northeast and southwest facing above ground floor windows to all houses shall be fitted with and permanently retained in fixed obscure glazing.
- C. 15 The flat roofs of the dwellings shall be accessed for fire escape and maintenance purposes only save for the approved second floor terrace to House A.

3.2. Planning Authority Reports

3.2.1. First Report (25/01/2021)

The planner's report is consistent with the decision of the planning authority and can be summarised as follows:

- The dwelling on site has no particular architectural merit in its own right apart from being of similar scale to its neighbours in terms of height and traditional house design and form.
- This section of Howth Road contains houses that appear to have been built in a piecemeal manner, i.e. one at a time by separate developers. There is no unifying consistency to the houses beyond being of domestic scale and having similar roof forms.
- The principle of the demolition of the existing house is acceptable in this context.
- Structural/boundary issues that may arise from demolition are a civil matter and a developer's obligation to address.

Re. House Type A

- In place of the demolished house, it is proposed to construct a three-storey 5-bedroom dwelling (House type A) at the front of the site addressing Howth Road.
- The new house would have a modernist form with flat roofs and expanses of smooth render, large, glazed panels, and zinc cladding to the top floor, while vertical fins would be attached to the first-floor elevation as a decorative screen.

- The front building line of the house would approximately match that of the existing house.
- The ground floor of the proposed house would have a depth of 23.95m (front to back) and a width of 8m.
- The building is the same footprint/area as the previous withdrawn proposal.
- The house would contain an integrated one-bedroom “granny flat” with its own door access at ground floor level.
- The granny flat would have a 14.3 sq.m double bedroom and a separate 28.6sq.m kitchen/living/dining room.
- The ground floor plan shows the “granny flat” linked to the main dwelling internally. However, installing a door could easily separate the entrance from the “granny flat” onto the main hall.
- The floor area of the “granny flat” is 34.4sq.m.
- To the rear of the “granny flat” is an au pair bedroom with an ensuite w.c.
- The ground floor contains the main entrance doorway, hall, stairs and two further bedrooms to the rear.
- At first floor level, the house would have a depth of 19.7m. It would contain the main family kitchen/dining/living room to the front with service rooms in the middle of the plan (laundry and store, landing and stairwell) with a lounge to the rear with a relatively narrow window overlooking the rear garden.
- At second floor level (described somewhat inaccurately as an attic floor), the proposal would provide a bedroom to the front and an office to the rear.
- The bedroom would overlook the coast road to the front with an external terrace, 12.2m deep.
- House Type A would have a stated floor area of 318.4sq.m containing five bedrooms and ten-bed spaces.
- In terms of scale and appearance, the house would be a departure from the traditional norm on this section of Howth Road.

- There are two modern examples further to the West, so such a design approach is not unreasonable. The issue is related more to scale.
- The three-storey dwelling would have its parapet above the first-floor level 1.83m above the eaves of No. 808 and 1.79m above No. 804.
- The second-floor parapet would be 650mm above the ridge of No. 808 and 1.05m above No. 804.
- In contrast to those dwellings, the second floor is a full storey with extensive glazing, albeit set back from the front elevation by c.3.3m.
- The existing modernist houses to the west are both two-storey and, while not traditional in form, are of a scale and presence as to integrate with the streetscape visually.
- Due to its height, the current proposal would be out of place and incongruous, with an abrupt and noticeable increase in scale.
- Floor-to-ceiling heights of all floors are higher than usual, while the second floor would have a floor-to-ceiling of 2.8m to the front, falling back into the site.
- Given the open aspect along this section of Howth Road, the house would be highly visible to the west, east and south, and the proposal's scale would be noticeably out of place.
- It is recognised that there is an evolution in scale and character on this section of Howth Road, particularly with the scheme underway at Strand View (formerly 778-784) Howth Road for apartments and houses. Given the size of the sites associated with single occupancy dwellings, there is a strong and arguably necessary expectation that this section of Howth Road will alter radically in the coming years.
- Notwithstanding the above, the subject development would be at a greater height and scale than is currently seen in the vicinity, and its design would be somewhat overblown. In this context, some degree of modification of the second floor would be appropriate.
- With the second floor containing a large bedroom (24sq.m), an ensuite (4.5sq.m) and a wardrobe (4.7sq.m), this would provide a 33.2sq.m master suite, which is

generous, as well as an office and landing area. Therefore, there is reasonable scope to reduce this area without being detrimental to the bedroom's amenities.

- If the second floor did not exceed 30 sq.m combined with its front elevation pulled back by a further three metres, this element would have a more subordinate 'attic' presence rather than read as a full additional storey.
- Subject to this amendment, the scale and appearance of the house would not be particularly out of place.
- The applicant should be required to reconsider the floor-to-ceiling height internally to the second floor with a height of 2.4m. This would reduce the apparent height of the building, while the reduced height of the master bedroom would not be unreasonable given the unobstructed aspect toward Bull Island to the south.
- The new house would retain 82sq.m of private open space, which would not be sufficient to meet the ten bedspace requirements set out in the Development Plan but would also not be modest and appropriate to serve the dwelling.

House Types B & C

- Houses B & C would be two-storey semi-detached dwellings with a floor area of 157.7sq.m and contain three double bedrooms or six-bed spaces.
- The houses would have a long and narrow layout with a depth of 18.9m and a width of 6.35m at ground floor level and 5.5m at first floor level with the entrance doorways along the side elevation.
- The houses would each have shallow mono-pitch roofs over the main sections falling from south to north with a flat valley roof at the intersection of the two houses and flat roofs to the subsidiary ground floor only elements.
- As with House Type A, the houses would be modernist in style with large glazed opes, painted render, polished concrete, and extensive zinc cladding to the first floors.
- The houses would have a first-floor parapet roof height of 7.2m at the front/south elevation, falling to 5.95 m to the rear/north elevation.

- The houses would have uniform 2.7m high floor-to-ceiling heights at ground floor level and the first-floor levels would be 3.625m high at the southern elevation falling to 2.42m to the rear of bedroom no. 1.
- Windows would be orientated to front and rear with the windows to bedrooms no. 3 angled to contain views to the front of the subject site, given there is a shallow dogleg in the site layout which would allow flush windows to overview the garden of adjacent No. 808 Howth Road.
- Bedrooms no. 2 to each house are located in the middle of each plan and would have their windows provided by pop-outs with clear glazing to the north and south, while bedrooms no. 1 would also have pop-out windows.
- Bedrooms No. 1 would have small windows to the rear overlooking the 60sq.m rear gardens, with these first-floor windows being 9.24m from the rear boundary in the case of House Type B and 11.095m in the case of House Type C.
- The houses would not result in overlooking, given the orientation of windows and distances involved to nearby dwellings.
- Re. No. 12 Island View, the distance would be 27.7m from House Type C's rear first-floor elevation to the front elevation of No. 12.
- To the front, the pair of houses would be between 11m and 12.3m from the boundary with proposed House A and c.20m from the rear elevation of that dwelling.
- The closest point of House Type B to No. 804 would be c.35m, with any overlooking being indirect and oblique from the small and angled window of bedroom No. 3 while House Type C would be 27.845m from the rear of No. 808 with no direct overlooking.
- The separation distances provided would not raise concerns regarding overbearing or overshadowing impact.
- Regarding noise impact, the pair of houses would not give rise to undue concern, given they are both single occupancy dwellings located adjacent to an existing apartment block.

- Each of the houses would extend along their side boundaries, with House Type C abutting the grounds of the small two-storey apartment block at Island View Court. The windows of that block would overlook this side elevation with a separation distance of 10.38m.
- The landing window opens on the side elevations at first-floor level would contain frosted glazing.
- In terms of loss of aspect for the residents of the apartment block, this is not considered material.
- The pair of houses, and the house to the front, would not constitute overdevelopment of the site given the provision of adequate private open space.
- The finishes, heights and general design, with the sweeping roof, extensive zinc cladding and proximity to the side boundaries, give the houses a greater sense of scale than a less extravagantly detailed dwelling.
- The depth at 18.9m would be sizable for a backland dwelling, as would the overall floor areas of 157.7sq.m.
- The site's current use for a single dwelling with a rear garden length of c.59m and an overall site area of 1,082sq.m is a grossly inefficient use of urban land in an inner suburban location.
- It is the policy of the Planning Authority to encourage and facilitate achieving sustainable densities across the city, subject to quality in design and integration into the existing context.
- The scheme does not constitute overdevelopment. However, there are concerns about the scale of the pair of dwellings.
- The height of the paired building is excessive to the front/south, particularly as this is the elevation that would be most visible to existing dwellings.
- Backland houses should be relatively discreet, composed in appearance and duly considerate of context.
- The depth of the first-floor element of both houses is excessive, while the extensive use of zinc on the upper floor is somewhat monotonous, contributing to the apparent bulk.

- There are ways and means of modifying the proposed dwellings to reduce their apparent mass and scale without reducing the floor areas excessively.
- Firstly, the overall depth of the first floor should be reduced, e.g. by the paring back of the floor area of the bedrooms, all of which are generous double rooms.
- Secondly, the overall height of the houses should be reduced. A 3.625m floor-to-ceiling height at first-floor level is unnecessary. Bedrooms do not need internal heights above 2.4m, and the floor-to-ceiling height results from the architectural flourish of the sweeping roof form.
- The extensive use of zinc cladding is excessive in coverage and should be revised with the first floor broken visually into more vertical sections with the interspersing of materials rather than a single surface material.
- The pop-out panels for the windows to bedroom no. 2 in each house would be finished in concrete.
- Regarding the potential loss of trees on site, an ecological assessment has been submitted that does not identify the presence of bats on site. Any nesting by birds would not be impacted during construction as site clearance would be undertaken in the non-breeding season (October – February).
- Regarding the removal of trees, the Planning Authority is satisfied with the assessment of the tree survey and the ranking of the trees on-site as being of low quality.

3.2.2. Further information was requested requiring the following:

1. The Transportation Planning Division of Dublin City Council states that due to the restricted nature of the site, in particular having regard to the two dwellings located to the rear of the site, the applicant is requested to submit details and revised drawings as follows:
 - (a) Swept-path analysis demonstrating the safe manoeuvrability of all vehicles from the car parking spaces proposed;
 - (b) Demonstrate that all dwellings can be adequately serviced by emergency services vehicles taking into consideration the distance of the rear dwellings from

the roadside and the restricted nature of the area to the front of said dwellings for turning manoeuvres.

2. While the Planning Authority considers a modern dwelling to be acceptable fronting onto Howth Road at this location given the variety of housing typologies to be seen in the vicinity, it is considered that the proposed second floor is overscaled and would be visually obtrusive when viewed from Howth Road. The applicant is requested to review the proposed design and amend as appropriate bearing in mind the following:

- a) The floor-to-ceiling height to the second floor should be no higher than 2.4m,
- b) The second floor accommodation (excluding stairs and landing) should be no larger than 30sq.m and solely comprise of the master bedroom suite,
- c) The office and landing south of the stair core should be omitted, d) The bedroom suite should be pushed further north away from the street by a minimum of 3m with the new open roof area forward/south of this being incorporated into the currently proposed roof terrace.

3. While the principle of development of the backland of the subject site is reasonable the Planning Authority has some concern with regard to the scale of the pair of semi-detached houses and the appearance and visual impact on adjacent dwellings. The applicant is requested to consider the following comments and to revise the scheme as appropriate:

- a) The height of the dwellings is excessive and should not exceed internal floor-to-ceiling heights of 2.4m to each floor with the total height of the houses being no greater than 6m,
- b) The pair of houses is considered overly deep at first floor and the north-south longitudinal depth should be reduced by three metres with this depth reduction being from the south side,
- c) The extensive use of zinc cladding to the four elevations is monotonous and overly visually dominant, particularly with regard to its colour. The applicant is requested to consider more intermittent use of this material across the first floor with other materials utilised to provide a vertical emphasis to the buildings.

4. The pair of mews houses proposed represent the first instance of development of the backlands of the rear gardens in this section of Howth Road with access from Howth Road. As such the applicant is requested to demonstrate that the proposed scheme would not impede future access and development of the adjacent sites by preparing a sketch masterplan for these backlands indicating plots for similar mews houses and the safe means of access to these houses.

3.2.3. **Second Report (30/04/2021)**

- The scale and appearance of the House A fronting onto Howth Road has been modified with the second floor set back so that its front wall is in line with the apex of the pitched roof of House No. 808, with the bulk significantly reduced by reducing the floor-to-ceiling height of the second floor.
- Overall, House A would not detract from the appearance of the streetscape, and its modern form would not be out of place on this section of Howth Road.
- The pair of semi-detached houses (House Type B and C) to the rear have been significantly reduced in height and length, are less obtrusive and would sit more discretely within the rear garden at a scale and bulk which would not be intrusive or unreasonable.
- The sizable rear gardens of houses on Howth Road present considerable potential for redevelopment in an integrated and considerate manner.
- House Type B and C would not excessively intrude on existing amenities through overshadowing, overbearing or overlooking.
- The pair of dwellings are sufficiently distant from the rear of existing houses on Howth Road to obviate any perceived impact.
- Regarding impact on the apartment block to the north, a six-metre high, fifteen-metre long gable and separation distance of 10.38m would not be overly intrusive. This gable would have visual interest through the use of materials and obscure windows.
- The separation distance to houses on Island View would not give rise to concerns.

- An indicative master plan submitted indicates that a widened entrance between house No's 804 and 806 would allow for a further dwelling to the rear of No. 804 while a further entrance between House No's 796 & 798 Howth Road (where there is an existing sizable separation) would allow access to potentially 17 further dwellings. Any such developments would be subject to full assessment.
- The subject proposal would not represent haphazard backland development and would not impede potential future development.
- Revised auto-track drawings indicate adequate manoeuvrability for the dwellings and emergency services accessing the site.
- Revised entrance arrangements have also been provided, with a reduced 3.6m entrance and a separate 1m pedestrian entrance. These are considered acceptable.

3.2.4. **Other Technical Reports**

Transportation Planning Division: No objection subject to the standard Conditions including, inter alia, the following:

1. The proposed vehicular entrance shall be a maximum of 3.6metres in width. A separate pedestrian entrance to a maximum width of 1.0 metres shall be provided. Entrances shall not have outward opening gates.

Drainage Division: No objection subject to the standard Conditions.

Waste Management Report: No objection subject to the standard Conditions.

4.0 **Planning History**

4.1.1. **Subject Site**

P.A. Ref. 2670/20 APPLICATION WITHDRAWN – Permission sought for the following:

- (i) demolition of existing two storey dwelling, attached garage and sheds to the rear;

- (ii) construction of 1 no. three storey 4-bedroom dwelling (House type A) fronting Howth Road, featuring a one bedroom granny flat with own door access at ground floor level;
- (iii) construction of 2 no. semi-detached two storey 3 bedroom dwellings (House Types B&C) to the rear of site;
- (iv) all houses are accessed off Howth Road via internal driveway and to be served by 6 no. on curtilage vehicular parking spaces (2 each);
- (v) relocation and remodelling of the existing vehicular entrance gate off Howth Road with additional pedestrian gate;
- (vi) other works as part of the development include: rooflights, landscaping, boundary treatments, SuDS drainage and all associated works necessary to facilitate development.

4.1.2. **Relevant application in the surrounding area**

P.A. Ref. 2475/19 and ABP Ref. 305445-19 - Strand View, (formerly Nos. 778-784) Howth Road. Permission GRANTED On APPEAL in Feb. 2020 for revisions to a previously permitted residential development (previously granted under Reg. Ref. 4648/17: ABP Ref. ABP-301265-18). The proposed revisions will comprise of the addition of a new fourth floor penthouse level to previously permitted apartment blocks A and B to now comprise 2 no. 5 storey (3 storey plus 2 setback penthouse floors) apartment blocks with an overall increase of 6 no. apartments (2 No. 1 bedroom units and 4 no. 2 bedroom units) with the overall apartment blocks now consisting of a total of 58 no. apartments (10 no. 1 bedroom units, 38 no. 2 bedroom units, 10 no. 3 bedroom units) with balconies to east, south and west elevations and all associated internal and external modifications to the previously permitted blocks to facilitate this development; and all associated engineering and site development works necessary to facilitate the development

P.A. Ref. 3910/15 - Haremount, No. 726, Howth Road, Dublin 5 & Lonsdale 728 Howth Road, Dublin 5. Permission GRANTED in March 2018 for the demolition of 2 no. existing dwellings and the proposed construction of 16 no. houses, comprising 9 no. 4 bed houses and 7 no. 5 bed houses.

P.A. Ref. 4160/18 & ABP Ref. 303416-19 – No. 570, Howth Road, Raheny, Dublin 5. Permission GRANTED ON APPEAL in April 2019 for (i) part demolition of the existing two-storey building (dwelling and associated medical centre); (ii) external and internal alterations to the part of the building to be retained to provide a two-storey, three-bedroom dwelling, (iii) proposed construction of 2 no. detached, two storey, four-bedroom dwellings fronting Howth Road with rear gardens and on-curtilage car parking and (iv) proposed construction of 2 no. semi-detached, two-storey, three-bedroom dwellings fronting St. Assams Road West, with a rear garden, on-curtilage car parking and new vehicular entrance on St. Assams Road West to serve each dwelling.

5.0 Policy and Context

5.1. Development Plan

Dublin City Development Plan 2016-2022 is the statutory plan for the area. The following objectives relating to zoning are noted:

Zoning: Map C shows the site is zoned 'Z1: Sustainable Residential Neighbourhoods' with the objective 'To protect, provide and improve residential amenities'.

5.1.1. The following policies relating to housing are noted:

Policy QH4 To support proposals from the Housing Authority and other approved housing bodies and voluntary housing bodies in appropriate locations subject to the provisions of the development plan.

Policy QH6 To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

Policy QH7 To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

Policy QH8 To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

Policy QH9 To require that larger schemes which will be developed over a considerable period of time are developed in accordance with an agreed phasing programme to ensure that suitable physical, social and community infrastructure is provided in tandem with the residential development and that substantial infrastructure is available to initial occupiers.

Policy QH5 To promote residential development addressing any shortfall in housing provision through active land management and a coordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.

Policy QH8 To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

Policy SC13 To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context, and which are supported by a full range of community infrastructure such as schools, shops and recreational areas, having regard to the safeguarding criteria set out in Chapter 16 (development standards), including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture. These sustainable densities will include due consideration for the protection of surrounding residents, households and communities.

5.1.2. Other relevant sections of the Development Plan include the following:

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.5 - The Public Realm
- Section 4.5.9 - Urban Form & Architecture;
- Section 9.5.3 - Flood Management
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);

- Section 16.2 - Design, Principles & Standards;
- Section 16.4 - Density Standards
- Section 16.10 - Standards for Residential Accommodation
- Section 16.10.2 Residential Quality Standards – Houses
- Section 16.10.3 Residential Quality Standards – Apartments and Houses
- Section 16.10.8 Backland Development
- Section 16.10.10 Infill Housing
- Section 16.10.14 Ancillary Family Accommodation
- Section 16.38 - Car Parking Standards.
- Map J shows the site is located in Parking Zone 3.
- Table 16.1 – Maximum Car Parking Standards for Various Land-Uses
 - Zone 3 - 1.5 car spaces per dwelling.

Appendix 5 – Road Standards for Various Classes of Development

5.2. National Policy / Guidelines

National Planning Framework – Project Ireland 2040

Regional Spatial and Economic Strategy 2019 -2031

Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).

Urban Design Manual - A Best Practice Guide (2009)

Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE2011).

Design Manual for Urban Roads and Streets (2019). (DMURS).

5.3. Natural Heritage Designations

The site is located c. 15 metres to the north-west of the North Bull Island SPA (Site Code: 004006), the North Dublin Bay SAC (Site Code: 000206) and the North Dublin Bay Proposed Natural Heritage Area (Site Code: 000206).

5.4. EIA Screening

- 5.4.1. Notwithstanding the proximity of the proposed development to the North Bull Island SPA, the North Dublin Bay SAC and the North Dublin Bay Proposed Natural Heritage Area, given the limited 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. Third party appeals against the decision of the Planning Authority were received from the following;
- Sinead Conroy, owner of apartments Nos. 1 & 3 Island View Court, Kilbarrack Road, Dublin 5. Appeal submission prepared by SSA Architects on behalf of the appellant.
 - Paula Hannan of No. 806 Howth Road, Dublin 5.
 - Martin Kennedy of No. 808 Howth Road, Dublin 5.
 - Margaret Kennedy of No. 808 Howth Road Dublin 5.
 - John K. Kenny of Tir-na-nOg, Kilbarrack House, No. 7 Kilbarrack Road, Raheny, Dublin 5.

The grounds of appeal of the appellants are summarised below accordingly.

6.1.2. Sinead Conroy

6.1.2.1. Zoning:

- The design of the proposed development does not meet the Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes

Sustaining Communities (2007) or the Dublin City Council Development Plan zoning requirements.

- The amenity of existing residential dwellings around the site should be preserved as part of the Z1 zoning of the area.

6.1.2.2. Overdevelopment

- The referred to precedent development under P.A. Ref. 3910/15 cannot be considered as this was a comprehensive amalgamation of a number of properties to provide a composite development that was of a significant scale to justify consideration.
- A single site is not large enough to accommodate development of this scale.
- The proposal would comprise significantly intense development on a restricted site.
- The quoted examples P.A. Refs. 3910/15 and 4160/18 are not comparable as these two schemes offer more appropriately proportioned layouts, including full width entrance roads.

6.1.2.3. Backland Development

- The proposal would provide an undesirable precedent for such form of backland development along Howth Road.
- The development of individual backland sites can conflict with the established pattern and character of development in an area.
- Backland development can cause a significant loss of amenity to existing properties, including loss of privacy, overlooking, noise disturbance, and loss of mature vegetation or landscape screening.
- The proposal constitutes piecemeal development and inhibits the development of a larger backland area.
- The lack of distance between flank walls of the building prevents access to the rear of the appellant's garden.

6.1.2.4. Density

- The density of the proposed development contravenes the density standards of the Dublin City Council Development Plan.

6.1.2.5. Traffic and Sightlines

- The proposed development would increase traffic from the entrance onto a busy road.
- Sightlines at the entrance serving the proposed 3 no. dwellings are an issue along the busy R807 Howth Road.

6.1.2.6. Land Ownership

- The red line of the site extends to an area beyond the applicant's ownership, towards the north and west of the site. Accordingly, the private open space requirements of 60 sq.m. for Houses B and C cannot be met, as this portion of the site does not belong to the applicants.
- Map submitted shows a yellow strip along the rear north-western and north-eastern boundaries, which is in the ownership of Raya Investments.

6.1.2.7. Overlooking

- The proposal would result in overlooking from the stairs and landing area across the entire rear garden area of adjoining property.

6.1.2.8. Impact on Residential

- The proposed development would have a negative impact on
 - the residential amenities of adjoining sites,
 - the character of the area,
 - the integration and compatibility of the design with adjoining dwellings,
 - the maintenance of front and side building lines were appropriate,
 - the proposal would create a traffic hazard.

6.1.3. **Paula Hannan**

6.1.3.1. Overdevelopment

- The layout and density of the proposed development would be out of character with the area.
- The proposal would comprise overdevelopment of the site and create an undesirable precedent.

6.1.3.2. Land Use

- The proposed dwellings could be used as bed and breakfast, Airbnb rental or other similar use.

6.1.3.3. Overlooking

- The raised building line of the proposed development would overlook neighbouring property.

6.1.3.4. Design

- The proposal would comprise an incongruent form and the design of the front house would detract from the established pattern and character of development at this location.

6.1.3.5. Vehicular Access:

- The entrance to the site is narrow and will only allow one vehicle to enter or exit at any one time on an already busy road.
- There is no provision for turning circles or turning heads within the development. Cars would have to reverse in or out from the Howth Road. This would create a traffic hazard when visibility is restricted by pillars, walls, plants, wheelie bins, etc.
- There have been two fatalities on this stretch of road. With increased traffic volumes and increased density of cars and dwellings along the road, the risk of further accidents or fatalities becomes more and more likely.

6.1.3.6. Parking:

- There are insufficient parking spaces provided, and no provision is made for deliveries, carers or visitors.
- Every house along this stretch of road has a minimum of two car parking spaces per household.
- There will be an inevitable overspill of parking onto Howth Road, which is too narrow to facilitate this. This will result in cars parking on the pavement, which is illegal and would create an obstacle to wheelchair users, visually impaired pedestrians, and push chairs.

6.1.3.7. Pedestrian Safety:

- Overspill of parking along the public footpath and wheelie bins left out on the pavement would create a hazard for wheelchair users, visually impaired pedestrians or parents with buggies.
- The proposed dwellings would generate 9 no. bins which would be distributed up and down the public footpath.

6.1.3.8. Traffic:

- The Traffic Statement submitted provides guesstimate figures based on assumptions rather than certified figures. This was prepared prior to the commencement of the two large developments for 30 no. dwelling units at No. 754 Howth Road and 68 no. dwelling units at 772-728 Howth Road.
- The Howth Road is already at maximum capacity.
- Peak hours between 8-9am and between 5-6 pm are disputed.
- In the morning, peak traffic starts at around 7:00 AM and continues until 9:30 AM. In the evening, the traffic is heaviest from school pick up time at 3:30 PM until 7:00 PM. Saturday has an even amount of heavy traffic with queueing traffic backed up from beyond No. 790 Howth Road to the junction at the Kilbarrack road. On Sundays, traffic backs up to the intersection with James Larkin Road and to Sutton Cross.

6.1.3.9. Inadequate Public Transport:

- The Dart stations at both Kilbarrack and Howth junction have been noted in the application as a form of public transport. During rush hour, Dart services at these stations are full to capacity.

6.1.3.10. Drainage:

- The existing drains are not sufficient for the volume of houses and people living along this stretch of road. The proposed development would compound this.

6.1.4. Documentation submitted with the appeal includes the following:

- Photographs of land and neighbouring garden to the rear of the appeal site.

6.1.5. **Martin Kennedy**

6.1.6. The appeal states the grounds of appeal are unchanged from the observation made to Dublin City Council, which are summarised as follows;

6.1.6.1. Encroachment of adjoining property

- The proximity of the proposed new dwelling House Type A to the front of the site would make it impossible for the appellant's family to have safe access to the rear of the property using the side access adjoining the appeal site.
- Due to its proximity to the boundary, the proposed new dwelling cannot be built without access from the appellant's property.
- Upon completion of the dwelling, the only way of carrying out ongoing maintenance to its gable wall would require access from the appellant's side entrance.
- Structural drawings have not been submitted showing the foundations of the proposed new build. Concerns that the proposal would cause subsidence of the appellant's property and disturb services (e.g. drainage) that run parallel along the boundary wall.

6.1.6.2. Site Frontage

- The site does not have adequate road frontage to accommodate the proposed 3 no. dwellings.

6.1.6.3. Drainage

- The main combined drain along the Howth Road is at capacity, and the water table is high. The proposal would result in flooding of the appellant's property in the event of rapid discharge of rainwater.
- The natural attenuation that exists at present will no longer exist. Soak pits do not attenuate rainwater.
- The drawings submitted do not show the location of the foul drain.
- The location of the soak pit to the front of the dwelling shows the foul drain running through it, which cannot be done.
- The location of the soak pit would undermine the appellant's boundary and the public footpath and services that run along it.

6.1.6.4. Overshadowing

- The Shadow Analysis is incomplete and only accounts for half of the day up to 2pm.
- The appellant's property would be completely overshadowed by the proposed development.

6.1.7. Documentation submitted with the appeal includes the following:

- Photographs showing the subject site and adjoining property, indicating the location of the proposed development, services, separation distances, window opes and gable elevations.
- Original objection submitted to Dublin City Council.

6.1.8. **Margaret Kennedy**

6.1.8.1. Encroachment along Site Boundary

- The existing dwelling to be demolished is 1m from the boundary wall with No. 808 Howth Road and 2m from the appellant's home.
- The proposed house type A abuts the boundary wall leaving a side entrance to the appellant's property of 0.9m.

- The side entrance to the appellant's property is a well-used access to the rear of the house, used both by the appellant's family and visitors for bicycles, refuse bins, materials for the garden and house etc.
- A Method Statement for the demolition of the existing home was not submitted,
- There are no foundation drawings for house type A
- A Method Statement for the maintenance of the side gable of house type A was not submitted.
- The proposed development cannot be undertaken safely without access to the appellant's property or airspace, which the appellant refuses to grant.
- The appellant will not block off the side entrance during the demolition or construction of the proposed development.
- There is a serious risk of falling debris onto the appellant's property, making it unsafe for the appellant to use their side entrance during this period.
- The proposed new soak pit adjacent to the boundary wall and public footpath would be at a depth of 2m. This would undermine the boundary and services that run parallel along the boundary wall.

6.1.8.2. Drainage:

- Only one trial hole was dug for percolation testing. The appellant assumes it would be best practice to have at least 2 no. trial holes dug for percolation testing.
- The results from the single-trial hole were at best "fair".
- "Fair" is not good enough given the time of year when the test was done (late October/early November) at which the water table would be at its lowest, as opposed to March/April when it is at its highest,
- The ground level where the trial hole was dug is 4.100m (taken from the survey on the site map), with the water table 0.5m below this.
- Percolation tests show a water table level of 3.6m. The FFL of houses type B and C are at 4.150m. This gives an assumed ground level of 4.0m at the location of the larger soak pit.

- With the top of the soak pit at 0.6m min. below ground level, this gives the top of the soak pit level at 3.4m, 0.2m below the water table. The calculations of the water volume required do not take this into account.
- During heavy rainfall, water from houses type B and C and water from the paved areas and ground water would pass through its permeable geotextile membrane, overloading an already stressed combined drainage along the Howth Road.
- Flash flooding has occurred several times in the past.
- The proposed drainage system of soak pits does not replace the natural attenuation that exists at present.
- The soak pits will not attenuate the volume of water if the main drainage on the Howth road is at capacity.
- The proposal would result in flooding adjacent to the appellant's property.
- Soak pits are not designed to attenuate water.

6.1.8.3. Overshadowing

- Dimensions are not provided on the shadow analysis drawings submitted.
- The gap between house type A and the appellant's property seems greater than exists (0.9m).
- The shadow analysis is incomplete and only accounts for half of the day until 2 pm, when the sun is from the south. The remainder of the day is when the appellant makes the most use of their patio, kitchen and garden. If the shadow analysis were complete, it would show the extent of overshadowing of the appellant's property.

6.1.8.4. Overlooking:

- The front elevations of House types B and C would overlook the rear elevation of the appellant's property, No. 808 Howth Road.

6.1.8.5. Traffic and Car Parking:

- The traffic report submitted with the application does not include any input from Dublin City Fire service with regard to three-point turns etc.

- The traffic reports submitted are done with ideal scenarios and do not account for parked cars or other traffic.
- The vehicular entrance does not adequately provide for vehicles entering and existing the site at the same time or provide enough space for cars to pass simultaneously.
- The provision of 4 no. car parking spaces is insufficient for four units (2 x 3-bed houses, 1 x 4-bed house and a granny flat).
- Visitors or residents would have nowhere else to park except on the public footpath making ingress and egress even worse, along with the accumulation of refuse bins, up to 10 on any given day left for collection on the same footpath.

6.1.9. Documentation submitted with the appeal includes the following:

- Observation submitted under withdrawn application P.A. Ref. 2670/20.
- Section Drawing showing the appellant's dwelling and profile of proposed house type A.
- Site Plan showing the location of services and drainage along the side entrance.
- Photographs of flooding along the Howth Road and rear garden of the appeal site.
- Photographs showing the side passageway along the south-western side of House No. 808 Howth Road and the subject dwelling.

6.1.10. **John K. Kenny**

The appeal refers to issues raised in the original submission to Dublin City Council, which were not given the consideration they deserved. These issues are summarised under the headings below.

6.1.10.1. Drainage

- The main 24" foul sewer running through the site was given no consideration, which serves most of the bungalows in Killbarrack.
- There is no reference to the sewer traversing the site.

- A spur of this sewer serves Nos. 7 to 19 Kilbarrack Road and has become the subject of an enforcement investigation Ref No. E0932/20. Its precise location should be mapped, and no development should take place until this is established.
- A map submitted shows the 24" foul sewer running through the garden of the subject site from the bottom of the gardens of Nos. 1 to 9 St. Margaret's Avenue and from the site out onto the main sewer along the seafront.
- The course of the 24" foul sewer may have altered slightly during the building of Island View.

6.1.10.2. Traffic and Safety:

- Permission was recently granted for 52 apartments and 16 houses at Nos. 778/784 Howth Road allowing 100 extra cars to exit on the road.
- The proposed development would lead to more traffic on this stretch of road.
- The vehicular entrance is very narrow and crosses a busy footpath. A widened entrance would not enhance the sightlines. Extra traffic crossing the footpath would create a traffic hazard.
- Use of public transport at Kilbarrack Dart stations by the future residents of the proposal is questioned, given its distance 1.4km away and lack of parking there.

6.1.10.3. Proposed Use:

- The proposal reads as a guest house. Therefore, in the event of a grant of permission, a Condition should be imposed restricting 'overnight paying accommodation' within the development.

6.1.10.4. Infill Housing:

- The proposal cannot be described as infill development.
- The proposal would comprise a cramped form of development, resulting in loss of amenities and privacy, overlooking, noise disturbance, loss of mature vegetation, and damage to existing wildlife.
- The proposal is overdevelopment of the site and for none other than commercial gain.

- A modern two-storey house on the same footprint and a small “granny flat” to the rear of the dwelling may be acceptable.
- Drawings submitted are illusionary, and provide an exaggerated impression of openness, whereas the proposed development would be cramped with little or no open space.

6.1.10.5. Trees and Biodiversity:

- The tall mature, evergreen trees located along the rear boundary of the site should be retained, and the Council should place a Tree Preservation Order to protect these trees. In addition, these trees and surrounding vegetation provide habitats for urban foxes, squirrels and other wildlife. Reference made to the Arboricultural Report submitted and details within.

6.1.10.6. Zoning:

- The proposal would not protect, provide or improve residential amenities in the area. The proposal would result in overlooking, overshadowing and overbearing impact on adjoining property.
- The proposal would not comply with Policies SC13, and would be contrary to policies QH4, QH7, QH8 and QH9 of the Development Plan.
- The locality has been overbuilt with the permitted 52 apartments and 16 houses at 778/784 Howth Road.

6.1.10.7. Overlooking:

- The veranda areas of Houses A and B would overlook the back gardens of neighbouring house Nos. 802 to 812 Howth Road and No. 7 Kilbarrack Road. This invasion of privacy would impact the value of these properties.

6.1.10.8. Overshadowing:

- There is no record of the Internal Daylight Analysis Report submitted.

6.1.10.9. Percolation Tests:

- The percolation test holes were excavated during a dry spell. The problem of flooding occurs during wet weather.

6.1.11. Documentation submitted includes the following:

- OS Maps showing drains traversing the site and in the locality.
- Copies of correspondence with Dublin City Council and Tyler Owens Architects regarding development at No. 19 Kilbarrack Road and main foul sewers.
- Copies of correspondence from Dublin City Council regarding enforcement proceedings at No. 19 Kilbarrack Road. The enforcement file is now closed.

6.2. Applicants Response

6.2.1. The response received from Hughes Planning and Development Consultants, representing the Applicants, is addressed under the headings below;

6.2.2. Density

- The proposal provides a density of 37.5 dwellings per hectare.
- Policies QH6 and QH8 quoted.
- National policy seeks to increase density in urban locations to prevent urban sprawl.
- The proposal complies with the National Planning Framework (NPF), where a target is set for at least 40% of all new housing to be delivered within existing built-up areas of cities, towns and villages on infill and/or brownfield sites.
- The proposal complies with National Policy Objective 35 of the NPF, which seeks to increase residential density in settlements through measures, including reductions in vacancy, re-use of existing buildings, infill schemes, area or site-based regeneration and increased building heights.
- The proposal complies with SPPR1, SPPR 3 and SPPR of the Urban Development and Building Height Guidelines for Planning Authorities (2020) which seek, inter alia, to support increased building height and density in locations with good public transport accessibility and minimum densities for such locations, as set out

under the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).

- The site is located 20 meters from a Dublin bus stop which provides a high-frequency connection to the city centre, and 100 meters from a bus stop served by buses going north.
- The site is 1.6km from Kilbarrack DART station, 1.2km from Bayside DART station and 1.4km from Howth Junction & Donaghmede DART station.

6.2.3. Zoning Objectives

- The proposal complies with the Z1 zoning objective of the site.
- The proposal has been carefully designed to protect the amenity of adjoining dwellings.

6.2.4. Overlooking

- Houses B and C do not contain windows to bedrooms and living spaces that overlook adjoining properties.
- Bathroom windows which do overlook adjoining property are frosted.
- The first-floor windows of the dwellings have been angled away from adjoining properties.

6.2.5. Overbearing and Overshadowing

- The sketch submitted by one of the appellants cannot be used as scientific evidence to assess overbearing and overshadowing impact.
- In response to further information requested by the Planning Authority, the applicants reduced the height of House Type A by lowering the floor to ceiling height of the second floor and setting back the front of the dwelling by 2.6m by reducing the gross floor area of the second floor.
- The reduction in size further reduces any possibility of overbearing impact, thereby protecting the amenity of neighbouring property.

- House Type A is a three-storey house that steps down to single storey at the rear. The three-storey element is 9m high, the two-storey element is 6.5m, and the single-storey element is 3.5m high.
- The three-storey element of House Type A is aligned with the main dwelling at No. 808 Howth Road, and the two-storey element is aligned with the extension to the rear of No. 808 Howth Road, leaving the single-storey elements to only part of the house which does not align with 808 Howth Road.
- This single-storey element is 3.5m tall and will not cause overlooking or overshadowing.
- The shadow analysis submitted demonstrates the proposed development will not result in undue overshadowing of neighbouring property.

6.2.6. Use of Side Entrance at No. 808 Howth Road

- The appellant at No. 808 Howth Road has two entrances located on either side of the dwelling, providing access to the rear of the house.
- The appellant assumes that the construction of the proposed development will disrupt their property.
- A Construction Management Plan will be submitted before construction works begin, in line with best practice.

6.2.7. Access

- The entrance to the site has been designed as per recommended dimensions, with adequate widths and sightlines provided.
- An auto-track analysis was prepared by MPA Consulting Engineers, where the site is deemed satisfactory for all vehicles, including emergency vehicles.
- Claims that the proposed development will result in illegal parking are based on conjecture and hold no value in light of the expertise provided by MPA Consulting Engineers.
- All houses along the road have driveways that connect with the public footpath.

- Accidents on the road are rare, with only six minor accidents occurring in recent years and two of those involving single vehicles.

6.2.8. Parking

- As per Map J of the Development Plan, the subject site is located in Zone 3, where a maximum of 1.5 car parking spaces for each dwelling is permitted. On this basis the proposed three no. dwellings, a maximum of 5 no. parking spaces would be permitted.
- The proposed four no. car parking spaces are adequate given the site's location next to good public transport connections, including bus and DART routes.

6.2.9. Pedestrian Safety

- The proposed vehicular entrance and vehicles using it will not pose a threat to pedestrians using the footpath.

6.2.10. Traffic

- A Traffic and Transport Statement was submitted with the application to ensure that the proposal would not harm traffic and transport in the area.
- A traffic count was undertaken by MPA Consulting Engineers in which estimated traffic volumes for 2020 were arrived at by applying a growth rate to the base year (2016) counts.
- Annual growth indices were updated in May 2019 by the TII in the Project Appraisal Guidelines for National Roads Unit 5.3 - (May 2019). This is a standard method of measuring traffic levels and is accepted by planning authorities.
- It was found that the development is predicted to generate 2 no. vehicle movements on the surrounding road network during the AM and PM peak hour periods, representing an approximate 0.2% increase in existing conditions.
- The increase (0.2%) falls well under the threshold set out in the TII Guideline, for a detailed Traffic and Transport Assessment.

6.2.11. **Public Transport**

- The site is across the road from a Dublin Bus stop, which provides high-frequency service into the city.
- The site is 1.6km from Kilbarrack DART station, 1.2km from Bayside DART station and 1.4km from Howth Junction & Donaghmede DART station

6.2.12. **Fire Safety**

- The proposed dwellings will be constructed with fire safety and prevention in mind, and the Building Code ensures compliance with these requirements.
- The Auto Track Analysis submitted shows that a fire engine could access the dwellings to the rear of the site.

6.2.13. **Land Ownership**

- The applicants have full ownership of the land within the site boundary, as outlined in red.
- The subject site comprises 2 no. folios that are in the applicants' full ownership and evidenced in the Land Registry sealed and certified folios included with the response.

6.2.14. **Flooding and Drainage**

- The services of a qualified engineer were acquired in the preparation of a comprehensive drainage design for the proposed development and flood risk assessment. These drawings were reviewed by the Drainage Section of Dublin City Council, who were satisfied with the contents and outlined no objections to the proposed development.
- The soakaway design system is designed to control the flow of surface water into drains, contrary to claims by the appellants that the system allows rapid release of water.

- The level of the soakaway is irrelevant as there is sufficient room and volume to take the rainfall for a 100-year flood event, as per the percolation test and subsequent design.
- The volume of the soakaway is shown on the drawings prepared by Kavanagh Ryan Associates.
- In response to the appellant's claim that a sewer will cross the front garden of the subject site, this sewer is not shown on Irish Water maps.
- The public sewer is located on the opposite side of the Howth road. If it is the case there is a private sewer running along this side of the road, the soakaway can be easily adjusted to suit the ground conditions if necessary.
- The proposed development has been designed correctly by a qualified engineer, with the design being informed by a percolation test.
- The proposed development will not adversely impact flooding or drainage in the area.
- The Drainage Section of the Local Authority deemed the proposed design satisfactory.

6.2.15. **Precedent for Similar Development**

- The proposed development is compliant with national and regional policy on increasing density in appropriate locations in urban areas.
- The subject site is located close to public transport links to the city and close to a range of amenities and services.
- Increased density is supported by the NPF and the Regional Spatial And Economic Strategy for the Eastern and Midlands Region which seek efficient use of brownfield sites in towns and cities.

6.2.16. In addition to the rebuttals listed above, the applicants set out in detail the planning framework that informs the use and development of the site, with regards the Dublin City Council County Development Plan 2016-2022 (re. zoning, backland development and standards for residential accommodation), the National Planning Framework, and the Urban Development and Building Height Guidelines for Planning Authorities.

6.2.17. Documentation submitted with the applicant's response to the appeal includes the following:

- Land Registry Folio details and maps.

6.3. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

6.4. **Observations**

None

7.0 **Assessment**

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;

- The Principle of the Proposed Development
- Overlooking
- Overshadowing
- Encroachment along the side boundary
- Traffic
- Vehicular Access and Pedestrian Safety
- Car Parking
- Drainage
- Impact on Trees and Biodiversity
- Land Ownership
- Appropriate Assessment

7.1.1. I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. Accordingly, the issues for consideration are addressed below.

7.2. The Principle of the Proposed Development

7.2.1. Submissions received object to the proposed development on the grounds that it would;

- Contravene density standards, as required under the Dublin City Council Development Plan 2016-2022.
- Comprise overdevelopment of the site,
- Constitute piecemeal development and inhibit the development of a larger backland area.
- Not constitute infill development.
- Create an undesirable precedent for similar backland development in the area.
- Possibly be used as bed and breakfast, Airbnb or other similar use.
- Be contrary to Policies QH4, QH7, QH8, QH9 and SC13 of the Development Plan

The applicants contest these grounds of appeal, as detailed in Section 6.2 above.

7.2.2. Map C of the Development Plan shows that the site is zoned 'Z1: Sustainable Residential Neighbourhoods', which has the land-use zoning objective 'To protect, provide and improve residential amenities'. Land use 'residential' is 'permitted in principle' on lands zoned Z1, as detailed in Section 14.8.1 of the Development Plan. Therefore, the proposed development is acceptable in principle, subject to compliance with relevant policies, standards and objectives outlined in the Dublin City Council Development Plan 2016-2022 and applicable Government planning policy and guidelines.

7.2.3. The proposed development provides for the demolition of the existing detached two-storey dwelling and its replacement with the construction of 3 no. two-storey dwellings, with a family flat incorporated within House A, located to the front of the site. The stated area of the site is 1.082 ha, as detailed in the application form. On this basis, the density of the proposed development is 2.77 dwellings per hectare. Section 16.4 of the Development Plan refers to 'Density Standards'. It states, inter alia, that '*Dublin City Council will promote sustainable residential densities in accordance with the standards and guidance set out in the DEHLG Guidelines on Sustainable Residential Development in Urban Areas*'. Section 5.9 of these Guidelines refer to density in 'inner

suburban/infill' areas of towns or cities where such development can be provided either by infill or by sub-division. Section 5.9 (i) refers to 'infill residential development' and details that potential sites may include small gap infill, unused or backland areas and states that '*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*'. The Guidelines do not set out specific density requirements for infill residential development. Having regard to the established character and density of development on adjoining land, and given the context of the site, I consider that the density of the proposed development would be acceptable in this instance.

- 7.2.4. Section 16.10.8 of the Dublin City Council Development Plan 2016-2022 refers to 'Backland Development' and states;

Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. Backland development is generally defined as development of land that lies to the rear of an existing property or building line. The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area. Applications for backland development will be considered on their own merits.

- 7.2.5. It is my view that the proposed 2 no. dwellings to the rear of the site, Houses B and C, would comprise backland development according to the definition above. Therefore, the question remains whether or not the proposed development would cause a significant loss of amenity to neighbouring properties, including loss of privacy, overlooking, noise disturbance, and loss of mature vegetation or landscape screening. These issues are addressed below accordingly. Having regard to the context of the site and development on adjoining land, including the Island View Court apartment block adjoining the north-eastern boundary and the front garden of No. 12 Island View adjoining the north-western/rear boundary, it is my view that the proposed development would not block access and thereby would not inhibit the development

of a larger backland area. I note the Proposed Mater Plan drawing submitted showing indicative possible backland development to the rear of neighbouring house Nos. 794 – 804 Howth Road.

7.2.6. Regarding internal floor areas, Section 16.10.2 of the Development Plan requires that *“houses shall comply with the principles and standards outlined in Section 5.3: ‘Internal Layout and Space provision’ contained in the DEHLG ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007)”*. The floor areas of the proposed dwellings, as revised by way of further information response to the Planning Authority, are as follows;

7.2.7. House A - a 4-Bed / 7-person 3-storey house and 1 bedroom family flat

- Total Floor Area: 301.1 sq.m. (including ‘granny flat’ - 14.3 sq.m.)
- Open Space: 82 sq.m.

7.2.8. Houses B and C - both 3-Bed / 6-person 2 storey houses:

- Total Floor Area: 157.7 sq.m.
- Open Space: 60 sq.m.

The gross floor areas of the proposed dwellings comply with Table 5.1 of the Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007) which requires a minimum of 120 sq.m. for a 4 bed. / 7 person 3-storey house and 100 sq.m. for a 3 bed. / 6 person 2-storey house. The private open space of the proposed dwellings complies with Section 16.10.2 of the Dublin City Council Development Plan 2016-2022, which requires a minimum standard of 10 sq.m of private open space per bedspace. On this basis and having regard to the density of the site, it is my view that the scale of the proposed development would not comprise the overdevelopment of the site. The issue of vehicular access and car parking is dealt with further below. Any unauthorised use of the dwellings, if permitted, would be a matter for the Enforcement Section of the Planning Authority.

7.3. **Overlooking**

7.3.1. Several appellants object to the proposed development on the grounds that the proposed dwelling would result in overlooking of neighbouring property. The applicants

contest these grounds of appeal, as detailed in Section 6.2.4 above. In the interest of clarity, I have assessed this issue under the sub-headings below accordingly.

7.3.2. Re. House A

7.3.3. The front building line of the proposed dwelling at ground and first-floor level would broadly align with the front building line of House Nos. 804 and 808 to either side. At second floor level, the proposed dwelling provides a terrace to the front, with a stated floor area of 28 sq.m., total width of 6.1m and a total depth of 5.8m. Given there are no window opes on the eastern side elevation of the proposed dwelling, I do not consider the proposal would significantly compromise the privacy of House No. 808 by way of overlooking. Any potential overlooking from the second-floor roof terrace would largely be restricted to the slope of House No. 808, given its finished floor level above the roof eave line of No. 808. Likewise, given the stepped setback of the second-floor terrace 1.6m – 3.5m behind the south-western side building line of House A at first-floor level, I consider the second-floor terrace would not significantly compromise the privacy of House No. 804 by way of overlooking.

7.3.4. The first floor rear building line of House A would extend c.6.6m beyond the first-floor building line of House No. 808 and align with the ground floor building line of the single-storey extension to the rear of House No. 808. Likewise, House A's first floor rear building line would extend c.10.3m beyond the rear building line of House No. 804 at both ground and first-floor levels. The proposal provides a flat roof over the ground floor bedrooms (labelled no. 1 and 2) to the rear, with a depth of c. 3.9m and extending the entire width of the house and along the south-western side elevation of the dwelling at first-floor level. The floor plans detail that this roof would be 'access only for maintenance'. I note that the Planning Authority imposed a Condition (No. 15) under its decision to grant permission requiring that the flat roofs of the dwellings shall be accessed for fire escape and maintenance purposes only, save for the second-floor terrace to House A. I am satisfied that the requirements of this Condition would protect the privacy and residential amenity of house Nos. 804 and 808 to either side of House with this regard.

7.3.5. The south-western side elevation of the proposal at first-floor level provides a large floor to ceiling height window ope (width 3m) serving a landing area, a narrow window ope serving a pantry (width c. 0.6m) and a tall window ope (width 1.4m) at the south-

western front corner. A separation distance of 7.5m would be maintained between the landing window ope and the south-western boundary. While this window ope does not serve a habitable room, it is my view that this window ope would compromise the privacy of the private amenity space to the rear of neighbouring dwelling No. 804. Likewise, the window opes serving the pantry, and the south-western front corner would be located opposite window opes on the side elevation of house No. 804 at first-floor level, thereby creating a perceived sense of overlooking. I consider, however, that this issue can be dealt with by way of Condition in the event of a grant of permission requiring that these window opes be permanently fitted with obscure glazing. The Planning Authority imposed this requirement under Condition No. 14 of its grant of permission.

7.3.6. **Re. Houses B and C**

7.3.7. A separation distance of 38m would be maintained between the front elevation of House B and the rear elevation of House No. 804 Howth Road, and a separation distance of 30m would be maintained between the front elevation of House C and the ground floor rear elevation of House No. 808 Howth Road. This complies with the requirements of Section 16.10.2 of the Dublin City Council Development Plan 2016-2022 which states that;

'At the rear of dwellings, there should be adequate separation between opposing first floor windows. Traditionally, a separation of about 22 m was sought between the rear of 2-storey dwellings but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers'.

7.3.8. Both dwellings provide window opes on their side elevations at first-floor level. As detailed above, Condition No. 14 of the Planning Authority requires that all north-eastern and south-western above ground floor windows to all of the proposed dwellings be permanently fitted with obscure glazing. I am satisfied that the requirement of this condition would prevent overlooking of neighbouring property to either side. The pop-out windows serving the bedrooms facing each other would not overlook neighbouring property and thus would not need to be glazed with obscure glass. A minimum separation distance of 27.5m would be maintained between the rear elevations of Houses A and B and the front elevation of No. 12 Island View. This

complies with the requirements of Section 16.10.2 of the Dublin City Council Development Plan 2016-2022 regarding separation distances.

7.3.9. In conclusion, I do not consider that the proposed development should be refused permission on the grounds of overlooking of neighbouring property.

7.4. Overshadowing

7.4.1. Several appeal submissions object to the proposed development on the grounds of overshadowing. One of the submissions contends that the shadow analysis is incomplete and only accounts for half of the day until 2.00 pm, when the sun is from the south. This submission states that if the shadow analysis were complete, it would show the true extent of overshadowing onto adjoining property. The applicants contest these grounds of appeal, stating that the shadow analysis submitted demonstrates the proposed development would not result in undue overshadowing of neighbouring property.

7.4.2. As detailed above, the front building line of House A would align with the front building line of the houses to either side and its first floor rear building line would extend c.6.6m beyond the first-floor building line of House No. 808 and align with the ground floor building line of the single-storey extension to the rear of House No. 808. Likewise, House A's first floor rear building line would extend c.10.3m beyond the rear building line of House No. 804 at both ground and first-floor levels. The proposal would maintain a separation distance of c.0.9m from the south-western side elevation of House No. 808 and 4.3m from the north-eastern side elevation of House No.804. The roof profile of House A is flat with a first-floor parapet height of 11.5m and a second-floor parapet height of 14.3m. House C would maintain a separation distance of c.10.1m from the south-western elevation of Island View Court apartment.

7.4.3. The applicants have submitted an Internal Daylight Assessment, which includes in Appendix III a shadow analysis illustrating the shadow cast by both the existing dwelling (to be demolished) and the proposed 3 no. dwellings on the 21st March, 21st June, 21st September and 21st December for the hours 10 am, 12 noon and 2 pm. The assessment is based on the original design proposal submitted to the Planning Authority on the 24/11/2020. The shadow analysis details the following on the said dates;

21st March – House A would result in some additional overshadowing of the roof slope (which incorporates roof lights) of the ground floor extension to the rear of House No. 808 at 2pm. House C would result in some additional overshadowing of the amenity space serving Island View Court at 12 noon and 2pm.

21st June - No significant additional overshadowing of neighbouring property at 10am, 12 noon and 2pm.

21st September - House A would result in some additional overshadowing of the roof slope (which incorporates roof lights) of the ground floor extension to the rear of House No. 808 at 2pm. House C would result in some additional overshadowing of the amenity space serving Island View Court at 12 noon and 2pm.

21st December - House A would result in some additional overshadowing of the roof slope (which incorporates roof lights) of the ground floor extension to the rear of House No. 808 at 2pm. House C would result in some additional overshadowing of the south-western elevation of Island View Court at 12 noon and 2pm.

7.4.4. With regard overshadowing, Section 16.10.2 of the Development Plan refers to residential quality standards for houses and requires that 'development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011)'.

7.4.5. Having regard to the orientation, layout, and height of the proposed dwellings and having reviewed the shadow analysis submitted, I am satisfied that the proposed development would not cause any significant overshadowing of neighbouring property No. 808 Howth Road and Island View Court. While the shadow analysis does show some shadow cast on the roof lights on the roof slope of the ground floor extension to the rear of No. 808 and the south-western elevation of Island View Court, I am satisfied that these properties 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). While House C would cause some overshadowing of the amenity space serving Island View Court, I do not consider the extent of overshadowing significant enough to warrant the refusal of permission of the

proposed development. Therefore, I recommend that the proposed development should not be refused permission on this grounds of appeal.

7.5. Encroachment along the side boundary

7.5.1. Submissions received object to the proposed development on the grounds of the proximity of proposed House A to the side boundary shared with House No. 808 Howth Road. Concerns raised include the following;

- Propose House A would abut the boundary wall shared with House No. 808 Howth Road, leaving a 0.9m wide side entrance to the appellant's property.
- The proximity of House A to the site boundary shared with House No. 808 would make it impossible for the appellant's family to have safe access to the rear of the property using the side access adjoining the appeal site.
- The side entrance to the appellant's property is a well-used access to the rear of the house, providing external access for bicycles, refuse bins, materials for the garden and house etc.
- The applicants did not submit a Method Statement for demolishing the existing home and maintenance of the side gable elevation of proposed House A.
- The applicants cannot construct House A safely without access to the appellant's property or airspace, which the appellant refuses to grant.
- The appellant will not block off the side entrance of House No. 808 during the demolition and construction of the proposed development.
- There is a serious risk of debris falling onto the appellant's property House No. 808, making it unsafe for the appellant to use their side entrance during this period.
- The applicants did not submit drawings showing the foundation for House A.
- Concerns that the proposal would cause subsidence of the appellant's property, house No. 808 and disturb services (e.g. drainage) that run parallel along the boundary wall.

7.5.2. The appellant's Martin Kennedy and Margaret Kennedy of House No. 808 Howth Road have submitted photographs showing the side passageway along the south-western side of House 808.

- 7.5.3. In response to the grounds of appeal, the applicants assert that House No. 808 has a side passageway on both sides of the house, providing access to the rear of the dwelling. Further to this, the applicants state that a Construction Management Plan would be submitted before construction works begin, in line with best practice.
- 7.5.4. The northern-eastern side boundary of the site comprises a c. 1.1m - 2m high block wall. The north-eastern side elevation of the existing dwelling (proposed to be demolished) maintains a setback of 0.9m from the side boundary shared with House No. 808 Howth Road. The proposed new dwelling House A would extend up to and along the boundary shared with House No. 808, maintaining a separation distance of c. 0.9m from the side elevation of House No. 808. As detailed above, the north-eastern side elevation of House A would provide a gabled side elevation with a first-floor parapet height of 11.5m and a second-floor parapet height of 14.3m. To the rear, the first floor rear building line of House A would extend c.6.6m beyond the first-floor building line of House No. 808 and align with the ground floor building line of the single-storey extension to the rear of House No. 808.
- 7.5.5. Regarding concerns relating to demolition/ construction works, possible impact on services running along adjoining property and potential impact to the structural integrity of the walls of neighbouring House No. 808, I consider that this issue is controlled under separate Building Regulations. I note that the Planning Authority imposed a Condition (No. 6) requiring that prior to commencement of any works, the developer shall submit for the agreement of the Planning Authority a Construction and Demolition Waste Management Plan, having regard to Circular WPR 07/06 – Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects (2006). I am satisfied that the terms of this Condition would address the appellant's concerns regarding impact on services along adjoining property, safety along the adjoining passageway and risk to the structural integrity of the adjoining property. Such Condition should be imposed in the event of a grant of permission. Furthermore, a Condition should be imposed requiring no part of the development, including fascia board, gutters, drainpipes or other rainwater goods, overhang, or encroach onto the neighbouring property.
- 7.5.6. Regarding access for the proposed demolition/construction works and the maintenance of the development when completed, any grant of permission is the subject of Section 34(13) of the Planning and Development Act 2000 (as amended),

which states that 'a person is not entitled solely by reason of permission to carry out any development'. Therefore, any grant of permission for the subject proposal would not in itself confer any right over private property. Should it arise, any damage to neighbouring property is a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the Planning and Development Act 2000 (as amended). The proposed development would not interfere with or restrict access along the south-western passageway to the side of House No. 808 Howth Road. On this basis, I recommend that the proposed development should not be refused permission in relation to these grounds of appeal.

7.6. Traffic

- 7.6.1. Several Appellants object to the proposed development on the grounds that it would lead to more traffic on this stretch of Howth Road. An appeal submission notes that permission was recently granted for 52 apartments and 16 houses at Nos. 778/784 Howth Road allowing 100 extra cars to exit on the road and that Howth Road is already at maximum capacity. Concerns are also raised regarding the Traffic Statement submitted, whereby guesstimate figures based on assumptions are provided rather than certified figures. Furthermore, the Traffic Statement was prepared prior to the development of the two large developments for 30 no. dwelling units at No. 754 Howth Road and 68 no. dwelling units at 772-728 Howth Road. An appellant also disputes the stated peak hours of between 8-9am and between 5-6pm referred to in the Traffic Statement and puts forward that morning peak traffic starts at around 7 AM and continues through to 9:30 AM. The appellant also describes how evening traffic is heaviest from 3:30 PM to 7:00 PM and Saturdays and Sundays have an even amount of heavy traffic queueing along the road.
- 7.6.2. The applicants contest these grounds of appeal stating that a Traffic and Transport Statement was submitted with the application to ensure that the proposal would not harm traffic and transport in the area and provide a summary of same.
- 7.6.3. The applicants submitted with the application a Traffic and Transport Statement, prepared by MPA Consulting Engineers. The Statement provides a description of the site location and surrounding environment, existing road conditions along the Howth Road (R105), existing traffic conditions along the Howth Road based on 2016 traffic counts on the Howth Road obtained from the National Planning Application Database

and estimated traffic volumes for 2020, derived by applying a growth rate to the base year (2016) with counts based on annual growth indices by the TII in the 'Project Appraisal Guidelines for National Roads Unit 5.3 - Travel Demand projections (May 2019)'. A description is provided of sustainable modes of transport in the vicinity, including bus services along the Howth Road, DART services at Kilbarrack Railway Station and Howth Junction and Donaghmede station and train services at Howth Junction and Donaghmede station.

7.6.4. The Traffic and Transport Statement identifies the potential number of vehicle trips associated with the proposed development and their assignment to the surrounding road network. The Statement notes that previous traffic surveys identified the highway peak hours as being 08:00 to 09:00 (AM peak) and 17:00 to 18:00 (PM peak). On this basis, these periods were used throughout the assessment of additional traffic and its impacts on the road network. In terms of trip generation, the Traffic and Transport Statement identifies that the proposed 3 no. dwellings would generate in the order of 2 no. vehicle trips during the AM and PM peak hour periods, respectively, equating to an average of one vehicle movement every 30 minutes during the AM and PM network peak hour periods, respectively. The Statement identifies that the extent of the traffic generated by the proposed development would be insignificant in the context of existing conditions and would not materially impact the operation of Howth Road or the wider road network. The Statement notes that the Institution of Highways and Transportation document 'Guidelines for Traffic Impact Assessments' and the TII document 'Traffic & Transport Assessment Guidelines' states that the impact of any proposed development upon the local road network is considered material when the level of traffic it generates surpasses 10% and 5% on normal and congested networks respectively. The Statement states that the proposed development is predicted to generate 2 no. vehicle movements on the surrounding road network during the AM and PM peak periods, which represents an approximate 0.2 % increase on existing conditions. Within this context, the Statement states that the increase (0.2%) falls well under the threshold, set out in the TII Guidelines, for a detailed Traffic and Transport Assessment to be warranted. Appendixes attached include, inter alia, TRICS data sheets detailing trip rate calculations for the proposed development.

- 7.6.5. The Council's Transportation Planning Division raised no objections to the proposed development with regards trip generated by the proposed development, as detailed in the Traffic and Transport Statement submitted.
- 7.6.6. Having reviewed the Traffic and Transportation Statement, I am satisfied that the number of trips generated by the proposed development (i.e. 1 no. five bedroom replacement dwelling including a one bedroom granny flat and 2 no. 3-bedroom dwellings) has been adequately calculated and assessed, based on the TII 'Project Appraisal Guidelines for National Roads Unit 5.3 - Travel Demand Projections (May 2019)'. The Statement demonstrates that the no. of trips generated by the proposed development is low and would not materially impact the safety or operation of Howth Road or the wider road network. On this basis, I recommend that the proposed development should not be refused permission in relation to these grounds of appeal.

7.7. Vehicular Access and Parking

- 7.7.1. Submissions were received objecting to the proposed development on the grounds that the vehicular entrance serving the proposed development is very narrow and crosses a busy footpath. Concerns are raised that the vehicular entrance would not adequately provide for vehicles entering and exiting the site at the same time or provide enough space for cars to pass simultaneously. Furthermore, concerns are raised regarding sightlines at the entrance to the site and that a widened vehicular entrance would not enhance the sightlines. Regarding internal manoeuvrability and car parking, appeal submissions received express concern that there is no provision for turning circles or turning heads within the site and that a drawing submitted (Fig. 14.0) indicates that 2 no. car parking spaces would block the shared access to House B. An appellant expresses concern that this would lead to cars having to reverse out onto or in from the Howth Road, creating a traffic hazard. Submissions received also express concerns that there are insufficient parking spaces provided to serve the proposed development. Concerns are raised that this would lead to an overspill of parking onto Howth Road, which is too narrow to facilitate this and the parking of cars on the pavement, which is not only illegal but would create an obstacle to wheelchair users, visually impaired pedestrians and pushchairs.
- 7.7.2. The applicants contest these grounds of appeal, stating that the entrance to the site has been designed as per recommended dimensions with adequate widths and

sightlines provided. The applicants put forward that the Auto Track Analysis submitted deems the site is satisfactory for all vehicles, including emergency vehicles. Regarding car parking, the applicants contend that as per Map J of the Dublin City Council County Development Plan 2016-2022, the subject site is located in Zone 3 where a maximum of 1.5 car parking spaces for each dwelling is permitted. On this basis, the appellant puts forward that a maximum of 5 no. parking spaces would be permitted. The applicants contend that the proposed 4 no. car parking spaces is adequate given the location of the site next to strong public transport connections including bus and DART routes.

- 7.7.3. In consideration of autotrack drawings submitted by way of further information to the Planning Authority, the Council's Transportation Planning Division report states the drawings submitted indicate adequate manoeuvrability for all vehicles accessing the car parking spaces serving the proposed dwellings and for emergency services accessing the site. The report also states that the revised entrance arrangements providing a reduced 3.6m wide vehicular entrance and separate pedestrian entrance are acceptable. The Transportation Planning Division raised no objections to the proposed 4 no. car parking spaces serving the proposed development.
- 7.7.4. Regarding vehicular entrances, Appendix 5, Section 5.1 of the Development Plan refers to 'Road and Footpath Standards for Residential Development' and requires that '*Where driveways are provided, they shall be at least 2.5 m or, at most, 3.6 m in width*'. The revised proposal submitted by way of Further Information to the Planning Authority provides a 3.6m wide vehicular entrance and a separate 1m wide pedestrian entrance. I am satisfied that the width of the vehicular entrance complies with the requirements of Appendix 5, Section 5.1 of the Development Plan.
- 7.7.5. Regarding sightlines at the vehicular entrance, having regard to the straight alignment of the Howth Road to the front of the site and the 60km/h speed limit that applies to Howth Road, I am satisfied that the sightlines provided at the entrance to the site, as detailed on the sightline layout drawings submitted by way of further information, complies with the requirements of Sections 4.4.4, 4.4.5 and Table 4.2 of the Design Manual for Urban Roads and Bridges (DMURS) which requires a setback 'X' distance of 2.4 metres and a 'Y' sightline distance distances of 59 metres at entrances in 60km/h urban zones.

- 7.7.6. Having reviewed the swept path analysis submitted by way of Further Information, I concur with the Council's Transportation Planning Division report that adequate manoeuvrability would be provided for all vehicles accessing / egressing the car parking spaces serving the proposed dwellings and for emergency services accessing the site.
- 7.7.7. Regarding car parking, Map J of the Dublin City Development Plan 2016-2022 shows the site is located in Parking Zone 3. Table 16.1 of the Development Plan (pg.362) refers to 'maximum car parking standards for various land-uses' and requires a maximum of 1.5 car spaces per dwelling in Zone 3. The proposed development provides 2 no. car parking spaces for House A and 1 no. car parking space for both House B and House C. On this basis, a maximum of 4.5 no. car spaces would be permitted at the subject site, in accordance with Table 16.1 of the Development Plan.
- 7.7.8. The site is highly accessible by public transport, whereby it is located immediately adjacent Dublin bus stops serving bus nos. 6, H2 and H3 (as identified from Dublin Bus journey planner) linking Dublin city centre with Howth station, Malahide Village and Howth summit respectively. Kilbarrack Railway Station is located c.1.4km (18 minute walk) to the north of the site and Howth Junction and Donaghmede Railway Station is located c. 1.4 km (18 minute walk) to the north-east of the site. A designated off-road cycle lane runs along the southern side of the Howth Road. Having regard to the context of the site in an accessible urban location that is well served by public transport, it is my that the 4 no. car parking spaces serving the proposed development would be acceptable in this instance. Should overspill car parking become an issue, the Planning Authority could manage it by introducing restrictive measures along the adjoining Howth Road. On this basis, I recommend that the proposed development not be refused permission in relation to these grounds of appeal.

7.8. Drainage

- 7.8.1. Several submissions express concerns regarding foul and surface water drainage serving the proposed development. Regarding foul drainage, submissions express concern that the drawings submitted do not show the location of the foul drain traversing the site and that no consideration was given to this drain which is said to serve most of the bungalows in Kilbarrack. One of the appeal submissions states that the precise location of this drain should be mapped and that no development should

take place until this is established. Furthermore, a submission raises concern that the main combined drain along the Howth Road is at capacity and that the proposed development would compound this issue.

7.8.2. Regarding surface water drainage, submissions express concern that the existing natural attenuation at the site will no longer remain. A submission details how a drawing submitted shows the location of the soak pit with a foul drain running through it, which cannot be done. Concerns are also raised regarding the percolation testing undertaken. A submission expresses how only one trial hole was dug for the percolation testing, when best practice would require 2 no. trial holes. This submission also raises how the percolation testing was undertaken in late October/early November at which time the water table is at its lowest, as opposed to March/April when it is at its highest. Furthermore, it is put forward that the “fair” results from the single trial hole percolation test results are not good enough. A submission also queries the ground levels of the soak pit (4.1m) relative to the water table level (3.6m) and the finished floor levels of proposed houses B and C (4.15m). The submission puts forward that the top of the soak pit at 0.6m min below ground level gives the top of the soak pit level at 3.4m, 0.2m below the water table. The appellant states that the water volume calculations do not take this into account. Furthermore, an appellant states that the soak pits serving the proposal will not attenuate the volume of water if the main drain along Howth Road is at capacity, resulting in flooding of neighbouring property. A submission also states that the location of the soak pit would undermine the appellant’s boundary and the public footpath and services that run within it.

7.8.3. The applicants contest these grounds of appeal. The applicants state that the services of a qualified engineer were acquired in the preparation of a comprehensive drainage design for the proposed development and flood risk assessment and that the soakaway design system is designed to control the flow of surface water into drains. The applicants put forward that the level of the soakaway is irrelevant as there is sufficient room and volume to take the rainfall for a 100-year flood event, as per the percolation test and subsequent design. In response to the appellant’s claim that a sewer will cross the front garden of the subject site, the applicants note that this sewer is not shown on Irish Water maps. The applicants state that the public sewer is located across the road from the appeal site and that if it were the case that there is a private sewer running along the appeal side of Howth Road, the soakaway could be easily

adjusted to suit the ground conditions if necessary. The applicants state that a qualified engineer has designed the proposed drainage correctly, with the design informed by a percolation test. The applicants contend that the proposed development would not adversely impact flooding or drainage in the area.

- 7.8.4. Regarding foul drainage, the Engineering Report submitted with the application details that there is an existing foul sewer connecting with the 600mm diameter sewer along Howth Road which serves the existing dwelling, and that this will be retained for the proposed new dwelling to the front of the site (House A). The report details that a CCTV survey will be conducted on the line prior to commencement and that if the invert level is sufficient, the line is adequate and in satisfactory condition, the two dwellings to the rear (Houses B and C) may also be connected to the line. Alternatively, a new connection into the 600mm diameter sewer is possible for Houses B and C. The report states that this connection would be agreed with Irish Water. Details are provided of the occupancy of the proposed dwellings and calculated hydraulic foul loading. Dwg. No. 2077-1 and Irish Water OS Map submitted detail the location of foul and surface water mains along Howth Road and Island View cul-de-sac.
- 7.8.5. Regarding surface water drainage, the Engineering Report submitted details that the roof area of the existing building and outbuildings is 164m² and the total roof area of the proposed buildings is 377m², resulting in an additional roof area of about 200m². The report states that it is proposed to drain all the rainfall runoff from the roofs into soakaways located within the site, as indicated in drainage drawing 20077-1. The report details how a percolation test and soakaway design was carried out by percolationtests.ie with this report submitted with the application. Drawing 20077-1 indicates the location and size of the soakaways as per the percolationtest.ie report. The Engineering Report states that the existing roofed area is approximately 164m² and it appears from site inspections that the existing drainage is combined. The report states that there will therefore be a significant reduction in runoff loading to the foul sewers because of the proposed development.
- 7.8.6. Regarding SuDS compliance, the Engineering Report submitted details that the hardstanding's area will be either permeable or will runoff to landscaped areas in the case of footpaths or paviers in the landscaped areas.

7.8.7. The Council's Drainage Division report outlined no objections to the proposed development subject to compliance with the following;

- Complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from www.dublincity.ie Forms and Downloads).
- Records of public surface water sewers are indicative and must be verified on site.
- The development is to be drained on a completely separate system with surface water either discharging to the public surface water system or managed on site. There shall be no discharge of surface water to the foul network.
- The development shall incorporate Sustainable Drainage Systems in the management of surface water. Full details of these shall be agreed in writing with Drainage Division prior to commencement of construction.
- The Developer's submission includes a proposal to construct a soakaway as part of this development. The design and construction of soakaways must comply with the requirements of BRE Digest 365 and CIRIA C753.
- The outfall surface water manhole from this development must be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- All private drainage such as, downpipes, gullies, manholes, armstrong junctions, etc. are to be located within the final site boundary. Private drains should not pass through property they do not serve.

7.8.8. Having reviewed the engineering drainage report, percolation test report and drainage drawings submitted, and in consideration of the Council's Drainage Division report, it is my view that concerns raised relating to foul and surface water drainage can be dealt with by way of Condition, in the event of a grant of permission. Such Condition should require the applicant/developer to submit for the written agreement of the Planning Authority foul and surface water drainage plans for the proposed development showing the location of all drains, manholes, Ajs, etc. located within the site boundary. Details to be submitted should comply with the technical requirements of the Planning Authority and all drainage works should comply with the Greater Dublin Regional Code of Practice for Drainage Works. Furthermore, a condition should be imposed requiring the applicant/developer to enter into a water and/or wastewater

connection agreement(s) with Irish Water prior to commencement of development. I recommend, therefore, that the proposed development should not be refused permission in relation to these grounds of appeal.

7.9. Impact on Trees and Biodiversity

- 7.9.1. The appellant, John K. Kenny, objects to the proposed development on the grounds that the tall mature evergreen trees located along the rear boundary of the site should be retained and that the Council should place a Tree Preservation Order in order to protect these trees. The appellant puts forward that these trees and surrounding vegetation provide habitats for urban foxes, squirrels and other wildlife.
- 7.9.2. The Ecological Impact Assessment submitted with the application provides a habitats survey of the site and a survey for protected / priority fauna. The survey identifies that the rear garden of the property is not mowed on a regular basis and is most accurately classified as a dry meadow. The survey identifies the south-eastern end of the garden as being dominated by grasses and forbs and the north-western end of the garden is heavily shaded by cypress tree. The report notes that habitats are in a private garden, and under different management would be cut on a regular basis and would be classified as amenity grassland. On this basis, the survey identifies that habitat to be of negligible ecological value.
- 7.9.3. The Ecological Impact Assessment notes that there are some mature trees in the north-east of the site, forming a discontinuous treeline around the site boundary and that there are three large Monterey cypress *Cupressus macrocarpa* trees on the southern boundary, of which the middle tree has died. There is a semi-mature non-native poplar *Populus* sp. at the north-western end of the garden, which has a dense coating of ivy. Hedging and an immature ash and some elder trees are located along the northern boundary. The Statement states the majority of the trees and shrubs on the site are not native to Ireland, and the native species (ash and elder) are immature and sparsely distributed. On this basis, the survey identifies that all trees and hedgerows are considered to be of negligible value for habitats and flora.
- 7.9.4. The Ecological Impact Assessment notes that no rare or protected plants were encountered during field surveys, and no Japanese knotweed or any other restricted invasive species (as listed on the third schedule of the European Communities (Birds

and Natural Habitats) Regulations 2011) were recorded during the site inspection. Regarding bats, a visual inspection of the site found that the structures and trees on the site have negligible suitability for roosting. An emergence survey carried out on the 31st August 2020 indicated that no bats were roosting in the vicinity of the site and that bat activity on the site is relatively low. The assessment concludes that the immediate surroundings are of no more than local importance for bats. Regarding terrestrial mammals, no mammals were observed during field surveys, nor were there any characteristic field signs of protected species (e.g. badger setts). The assessment notes that the site would not be suitable for badgers, because it is enclosed on all sides by walls or built structures. No badger setts, prints, hairs or latrines were observed. The assessment concludes that the site is of negligible value for badgers.

- 7.9.5. The Tree Survey submitted with the application details the species, crown spread, life stage and condition of trees on the site. The Tree Survey Plan (DWG Ref. 190305-F-01) details the category of tree quality on-site, and the existing and proposed site plans detail the trees to be removed. All trees on-site to the rear of the existing dwelling are identified as either low quality with an estimated life span of at least 10 years or of such condition that they cannot be retained as living trees for longer than 10 years.
- 7.9.6. Having reviewed Ecological Impact Assessment and Tree Survey submitted, it is my view that the trees to be removed to facilitate the proposed development are low quality, and their removal is not a sufficient reason to warrant refusal permission for the proposed development. These trees are not subject to a tree preservation order. I acknowledge the case put forward by the appellant that the trees and vegetation provide habitats for urban wildlife. However, there are no habitats of protected species on the site and no protected species would be impacted by the removal of the trees and vegetation. The proposed site layout plan details extensive new trees and landscaping around the perimeter of the site. While a detailed landscape plan has not been submitted with the application, this issue can be dealt with by way of Condition in the event of a grant of permission.

7.10. Land Ownership

- 7.10.1. The appellant Sinead Conroy objects to the proposed development on the grounds that the red line of the appeal site extends to an area beyond the applicant's ownership, towards the north and west of the site. On this basis, the appellant puts

forward the required private open space for Houses B and C cannot be provided. The submission includes a map showing a yellow strip along the rear/north-western and side/north-eastern boundaries, which the appellant states are in ownership of Raya Investments.

- 7.10.2. The applicants contest this, stating they have full ownership of the site as outlined in red. The applicants have submitted Land Registry details, including 2 no. folios confirming same. Maps attached to the folio's do not show any right of way / wayleave colored in yellow (or otherwise) along the rear/north-western and side / north-eastern boundaries of the site.
- 7.10.3. In consideration of this issue, Section 5.13 of the Development Management Guidelines (2007) refers to 'Issues relating to title to land' and states that the planning system is not designed as a mechanism for resolving disputes about title to or rights over land and that these are ultimately matters for resolution in the Courts. The Guidelines advise that where there is doubt in relation to the legal title of the applicant, the Planning Authority may decide to grant permission, however a grant of permission is the subject of Section 34(13) of the Planning and Development Act 2000 (as amended). Section 34(13) of the Planning and Development Act states that 'a person is not entitled solely by reason of permission to carry out any development'.
- 7.10.4. Having regard to the above, the Land Registry details submitted by the applicants and in the absence of Land Registry details by the appellant confirming otherwise, I consider it inappropriate to refuse permission for the proposed development on these grounds.

7.11. Appropriate Assessment

- 7.12. The proposed development will connect to the existing foul sewer along the Howth Road and will provide soakaways to the front of the proposed dwellings, installed in accordance with BRE Digest 365. It is reasonable to conclude that, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206)

or any other European site. A Stage 2 Appropriate Assessment is therefore not required.

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 provisions of the Dublin City Development Plan 2016-2022 , the residential land use zoning of the site, 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 seriously injure the visual and residential amenity of the area, would not be prejudicial to public health 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 31st March 2021, except as may otherwise be required in order to comply with the following conditions.</p> <p>Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to 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>
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2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>All first floor window opes on the north-east and south-west facing elevations to all of the houses shall be permanently fitted with obscure glazing.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>The flat roofs of the dwellings shall be accessed for fire escape and maintenance purposes only, save for the second-floor terrace to House A.</p> <p>Reason: In the interest of residential amenity.</p>
5.	<p>The use of the family flat in House A shall be restricted to a residential use directly associated with the use of the existing house on the site for such purposes, and the structure shall not be sub-divided from the existing house, either by way of sale or letting or otherwise.</p> <p>When the accommodation is no longer required for use as a family flat its use shall revert to use as part of the existing dwelling unit.</p> <p>Reason: In the interest of residential amenity.</p>
6.	<p>(i) Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority foul and surface water drainage plans for the proposed development showing the location of all drains, manholes, Ajs, etc., located within the site boundary. The information shall include pipe sizes and gradients of pipes.</p> <p>(ii) The water supply and drainage infrastructure, including the disposal of surface water, shall comply with the technical requirements of the Planning Authority.</p> <p>(iii) There shall be complete separation of the foul and surface water drainage systems.</p> <p>(iv) All drainage works for this development shall comply with the Greater Dublin Regional Code of Practice for Drainage Works which can be</p>

	<p>viewed/downloaded from http://environment.southdublin.ie (click-publications then specifications).</p> <p>Reason: In the interests of public health and in order to ensure adequate drainage provision.</p>
7.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
8.	<p>No part of the development, including fascia board, gutters, drainpipes or other rainwater goods, shall overhang or encroach onto the neighbouring property.</p> <p>Reason: In the interest of residential amenity.</p>
9.	<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:</p> <ul style="list-style-type: none"> (a) Location of the site and materials compound(s) including areas identified for the storage of construction refuse; (b) Location of areas for construction site offices and staff facilities; (c) Details of site security fencing and hoardings; (d) Details of on-site car parking facilities for site workers during the course of construction; (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; (f) Measures to obviate queuing of construction traffic on the adjoining road network; (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

	<p>(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers, drains or Dublin Bay .</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
10.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
11.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing</p>

	<p>with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) A plan to scale of not less than 1:500 showing -</p> <p>(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.</p> <p>(ii) Details of screen planting which shall not include cupressocyparis x leylandii.</p> <p>(iii) Details of roadside/street planting which shall not include prunus species.</p> <p>(iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.</p> <p>(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.</p> <p>(c) A timescale for implementation .</p> <p>All planting shall be adequately protected from damage until established. 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.</p> <p>Reason: In the interest of residential and visual amenity.</p>
12.	<p>Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development.</p> <p>Reason: In the interest of wildlife protection.</p>

13.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
14.	<p>Proposals for an estate name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features or alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
15.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the Local Authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
16.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the</p>

<p>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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Brendan Coyne
Planning Inspector

11th April 2022