



An
Bord
Pleanála

Inspector's Report

ABP-310598-21

Development	Demolition of existing bungalow, construction of 6 no. detached dwellings
Location	Dunseverick, Coast Road, Portmarnock, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0190
Applicant(s)	Richard and Sherril Burrows
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Anthony & Yvonne Murray
Observer(s)	Dublin Airport Authority
Date of Site Inspection	12 th of October 2021
Inspector	Angela Brereton

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1.0 Site Location and Description

- 1.1. The application site is located at 'Dunseverick', Coast Road, Portmarnock, Co. Dublin. The site is on the western (inland) side of the Coast Road and is in an elevated position overlooking the shoreline. The ground levels on the site rise significantly towards the west, so that there is a difference of approx.10m between the lower, eastern area near the public road and the western boundary.
- 1.2. There is an existing substantial flat roofed bungalow that is set back on the lower part of the site with entrance to the slip road from the R106. This runs in a north-south axis and serves c.4 additional dwellings to the south. There is an existing right of way running through the northern part of the site which facilitates access to the lands at the west.
- 1.3. The Coast Road, which links Malahide to Portmarnock, is a Regional Road (R106) and the access to Dunseverick is within the 60kmph speed zone. The laneway to the south, known as Monks Meadow has been under development in recent times, with permission granted for additional dwellings, not as yet constructed. This area is residential, but adjoins Robswall Park to the north and west, which provides a High Amenity greenbelt area between Portmarnock and Malahide.
- 1.4. There is a substantial hedge along the upper part of the southern boundary separating the site from the vacant lands (extant permission for residential) which are separately accessed via Monks Meadow. There are also trees/hedgerows around the boundaries of the subject site, which is landscaped and contains many trees interspersed in groups within the site. There is a shed on the upper part of the site, which is proposed for demolition.
- 1.5. There is an overgrown laneway/track to the north of the site that is gated to the public road. There is a dwelling house with windows in the side elevation facing the laneway to the north of the site. Also, there are other dwellings to the north of this that have shared access to the R106. The area of land within the northern western part of the site, that forms part of the access laneway/shown right of way is very overgrown. There is a metal boundary fence along the northern edge of the site with Robswall Park.

1.6. The site in view of its elevated nature is visible in the landscape from the Coast Road (R106) in the Malahide to Portmarnock direction. It is also visible from Robswall Park. There are a number of vehicular entrances in this area to the R106. There are bus routes along Coast Road, and bus stops in the vicinity.

2.0 Proposed Development

2.1. This proposal is to consist of the following:

- (i) The demolition of existing detached bungalow of approx. 427sq.m and associated detached garage.
- (ii) The construction of 1no. detached 2-storey, 5-bed dwelling (373.3sqm) with attached garage, 2no. detached 2 storey, 4-bed detached dwellings with setback 2nd floor accommodation (250.3sq.m) and 3 no. detached 2-storey, 4 bed detached dwellings (218.3sq.m each). Each dwelling to be provided with 2no. on-curtilage car park spaces and private amenity space.
- (iii) Existing vehicular entrance to be remodelled to serve one of the new dwellings with the remainder to be accessed via a new vehicular entrance to the Coast Road.
- (iv) Ancillary site landscaping and boundary treatments.
- (v) SUDS drainage and all other ancillary site development works necessary to facilitate the development on a site area of 1.04ha.

Documents submitted with the application include the following:

- Planning Report – DK Planning Architecture
- Architectural Design Report – Scott Tallon Walker Architects
- Engineering Report – Transportation, Drainage & Water Supply Issues – MTW Consultants Ltd.
- Landscape Design Rationale – Stephen Diamond Associates
- Tree Schedule – Charles McCorkell Arboricultural Consultancy

- Screening Report for Appropriate Assessment – OPENFIELD Ecological Services
- Architectural, Landscape and Engineering Drawings.

3.0 Planning Authority Decision

3.1. Decision

On the 27th of May 2021 Fingal County Council granted permission for the proposed development subject to 20 no. Conditions. These conditions are relatively standard and in general concern design and layout, access, right of way, landscaping and boundary treatment, drainage, construction management, provision of a security bond and development contributions. The following in summary are of particular note:

Condition no. 2 – Permission is authorised for six residential units.

Condition no. 4 – The entire development shall be located within the red line of the application site.

Condition no.11 – Requires that the developer ensure that all necessary way leaves and / or rights of way are registered with Land Registry within 3 months of the date of grant of permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy, to the inter departmental reports and the submissions made. Their Assessment included the following:

- The proposal which is located within the 'RS' residential is acceptable in principle.
- The most northerly strip of land is located within the land-use zoning 'HA' – High Amenity objective.

- The application site is located within Noise Zone C associated with Dublin Airport.
- They note that the maintenance of the right of way across the northern portion of the site to lands to the west will not be compromised.
- They consider that the low density proposed is appropriate to the sensitively located site with views to and from the Coast Road and the sea and its immediate context.
- They do not consider that the proposal in view of its proposed design and layout will cause an adverse visual impact in view of its sensitive location.
- They consider that the proposed design represents a comprehensive contemporary development of the whole site and will be seen in the context of existing residential in this area of Coast Road.
- They provide that the proposed design and layout will alleviate any overlooking issues.
- They note that the Council's Water Services Planning and Transportation Sections do not object subject to recommended conditions.
- They consider the Parks Sections concerns and recommend that an amended and final landscape plan be submitted prior to the commencement of development.
- The AA Screening Report concludes that the proposal will not impact on designated European sites and they refer to details of this.
- They conclude that subject to conditions the proposed development accords with the policies and objectives of the Fingal DP 2017-2023. That the development would integrate appropriately within the established context without undue impact on the visual or residential amenities of the area. That the proposed development would be consistent with the proper planning and sustainable development of the area.

3.3. Other Technical Reports

Water Services

They have no objections subject to conditions relative to surface water drainage.

Transportation Planning Section

They note details relative to the access and sightlines, onsite parking, provision of footpath. They have no objections subject to recommended conditions.

Parks and Green Infrastructure Division

They recommend that prior to the commencement of site works a final landscape plan shall be agreed with the Parks & Green Infrastructure Division and advise on a number of points to be taken into consideration.

They also advise that a Tree Protection Plan be submitted and that a tree bond of €5,000 be lodged with the Council prior to the commencement of development.

3.4. Prescribed Bodies

Irish Water

They have no objections

3.5. Third Party Observations

Submissions made have been noted in the context of the Planner's Report and are considered further in the context of the Grounds of Appeal and in the Assessment below.

4.0 Planning History

The Planner's Report notes the extensive Planning History of the site, as does the First Party response to the Appeal and this includes the following:

Subject site:

- Reg.Ref. F94B/0136 – House alterations, including front elevation revisions, garage conversion and extension of 28sq.m to rear of house and new garage/store at rear of site. Split decision – Grant and Refuse Permission.

Site to the North - Gleniffe

- Reg.Ref. F13A/0194 – Permission granted by the Council to demolish existing dwelling and detached garage with provision for new two storey 330sq.m single dwelling with rain water harvesting tank and soakaway, new site entrance and driveway, new parking to the front and rear and all associated site works.
- Reg.Ref. F13A/0417 – Permission granted for revisions to previously granted Reg.Ref. F13A/0194.
- Reg.Ref. F09A/0389 – Permission for a new storey and a half house (total floor area 137.5sq.m) widening of existing entrance, a new foul drainage system for proposed house and adjacent existing house on a site within the original curtilage of Rockview.

Site to the South West (all exiting via Monks Meadow)

- ABP Ref. No. ABP-309707-21 – Permission granted by the Council and subsequently upheld subject to conditions by the Board for in summary the Construction of 2no. two storey dwellings with single storey garage attached to House no.1, amendments to granted permission Reg.Ref.F15A/0151 (ABP Ref. PL06F.245088). All with access off internal roadway off existing private road 'Monks Meadow'. This is located to the south west of the subject site.

A copy of this recent Board decision is included in the Appendix.

- ABP Ref. No. ABP-304934-19 [P.A. Reg. Ref. No. F19A/0039]- Permission granted by the Council for 7no. detached 2 storey dwelling units and all associated site works. This was subsequently refused by the Board as follows:

Having regard to the scale of the proposed development, in conjunction with existing development, and the narrow access lane to the site from the public road, it is considered that the additional traffic associated with the proposed development, notwithstanding the proposed arrangements for traffic management and calming, as well as the improvement of the access lane, would give rise to additional turning movements at the junction of the access lane and R106 Regional Road, would lead to conflict between road users and

endanger public safety by reason of traffic hazard, and would result in a proliferation of access points on to a regional road in close proximity to each other. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- ABP Ref. No. PL06F.300471 [P.A. Reg. Ref. No. F17A/0500]: Planning permission was refused for in summary 7 no. two storey contemporary style dwellings with single storey garages, access and ancillary works. The single stated reason for refusal related to capacity issues for the private road serving the site, road safety and traffic hazard concerns.
- P.A. Reg. Ref. No. F17A/0175: Planning permission was refused in summary for the construction of 9 no. 2-storey contemporary style detached dwellings with 3 of the proposed dwellings also having a single storey detached garage within their curtilage; access and ancillary works. The single stated reason for refusal relates to capacity issues for the private road serving the site, road safety and traffic hazard concerns.
- P.A. Reg. Ref. No. F15A/0151: Construction of 2no. two storey five bedroom detached houses with attached garages, parking and vehicle turning areas, new road access off existing private road, landscaping boundary treatments, foul and surface water drainage, part realignment and improvement works to existing private road, and all associated services and site works on 0.49hectares. The development proposed in ABP-309707-21 (adjoining site to the south west) is identical to the northern section (2no. dwellings) of a previously approved development of 4no. dwellings ABP Ref. No. PL06F.228945 [P.A. Reg. Ref. No. F07A/1363]. Decision to grant permission upheld on appeal to An Bord Pleanala.
- F15A/0151/E1 - Grant extension of duration up to and including 3rd of January 2026. Therefore, this permission is still current.

Portmarnock Bridge Pumping Station

- F19A/0400 – Permission granted by the Council for a new wastewater pumping station on an approx. 0.5ha site and associated infrastructure to include gravity sewer and rising main connections. The proposed wastewater pumping station compound, within the townland of Maynetown, and in

summary to be approximately 115 metres by 62 metres and the pumping station to comprise of: below ground pumping station structures. All at Station Road, Portmarnock. This was subsequently refused by the Board (Ref. PL06F-307641-20 refers) by in summary reason of a highly vulnerable development being within an area prone to risk of flooding.

5.0 Policy Context

5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018)
- Design Manual for Urban Roads and Streets (DMURS) 2019
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, and the accompanying Urban Design Manual: A Best Practice Guide, (DEHLG 2009).
- Quality Housing for Sustainable Communities (2007).
- The Planning System and Flood Risk Management Guidelines (2009)

5.2. Fingal County Development Plan 2017-2023

Zoning - The site is located within the northern boundaries of Portmarnock. It is within the 'RS' - Residential zoning where the Objective seeks to: *Provide for residential development and protect and improve residential amenity.*

The Vision seeks: *Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.*

Sheet 9 Malahide-Portmarnock. Residential is permitted in principle within this zoning.

The northern part of the site is partly within the area zoned 'HA' - High Amenity where the objective seeks to: *Protect and enhance high amenity areas.*

Section 11.4 of the Development Plan deals with 'Transitional Zones' and states that it is important to *avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones.* In addition, Policy Z04 requires that proposals in such

areas shall have regard to development in adjoining zones, particularly the more environmentally sensitive zones.

Placemaking

The following Objectives are of note:

Objective PM44 - *Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.*

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

Objective DMS44: *Protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.*

It is of noted that as Section 1.6 refers to Strategic Policy and includes Portmarnock within these unique settlements - *Consolidate development and protect the unique identities of the settlements of ..Portmarnock..*

The appeal site falls within a Coastal Landscape Character Type, which is described as having an exceptional landscape value. The Plan states that “the coastal fringe is very sensitive to development due to the exposed nature of many of the coastal and estuarine areas making them particularly vulnerable to intrusive development.

Finding sites for new development along the coast will be difficult as new development is likely to be conspicuous”. Objectives NH33 to NH39 of the Development Plan seek to safeguard the essential character of each of its defined landscape character types.

Airport Noise - The subject site is located in Zone C associated with Dublin Airport. Objectives DA07 and DA08 refer to restrictions and controls for new development and this includes:

Objective DA07: *Strictly control inappropriate development and require noise insulation where appropriate within the Outer Noise Zone....*

Chapter 12 – Development Management Standards

Section 12.3 provides the Design Criteria for Urban Development and seeks to promote High Quality Urban Design. It refers to guidelines published by the Department of Environment, Community and Local Government in respect of quality housing and sustainable residential development. It also refers to the Design Manual for Urban Roads and Streets (DMURS) published jointly by the Department of Transport Tourism and Sport and the Department of Environment, Community and Local Government. Policy objectives PM31 to PM33 of the Development Plan seek to promote good urban design in accordance with these guidelines.

Section 12.4 provides the Design Criteria for Residential Development. This includes regard to the zoning objectives, mix of dwelling types and residential density. *In general the number of dwellings to be provided on a site should be determined with reference to the Departmental Guidelines document Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009). As a general principle and to promote sustainable forms of development, higher residential densities will be promoted within walking distance of town and district centres and high capacity public transport facilities.*

Objective DMS24 seeks to - *Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1 (Houses), 12.2 (Apartments/Duplexes) and 12.3 (Minimum Room sizes and widths for Houses and Apartments).*

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

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

Objective DMS73 provides for the use of Sustainable Drainage Schemes (SuDS).

Objectives DMS84-86 refer to private open space and boundary treatment and to ensure that all residential unit types are not unduly overshadowed.

Objective DMS87 seeks to ensure minimum private open space provision for houses - 75sq.m or more for a 4 bedroom house. This includes that narrow strips to the side shall not be included in the private open space calculations.

Table 12.8 provides the Parking Standards. 2 spaces within the curtilage of the site would be required for 3 or more bedroom houses.

Objective MT44 provides for Development Contributions. Objective DMS57B – provides for Development Contributions in lieu of open space.

Objective DMS126 - *Restrict unnecessary new accesses directly off Regional Roads. Ensure premature obsolescence of all county/local roads does not occur by avoiding excessive levels of individual entrances. Ensure that necessary new entrances are designed in accordance with DMRB or DMURS as appropriate, thereby avoiding the creation of traffic hazards.*

5.3. Natural Heritage Designations

The subject site is located to the west of the Malahide Estuary SAC (site code:000205) and to the south-west of the Malahide Estuary SPA (site code: 004025).

5.4. EIA Screening

Having regard to the nature of the proposed development and taking into account the residential land use zoning and the serviced nature of the site, and the distance of the site from nearby sensitive receptors, 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

Anthony & Yvonne Murray have submitted a Third Party Appeal to the Council's decision to grant permission for the proposed development. Their Grounds of Appeal include the following:

- Their house is to the north of the proposed development. They are concerned about visual impact of the proposal, as the site rises steeply from the road, when viewed to the rear of their property and the high amenity public park.
- The visual impact and traffic concerns are a number of critical items that they feel were not given due assessment by the Council in their decision.

Traffic

- They maintain that satisfactory traffic analysis has not been completed for the proposed creation of a new road and its associated sightlines.
- They note concerns about how the traffic survey analysis was carried out, including that it was carried out during lockdown when traffic volumes were significantly skewed, which also would be likely to impact on speeds.
- The nature of the parking area across the road also means that traffic movements in the area are very dangerous with cars often reversing out onto the main road.
- They provide details relative to sightlines, traffic and speed limits and are concerned that the sightlines are insufficient.
- They have concerns around what now appears to be 4 roads exiting in such close proximity.
- They contend that the required 90m sightlines in either direction are necessary for this development to account for the current 60kmph speed zone which represents actual speeds on the grounds of public safety.
- They include a copy of their original submission to the Council at application stage. This also refers to traffic, impact on visual amenity and landscaping.

Visual Amenity

- They have concerns about the impact of the proposed development, on this elevated site on visual amenity and consider it would impinge on the skyline. Objective NH38 seeks to protect skylines and ridgelines from development.
- The site is transitional from the sensitive High Amenity Zoning/Park to Residential, with specific reference to the visual impact on the approach from Malahide.
- There are two key drivers to the impact the scheme has on the visual amenity – roof/ridge heights and landscaping; specifically the proposed tree felling and replanting.
- The CGI's submitted falsely show the retention of the existing treeline, these houses will appear a lot more prominent on the protected views creating a new visible ridgeline in this high amenity zone. This false portrayal is a gross misrepresentation of the scheme.
- They also consider it contrary to Fingal's Landscape Character Objective NH40 which seeks to preserve views and prospects. That this proposal contradicts the specific local objective for this coastal area to 'preserve views' particularly when looking at the scheme from the High Amenity area.
- Having regard to Height – they request that there is a condition to remove the extra half level on the two storey houses to prevent height creep in this, and all future developments, in this sensitive coastal area. They are concerned the height of the proposed dwellings at 2.5 storeys and about overlooking.
- Landscaping – While they do not have an issue with the proposed species to be planted, they request that detailed consideration is given to the length of time required to achieve the 'after' images and thus request the existing Cyprus trees are substantially incorporated into the scheme pending any new trees reaching full maturity as illustrated in the images.
- They request retention of a significant portion of the Cyprus trees and augmentation with mature deciduous and evergreen trees to aid screening on this ridge line and to provide a shelter belt in this area, and in the interests of visual amenity.

6.2. Applicant Response

Doyle Kent Planning Partnership Ltd response provides a summary of the proposed development and has regard to the locational context, planning history and policy. Their response to the Grounds of Appeal includes the following:

Traffic

- In response, they submit that the proposed access is safely designed and has been fully accepted by the Council's Transportation Planning Section.
- The Traffic Surveys were carried out in March which is normally deemed a representative time of the year. The work was conducted by *Traffinomics Limited*, who are specialists in such undertakings.
- The survey results show that having regard to the measured traffic speeds, adequate sight lines are proposed, with a relaxation in the sightlines in one direction. They provide that the results are in accordance with current standards.
- They submit that the applicant's argument that the surveys were carried out in March during a Covid lockdown resulting in less traffic, is not reasonable, as normal activity must continue insofar as possible.
- They provide details of the proposed access road, which has been designed to DMURS standards and will serve the houses, Also, of sightlines at the junction with Coast Road.
- They submit that the engineering drawings by MTW, as submitted with the application, show the scope of these works and note that a letter from them includes comments on traffic matters raised including the traffic surveys.
- New planting in the vicinity of the entrance is to be low level as shown on the *Landscape Plan* drawing by Stephen Diamond Associates now submitted.
- They submit that the design of the access from the public road has been on the basis of TII publication *DN-GEO-03060* which is more demanding than DMURS but was considered appropriate by the Council. That this could reasonably be argued as the site is within a zoned residential area and the 60kph speed limit zone.

- They contend that the end result will be to make the Coast Road at this location considerably safer for all road users, including existing traffic and traffic from the proposed development.

Visual Amenity

- The development has been appropriately designed to constitute an appropriate termination to the built-up area of Portmarnock, and transition at the edge of a substantial stretch of parkland and High Amenity lands.
- This accords with the policy of the PA to maintain a recognisable separation of Portmarnock and Malahide. This includes the landscaping of the linear section of land within the site, adjoining the public park.
- The appropriateness of the approach to the design and layout can be appreciated particularly from the additional verified views now submitted, which also show the maturation of landscape planting over the years.
- They refer to the proposed design and layout of the proposed dwellings and submit that they will not be in any way detrimental to visual amenity or conflict with Fingal DP policy.
- The proposed houses are all well removed from existing houses, including the appellant's own dwelling, and they do not consider will cause overlooking.
- They accept that the appellants have correctly identified an unintended error in the portrayal of the Cypress trees as originally submitted. The revised CGI's correctly portray replacement of these trees with more suitable species along the northern edge (i.e the boundary to Robswall Park).
- The additional drawings by Stephen Diamond Associates show the growth and maturation of the proposed additional replacement planting. The replacement of the Cypress trees with more suitable native species is generally considered a planning gain.

Other issues

- The appellants raised some other issues in their letter to the PA which were either subsequently incorporated into the grounds of appeal or have no

bearing on the planning merits of the proposed development, such as regards the Public Notices.

Conclusion

- They submit that the proposal complies with planning policy to maintain a recognisable separation of Portmarnock from Malahide.
- They contend that the proposed development will result in improvements to sightlines along the Coast Road to the south of the site and to traffic safety.
- That they have shown in the drawings and in the further landscape drawings and verified images now submitted that this carefully designed scheme would make a positive impact on the visual environment. They ask the Board to grant permission.

6.3. Planning Authority Response

They provide that the proposal is in accordance with current policies and objectives in the Local Plan and existing government policy and guidelines. This includes the residential zoning objective and regard to impact on adjoining residents and the character of the area.

In addition, the proposal was assessed by the Transportation Planning Section who stated they had no objections. The Planning Authority requests that the Board upholds their decision.

In the event that the PA's decision is upheld, they request that Condition no. 15 (Tree Bond), No. 19 (Bond/Cash Security) and No.20 (Section 48 levy) are included in the Board's determination.

They note that the bond condition is the Council's sole mechanism to ensure that the roads/footpaths/public/lighting/open space/underground services within the development are built into the Council's Taking in Charge standard. Without this condition, the cost of bringing the development up to standard will have to be borne by either the residents who purchase the properties or out of Tax-payer funds by the Council.

6.4. Observations

Dublin Airport Authority (DAA) requests that Condition no.8 (noise insulation) be retained if the Board decides to uphold the grant of planning permission.

6.5. Further Responses

The Third Party Appellants, Anthony and Yvonne Murray, have submitted a response to the First Party response to the Grounds of Appeal. This includes the following:

- They maintain that the prerequisite sightline of 90m in a 60km/h zone is necessary especially given the location and traffic conditions relative to the site. They note that this has not been shown to be a viable option.
- The location of the speed measuring device was not at the proposed site access location, but rather several metres south attached to a telecoms pole, which they consider advantageous for the survey results.
- They maintain that adequate traffic analysis has not been submitted as per their original submission.
- They note and do not concur with comments in the conclusion of the Doyle/Kent submission that the reduction of the embankment will be of benefit to all road users.
- Given the abrupt square end of the red line boundary and the extent of the works required even beyond the red line they question as to how the embankment will be treated at the end of the redline.

Building Heights

- They submit that their position is adequately outlined in their submitted documents. The addition of the additional half storey on the two front houses would create a new precedent in the high amenity area, which is predominantly two storey.
- They also note that the limited size of the extra half storey is very modest, so its removal at the cost of setting precedent should not adversely affect the scheme in general.

Trees

- Given the significant number of CGI's submitted with the application, they consider that due assessment has not been given to trees and has only been outlined from a preferential angle.
- Their previous submission represents their concerns which remain in place pending further CGI analysis.
- They consider that a double standard is at play where preference is given to retaining certain boundary treatments and removing others to suit the commerciality of the development proposed.
- They ask that the Board consider their points made in this response in conjunction with their original observation and appeal documents.

7.0 Assessment

7.1. Context and Policy Considerations

- 7.1.1. The site is shown on Sheet 9 of the Fingal Development Plan 2017-2023 and is located within the 'RS' Residential Zoning where the objective is to: *Provide for residential development and protect and improve residential amenity*. This is at the edge of an established residential area, within the northern boundaries of Portmarnock. Residential is permitted in principle within this zoning. However, this is a sensitive elevated site, with views from the Coast Road and to the sea. This area is separated from Malahide by Robswall Park to the north and west of the site which is within the 'HA' High Amenity land use zoning where the objective seeks to: *Protect and enhance high amenity areas*. It is noted that the north western part of the site, is within the 'HA' zoning. The subject site is a transitional site next to a High Amenity area within a sensitive coastal landscape.
- 7.1.2. Regard is also had to the 'National Planning Framework Plan 2040' which seeks to increase housing supply and to encourage compact urban growth, supported by jobs, houses, services and amenities rather than continued sprawl and unplanned, uneconomic growth. Chapter 4 refers to Making Stronger Urban Places and includes National Policy Objective 4 which seeks to: *Ensure the creation of attractive,*

liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

- 7.1.3. Also, of note is Section 5.9 of the 'Sustainable Residential Development in Urban Areas Guidelines, 2009' which provides: *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.*
- 7.1.4. The First Party considers that having regard to the locational context that the proposed development has been appropriately designed for this sensitive site, is in accordance with planning policies of the Fingal CDP 2017-2023 and will be in keeping with the pattern of development and character of the area.
- 7.1.5. The Third Party are concerned that the design and layout of the proposed development on this elevated sensitive site, will detract from visual amenity and be overly dominant in views from the Coast Road and Robswall Park. Also, that the creation of a new access will impact adversely on traffic in this area where sightlines are deficient particularly in a southern direction.
- 7.1.6. It is considered that the principle of an infill residential development is acceptable relative to the residential land use zoning. Any new application on the 'RS' zoned lands will be assessed on its merits based on the land use zoning and its suitability having regard to its location within a sensitive landscape, and proximately to the 'HA' area of Robswall Park. Regard is had to the documentation submitted and to the issues raised by the Third Party including that the development would give rise to traffic hazard and that it would be visually obtrusive in this Assessment below.

7.2. Design and Layout

- 7.2.1. The site (stated area 1.04ha) is located on the Coast Road between Portmarnock and Malahide. It is currently the site of a large detached bungalow and associated detached garage with a large front lawn and very large rear garden. Access to the existing house is from a slip road off the R106 Regional Road. The site slopes upwards from the road and the rear garden area is in an elevated position with views to the sea. The rear garden area is sylvan in nature, with trees along the site boundaries and groups of trees/shrubs interspersed throughout this area.

- 7.2.2. An Architectural Design Report, which analyses the proposal in terms of the criteria set out in the guidance document *Urban Design Manual – a Best Practice Guide* (2009) has been submitted with the application. The proposed development is to consist of the demolition of the existing house and the construction of 6no. houses on the application site. One larger replacement type house on the lower part of the site, and the new concept of five detached houses in linear format on the western part of the site are proposed. The existing entrance is to be remodelled to serve the proposed replacement house on the lower level with the remainder to be accessed via a new vehicular entrance to the Coast Road. A communal landscaped area is to be provided between House B and House A1 as well as a large communal landscaped area to the North of the site along the boundary with Robswall Park.
- 7.2.3. A central area of open space of 874sq.m (10% of net site area) is proposed between houses A1 and B. There is a further landscaped area of open space (1644sq.m) within the HA zoned part of the site and immediately adjoining the public park to the north. Other than landscaping, it is provided that this area will be kept free of any development and includes the right of way. As this part of the site is outside of the area zoned Residential this would not detract from the High Amenity zoning.
- 7.2.4. It is proposed to demolish the existing bungalow of approx. 427sq.m and associated detached garage. The total area for demolition as per the application form is 468sq.m. The existing house is currently occupied and is habitable. It is flat roofed and in view of its lower profile is not considered to be obtrusive or overly dominant in the landscape. It is set back c. 40m from the road frontage, considerably further than the proximate detached houses which face the R106. While it has a certain character, it not a Protected Structure, nor a vernacular cottage nor located in an Architectural Conservation Area. I would have no objection to its demolition and including that of the garage/boat store to the north of the site.
- 7.2.5. The proposal includes the construction of 1no. detached house which appears as a replacement for that demolished with views to the Coast. This house (Type B) is shown 2 storeys with a flat roof. The floor plans show that the ground floor is to be 196.8sq.m and the first floor 176.5sq.m i.e total floor area of 373.3sq.m. The ground floor is to include living accommodation and an integral garage, the first floor 5no. bedrooms, to include bathroom/en-suite and walk in wardrobe area. It is to be a contemporary cubic form and be c. 7.6m in height. The house is to have on site

curtilage parking and a south-west facing private amenity space to the rear. As shown on the elevations and sections while 2 storey, it is to be lower in height than the ridge height of the existing large dormer bungalow immediately adjacent to the south. It is also to be set further forward on the site than the existing house i.e c.19m from the road frontage. It is proposed to use the existing modified entrance.

7.2.6. In view of the configuration of the site the proposed five no. houses to the rear are shown in a more linear layout format. Due to the elevated nature of the site, they will be on a higher level than the proposed detached house on the front part of the site. The proposed five houses at the rear will consist of 2 no. two and a half storey and 3 no. two storey detached 4 bedroom dwellings to be set into the rising ground in a staggered, spiralling layout. They are shown laid out with a relatively narrow, deep floor plan. While a relatively similar flat roofed rectangular format, these are shown with some modifications as House Types A1 – A5. The proposed access road is curved on plan, as it ascends through the site, and the proposed houses are set at varying angles from this road, each with their own individual access and on-site parking area.

7.2.7. House types A1 and A2 are shown two and a half storey. As shown on the Floor Plans they are to have a total floor area of 250.5sq.m. This comprises living accommodation at ground floor level, 4no. bedrooms at first floor level and study/storage and balcony area at second floor level. As shown on the Elevations the proposed 2 storey element will be c.7.3m and the additional setback half storey will bring the height to c.9.67m. The CGI Perspective of Type A houses -NTS shows these two houses with this feature in contrast to the other three Type A houses. The Third Party concerns about the proposed 2.5 storey height and increased visibility relative to this feature and the elevated nature of the site are noted. If the Board decides to permit, I would recommend that it be conditioned that these houses be two storey and that the second floor element and balconies be omitted.

7.2.8. It is noted that house types A5, A6 and A7 are shown as houses A3, A4 and A5 on the Site Layout Plan submitted. As shown on the Floor Plan these are to have a total floor area of 218.3sq.m. to include living accommodation at ground floor level and 4no. bedrooms at first floor level. The Elevations show that they are proposed to be flat roofed and c.7.3m in height.

- 7.2.9. Having regard to floor area and room sizes, the proposed dwellings would comply with Objective DMS24 and exceed the minimum standards set out in Tables 12.1 (Houses) and 12.3 (Minimum Room sizes and widths for houses) in the Fingal DP 2017-2023. Daylight, Sunlight and Overshadowing are not an issue raised relative to the proposed layout of this two-storey development and the residential units would be in accordance with Objective DMS30 of the said Plan. All houses have private open space to the rear that exceeds the minimum standards of 75sq.m of private open space as per Objective DMS87 of the said Plan.
- 7.2.10. The Architectural Design Report provides that all minimum separation guidelines have been adhered and exceeded. It is noted that first floor windows do not face each other at distances of less than 22m (Objective DMS28 refers). When there is not a distance of 22m between first floors, such as between the side elevations of house types A, they have designed the layouts to mean that these opposite walls are either blank at upper levels or contain opal glass bathroom windows only. Having regard to these design features and the distance from neighbouring properties it is not considered that the issue of overlooking of adjacent properties will occur. The houses permitted to the rear (south) in Monks Meadow are shown indicated on the Site Layout Plan submitted. While not yet constructed it is noted that proposed house nos. A1 and A4 will have a rear/side elevation view of these houses. These are in general c.22m from the rear of the proposed houses in the subject site and will be partly screened by the trees/hedgerows along the southern boundary of the site.
- 7.2.11. A drawing showing existing and proposed sections through the site, which includes reference to the new development has been included with the application. This includes relative to Contextual Elevations from Coast Road and through the site for the Existing and Proposed Development. While some details of external finishes have been given, it is recommended that if the Board decides to permit that a condition regarding external finishes be included.
- 7.2.12. At 6.9 houses per hectare of zoned residential land (i.e. excluding the area zoned HA), this is a relatively modest density of development, but in the circumstances of the location overlooking a scenic area and adjoining lands zoned as High Amenity and a public park, it is submitted that this density is reasonable and is the type of exceptional case provided for in Government guidance per the *Sustainable Residential Development in Urban Areas* 2009.

7.3. Landscape and Visual Impact

- 7.3.1. The application site is visually sensitive by virtue of the rising levels westwards away from the coast, location adjacent to Robswall Park and the adjoining 'HA' land zoning together with the visual prominence on approach from Malahide in a southerly direction. The Third Party concerns relative to the obtrusive visual impact of the proposed scheme on this transitional site are noted. This proposal will represent a change to a harder edge to this High Amenity area of Robswall Park. Therefore, it is of importance that existing boundary landscaping be retained as far as possible to aid screening and be replaced/augmented where necessary.
- 7.3.2. A Landscape Design Rationale has been submitted with the application. This provides details of the landscape design of the proposed central communal open space (874sq.m) between houses B and A1. The design of the northern zone 'HA' (1644sq.m) is also referred to. Other than landscaping this area is to be kept free from development. This includes that a staggered line of semi-mature native Scot's Pine trees has been proposed along the north western boundary interface with Robswall Park to mitigate the visual impact of the development and provide privacy to residents. Further semi-mature mixed native planting is also proposed. To be retained along the site's western boundary is a densely planted coniferous border providing protective screening from adjacent private lands. Existing hedgerows are also to be retained along the site's south-eastern and north-eastern boundaries. The north-eastern boundary is to be further supplemented with pairs of Red Cedar tree planting strategically located to screen sightlines between the existing and proposed dwellings. A brief summary of a Landscape Programme of Works is given.
- 7.3.3. A Tree Survey and Constraints Plan is included which shows that many of the trees within the site are to be removed, whereas in general those along the site boundaries, excepting the north-western boundary with Robswall Park are to be retained. An Aerial photograph submitted shows the existing trees on site. A Tree Schedule has been included which provides a description and categorisation of the trees, the majority of which within the site are proposed for removal. The Site Plan indicates the landscaping and boundary treatment to be retained and that proposed. Landscape Sections have also been submitted.

- 7.3.4. Appendix B of the Architectural Design Report submitted provides a Landscape and Visual Impact Assessment. The Assessment shows 5 selected viewpoints across the application site. A description is given of each of these viewpoints, in summary 4no. views are taken from various points along the Coast Road and 1no. view from Robswall Park to the north. It is noted that some of the viewpoints from the Coast Road are limited due to existing dwellings and associated boundaries and landscaping. An Assessment is had of each of these views and photomontages showing existing and proposed are included. It is noted that viewpoints nos.1 and 2 (Malahide to Portmarnock) direction will have the greater impact when seen from the Coast Road and the across open landscape of Robswall Park.
- 7.3.5. Viewpoint no.3 is from the pedestrian route on the seaside of the Coast Road to the North East of the site almost level with the proposed entrance. The main change to this view will be the proposed two storey house is to replace the existing larger but lower profile single storey dwelling. However, having regard to the mix of dormer/two storey dwellings in the vicinity, it is considered that this will be in character with the pattern of development in the area.
- 7.3.6. Viewpoint no.4 is taken from the Portmarnock/Malahide direction where in view of the screening provided by existing dwellings, none of the proposed development is visible from this viewpoint. Viewpoint no. 5 is from a footpath near the centre of Robswall Park. It is considered that despite the landscaping, it will take time to mature and the proposed development will be visible. While this site is elevated, it must be noted that there are some other houses from other residential developments visible, albeit with landscape screening along the edges of Robswall Park.
- 7.3.7. The Landscape and Visual Impact Assessment contends that the proposal, due to its location, scale and design, would give rise to no significant impact on the sensitive coastal landscape or preserved views at this location. They consider that the proposal is consistent with the provisions of the Fingal DP 2017-2023, particularly Objective NH40 which seeks to: *Protect views and prospects that contribute to the character and landscape, particularly those identified in the Development Plan, from inappropriate development.* In this respect as shown on Sheet 9 Malahide/Portmarnock of the said Plan there is an objective to preserve views along this section of the Coast Road.

- 7.3.8. The Third Party also refer to Objective NH38 – *Protect skylines and ridgelines*. They are concerned that the proposal will be obtrusive. Also, that the impact of the proposed scheme is falsely portrayed in the CGI's submitted as part of the original application where trees proposed to be felled are shown as a false backdrop to the scheme when in reality these trees will not be there.
- 7.3.9. The First Party response provides that the development has been carefully designed to constitute an appropriate termination to the built-up area of Portmarnock, at the edge of a substantial stretch of parkland and High Amenity lands. They accept that the applicants have correctly identified an unintended error in the portrayal of the Cypress trees as originally submitted for permission and submit revised CGIs. A Method Statement Photo-montage production has also been submitted. They provide that these have been revised and now correctly portray replacement of the said trees with more sustainable species along the northern edge of the development (i.e. the boundary to Robswall Park). A Landscape Plan has been submitted with their response. This includes further details of planting and boundary treatments.
- 7.3.10. The Third Party provide that while they appreciate the extent of the new amenity area, they would request that a more collaborative 'green boundary' that retains a significant portion of the existing Cyprus trees to retain the *shelter and integration*, referenced in the Rural Design Guidelines. That additional mature deciduous and evergreen trees should also be stipulated along this boundary to protect the ridgeline and protected views if the Cyprus tree are removed. Any species planted should be suitable for this coastal area, be planted at commencement of the development at agreed spacing and any failed planting to be replaced.
- 7.3.11. The First Party response provides that the linear section of land adjoining the public park but within the boundaries of the applicants' land ownership, will be landscaped as shown on the drawings of Stephen Diamond Associates, using species more suited to a location beside the coast in Ireland than the current cypress trees. This will act as a transition between the new urban edge and the public Robswall Park. They also submit additional drawings showing the growth and maturation of the proposed additional replacement planting, which they consider as a planning gain. The Third Party response queries this and are concerned that preference is given to retain certain boundary treatments. However, I would consider that the replacement

of the cypress trees along this boundary with the species referred to would be preferable.

- 7.3.12. The comments of the Council's Parks and Green Infrastructure Section are of note. They recommend that prior to the commencement of site works that a final landscape plan be agreed and that a number of issues be taken into consideration. Also, that prior to the commencement of site clearance works that a Tree Protection Plan be submitted. In addition, that a tree bond of €5000 be lodged with the Council prior to the commencement of development to ensure that the trees are protected and maintained in good condition throughout the course of development. It is noted that the Council's permission has included a number of conditions in this respect. If the Board decide to permit I would recommend that such conditions be included to ensure that the site is adequately screened and landscaped.
- 7.3.13. I would consider that visually having regard to the sensitivity of the site and the prevailing low density and taking into consideration the boundary screening and landscaping to be provided, that the design and layout of the proposed contemporary development would provide for the development of the site as a whole and would integrate appropriately within the surrounding context without undue impact on the visual amenity and established character of the area.

7.4. Encroachment/Right of Way

- 7.4.1. There is a gated access to the north of the site which leads to an overgrown laneway (former agricultural track) that does not appear to have much use. This leads to a more overgrown area within the north-western corner of the site. The latter is within the development site boundaries. The Site Layout Plan indicates a 'right of way' in yellow in the northern western part of the site.
- 7.4.2. It is noted that there is a letter and map from an adjoining landowner which is concerned to maintain access to their lands from the gated access to the R106. They note their right of way is being proposed as public open space for the proposed development. They are concerned that the applicant is proposing a turning circle that if granted would block their client's current access to their lands. They submit that the proposed development is premature and ask that any permission granted would

ensure access to their lands and that the area be designed so that piecemeal development will not occur.

- 7.4.3. The Planning Report submitted notes that there is a right of way, accessed by a third party, across *Dunseverick* land holding, serving agricultural lands to the west, which agricultural lands are not within the same ownership. They provide that this right of way carries only very occasional traffic and is not a significant factor in terms of safety or amenity. The lower part of the laneway is not included in the red line boundary of the site and is in separate ownership. As noted, this area is overgrown and is adjacent to the proposed new access route to serve the row of detached houses to the rear.
- 7.4.4. The Planner's Report has regard to the future development of these lands to the west and noted that this would require engagement between the two landowners as access relies on the application site. They also noted that the access road serving the proposed development terminates with a hammerhead which would not appear to exclude future access to the adjoining lands, all subject to further design etc. In this respect it is noted that the First Party response provides that in the road layout of the proposed development, provisions have been made for the future connection to the adjoining lands to the west, thereby making the agricultural track entirely redundant in the event that these lands are to be developed.
- 7.4.5. Having regard to this issue it is considered important that there be no encroachment into Robswall Park which forms an important amenity for the residents in the area and a break between Malahide and Portmarnock. In order to retain this separation and to ensure no encroachment into Robswall Park if the Board decides to permit, I would recommend a condition similar to condition no 4 of the Council's permission to ensure that the entire development be located within the redline boundary of the application site. Also, it must be noted that any further development of adjoining residentially zoned lands is not the subject of this application and would require a separate planning permission.
- 7.4.6. It is of note that the issue of ownership/encroachment is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development*". Under Chapter 5.13

'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: *"The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts..."*

7.5. Access and Traffic

- 7.5.1. The existing vehicular entrance to the slip road off the R106 'Coast Road (that serves the existing house to be demolished) is to be remodelled to serve one of the new dwellings i.e House 'B' facing the slip road, with the remainder to be accessed via a new vehicular entrance to the Coast Road. It is proposed that this be alongside the existing overgrown access route to the north of the site which has separate gated access to the R106 and includes a right of way in the north-western part of the site.
- 7.5.2. The Planning Report submitted with the application provides that the proposed access road is to be laid out to DMURS standard, at 5m carriageway plus footpath (1.8m) and is suitable for taking in charge. The Council's Transportation Planning Section note that this internal footpath should be 2m wide, however they provide that given the restricted width at the start of the lane a continuous width of 1.8m is acceptable. They also note that a taking in charge drawing has been provided. A turning point at the end of the internal road is to be provided to enable fire tenders and refuse trucks to turn. This is to enable all houses to have their own bin collections. Reference is had to the Engineering Report and proposed road's layout drawing by MTW Consulting Engineers.
- 7.5.3. The Engineering Report notes that the speed limit on the R106 in this location is 60km/h which requires a sight distance of 90m (DN-GEO-03060). A traffic count/speed survey was undertaken by Traffinomics Limited in March 2021 and the results are included in Annex E. Details are given of speed percentiles for north and south bound traffic, both of which are stated to be less than 53km/ph. It is submitted that all works relative to sightlines are within the site boundaries.
- 7.5.4. It is noted that sightlines at the junction of the proposed access road with the public road are shown on the drawing submitted by MTW. They provide that to achieve the indicated sight lines will necessitate removal of vegetation and some slight regrading

of the ground within the lands under the applicant's control, as indicated on the drawing. It is also noted that formation of the new access will also require removal of an electricity pole and, subject to agreement with ESB, it is proposed to provide ducting to underground this section of electricity distribution line, or alternatively, to facilitate relocation of the pole.

- 7.5.5. The Third Party maintain that satisfactory traffic analysis has not been completed for the proposed creation of a road and its associated sightlines. They note that the traffic surveys completed were located south of the site entrance close to a bend where speed is reduced. They are also concerned that the surveys were completed during a time of Government lockdown due to Covid when traffic numbers were lower than usual. They note that the site is within the 60km/h speed limit and the scheme should be designed for this not the 50km/h limit.
- 7.5.6. In addition, they have concerns that there would now appear to be 4 roads exiting in close proximity onto the R106. The existing slip road including access to the new dwelling, the newly proposed public road servicing 5 houses, the private agricultural laneway, as well as the existing exit for the two private dwellings in Rockview. It is also noted that the entrance to Monks Meadow is (ABP-309707-21 refers) is to the south of the slip road entrance.
- 7.5.7. They are concerned that the substandard vertical and horizontal alignment of the road renders it dangerous by limited sightlines, changes in speed and informal parking. They provide that the nature of the parking area across the road means that traffic movements in the area are very dangerous with cars often reversing out onto the main road. They contend that the required 90m sightlines in either direction are necessary for this development to account for the current 60km/h speed zone which represents actual speeds on the grounds of public safety.
- 7.5.8. It is noted that the Council's Transportation Planning Section notes that the site is located in a 50km/hr zone. As noted on site this is not the case. Having regard to the signage, I note that proximate to the junction with Monks Meadow, this is 60km/hr in the direction of Malahide, going southwards the sign reads 50km/hr in the direction of Portmarnock. However, it remains that this is a fast busy regional road. In view of their comments, it is not clear if the Council, in view of the number of entrances to the R106 in this location, may decide to also reduce the speed limit to 50km/h in the

Malahide direction. The Transportation Planning Section note that a speed survey has been provided indicating that the 85% traffic speeds in the immediate vicinity of the proposed site access are 52km/hr (rounded off). That a sightline drawing has been provided indicating the required 72m sightlines in both directions from a 2.4m setback as required. They provide that they have no objections subject to recommended conditions.

- 7.5.9. The First Party response submits that the proposed access is safely designed and has been fully accepted by the Council's Transportation Planning Section. The location at which the survey was carried out is the point on the road which is appropriate to the proposed development. They contend that the traffic study carried out over a week in March is normally deemed a representative time of the year and in view of Covid it was not reasonable to expect the applicant to wait to carry out the survey. That the work was conducted by *Traffinomics Limited*, who are specialists in such undertakings. That the survey results show that, having regard to the measured speeds, very adequate sight lines are provided with a relaxation in the sight line in one direction, as provided under current standards.
- 7.5.10. They also refer to the further details by MTW Consultants in response to the appeal. This letter considers that the traffic survey carried out is representative. It provides that their design approach was directed by the Council. They are of the opinion that due to the site's location between Malahide and Portmarnock that DMURS (which they provide is less demanding, as the site is within a zoned residential area and the 60kph speed limit zone) was the appropriate document, but that FCC provided that they use the more onerous Traffic Infrastructure Ireland Guidelines for the intersection with the R106.
- 7.5.11. The First Party response claims that the assertion that there will be four 'roads' converging is an overstatement of reality. Firstly, the redundant old coast road, now bypassed, carries no traffic other than from *Dunseverick* and the three houses to the south, which they consider effectively is a shared driveway arrangement. This arrangement will not be altered by the current proposal. Secondly, the rough track running in part through the appeal site is rarely used as an agricultural access. It is noted that this access is alongside (part of it is shown as a right of way) that now proposed to serve the 5no. houses to the rear of the site. In addition, they note that the access from the main Coast Road to the two modern houses immediately to the

north of the agricultural access is a domestic gateway. They provide that traffic movements from these accesses are all low.

- 7.5.12. It is noted that the access to Monks Meadow which serves existing and permitted residential development to the south is not referred to in this assessment (ABP-309707-21 refers to the most recent Board decision) and has not been taken into account. As shown on the Site Plan submitted this is located c.145m to the south of the proposed access.
- 7.5.13. The First Party response submits that the engineering drawings by MTW, as submitted with the application, show the scope of the works to achieve proper sightlines in adequate detail. They note that existing vegetation will be cut back and new low-level planting will be provided as per the Landscape Plan submitted. They submit that the end result will be to make the Coast Road at this location considerably safer for all road uses, including existing traffic and traffic from the proposed *Dunseverick* development.
- 7.5.14. It is noted that the Third Party response reiterates their concern about sightlines and the prerequisite for 90m in a 60km zone being necessary especially given the location and traffic conditions relative to this site. They also consider that the only appropriate location for a traffic survey is the site entrance and query the redline boundary relative to the works.
- 7.5.15. However, I would consider that having regard to the documentation submitted, including the engineering details and drawings regarding sightlines and the recommendations in the Council's Transportation Planning Section's Report that it maybe concluded, that subject to conditions the proposed development taking into account its relatively small scale and the locational context, within the urban speed limits and the residential land use zoning, will be acceptable. Therefore, I would not consider it appropriate to refuse permission on traffic grounds.

7.6. **Drainage and Flood Risk**

- 7.6.1. It is proposed to provide connections to existing services. The foul and surface water drainage and water supply proposals for the development have been designed by MTW Consulting Engineers. An Engineering Report and drawings showing drainage

layout have been included in the documentation submitted. Works are to comply with current standards and with the requirements of the Water Services Department.

- 7.6.2. Each house is to have an individual connection to a new foul main. To avoid the need for a pumping station a wayleave is required through the side of the site of House B. They provide that this has been approved by Irish Water - Annex D refers. An existing public manhole is located in the South East corner of the site. It is noted that the existing house site has a combined system which discharges unrestricted into the existing foul network.
- 7.6.3. Regard is had to connections to Water Supply and it is proposed to provide individual water meter connections to the existing watermains.
- 7.6.4. Surface water is to be dealt with within the site using soakpits in compliance with SUDs guidelines. It is submitted that a storm management system following the principles of SUDs in compliance with the GSDS is proposed. Surface Water for all events up to and including a 100 year + 20 climate change will be stored underground. Disposal of surface water is through infiltration and no surface water will leave the site.
- 7.6.5. The parking area of each house is to be constructed in permeable paving. Runoff from the roof area will also discharge into the permeable paving. Calculations for permeable paving depths are attached in annex B. Road gullies will collect runoff and direct it to trench type soakaways.
- 7.6.6. Details include that the public open space will be free of access covers. The soakaways will have a minimum cover of 500mm and can be overplanted with grass of small shrubs. Soakaways will be stone filled, wrapped in geotextile and provided with root protection. Soil infiltration tests are shown in Annex A, Calculations in Annex B and the surface water layout is shown on the drawings.
- 7.6.7. It is noted that the Council's Water Services Department does not object to the proposed development and recommends conditions regarding surface water drainage. Irish Water also does not object and recommends a condition regarding connections. It is recommended that appropriate drainage conditions be included if the Board decides to grant permission.

7.6.8. The Engineering Report notes that the site is in Flood Zone C of the CFRAMS Flood Mapping – Annex C. They note that the residential development only requires a justification test if located in Flood Zone A or B but is deemed appropriate in Flood Zone C. Therefore, the proposed development on this elevated site is deemed to be appropriate.

7.7. Screening for Appropriate Assessment

7.7.1. A Screening for AA Report has been prepared by OPENFIELD Ecological Services. The nearest Natura 2000 sites are the Malahide Estuary SAC and Malahide Estuary SPA located c. 0.1km and c.0.2km respectively to the east of the site. Baldoyle Bay SPA/SAC lie approx. 2.4km to the south. In addition to these European designations Baldoyle Bay and Broadmeadow (Malahide) Estuary area also recognised as wetlands of international importance under the RAMSAR Convention (sites 413 & 833 respectively). Because foul wastewater from this area is treated at the Ringsend wastewater treatment plant, which in turn discharges into Dublin Bay, the Natura 2000 sites in Dublin Bay fall within the zone of influence of this proposal.

Details are given of the Qualifying Interests of the following Natura 2000 sites:

- Baldoyle Bay SAC (site code: 0199)
- Baldoyle Bay SPA (site code: 4016)
- Malahide Estuary SAC and SPA (site codes: 0205 and 4025)

Section 2.2.4 provides details of the Natura 2000 sites in Dublin Bay and their Qualifying Interests:

- North Dublin Bay SAC (site code: 0206)
- South Dublin Bay SAC (site code: 0201)
- South Dublin Bay and Tolka Estuary SPA (site code: 4024)

It is noted that Dublin Bay is recognised as an internationally important site for water birds as it supports over 20,000 individuals. It is provided that of relevance to this study this report highlights that poor water quality has long been an issue in Dublin Bay. Whether the SACs or SPAs are likely to be affected must be measured against their ‘conservation objectives’ (set out in the NPWS). These objectives are based on

attaining 'favourable conservation status,' for all relevant habitats and species. Those specific objectives for habitats in the SACs are related to (inter alia) habitat extent, vegetation structure and community structure. In the SPA there are objectives for each bird species which relates to maintaining a population tend that is stable or increasing and maintaining the current distribution in time and space. There are no objectives in either the SAC or the SPA for water quality in the estuary.

The subject site is not located within or directly adjacent to any area designated for nature conservation. It is situated approx.2.4m to the north of the boundary of the Baldoyle Bay SAC & SPA at its nearest point. The distance to Malahide Estuary SAC is approx. 15m (the boundary of the SPA is situated a short distance to the north of this). They include Figure 3 which provides an Extract from Fingal CDP 2017-2023 (green infrastructure sheet 15) which notes the presence of annex 1 habitat.

The Screening Report provides that the area of green space to the north of the development lands, locally known as Robswall was identified as being of 'major' importance to wetland and wading birds (Scott Cawley, 2017). This is based on a maximum count of >401 birds. This is shown in figure 4 along with other areas which have been identified as important for wintering birds in the area. It is noted that the development site directly borders the green space in one point only to the very north-west, but that the northern boundary is separated from it by a band of scrub and trees approx.10m in width.

Site Survey and Trends affecting the SAC/SPA

- 7.7.2. It is provided that due to the low ecological sensitivity of the site third party observations were not sought. Details are given of a Site Survey carried out and of Survey results. This notes that the subject lands are comprised of house and garden and are predominantly grasslands and non-native species and that these habitats are of low biodiversity value. They are not associated with any which are listed on Annex 1 of the Habitats Directive. While the SAC is only 15m from the boundary of the development lands the two areas are separated by a busy public road. The sea coast in this part of the SAC is made up of a rocky shoreline and so is not a habitat for which the Malahide Bay SAC is designated. There are no water courses running through the site or along its boundaries. There are no areas of open water or wet ground. They note an invasive alien species in the area – 'Sea Buckthorn'.

- 7.7.3. It is noted that there are no management plans for the designated areas in Malahide Estuary, Baldoyle Bay or Dublin Bay, however some work has been done to determine the site specific trends or threats to their conservation status. Details are given of these. This includes that Bird trends in Malahide Estuary have been analysed by the NPWS in the Conservation Objectives supporting documents.
- 7.7.4. In June 2018 Irish Water applied for and subsequently received planning permission for works to Ringsend Wastewater Treatment Plant facility. Details are given of this including note of the EIAR then submitted. This includes "Bird populations in the Dublin Bay areas will be unaffected by the discharge from the WwTP."

Analysis of the Project

- 7.7.5. This notes that the construction phase will involve the use of standard construction materials. There will be some loss of existing habitats on site, to be replaced with buildings and artificial surfaces which will be of negligible biodiversity value. They provide details of standard drainage, including surface water drainage (SUDs) relative to the residential development. Post construction the site is to be landscaped with a range of native and non-native species. These are to be appropriate to the locality and will not include any species considered to be invasive.

Analysis of Other Plans and Projects

- 7.7.6. They note that individual plans and projects may not be significant but that in combination, cumulative impacts relative to this part of North Dublin need to be considered. It can lead to increasing amenity pressure on coastal areas and this has been identified by the NPWS in a number of SPAs including Baldoyle Bay, as being a threat to wetland and wading birds. The issue of amenity pressure has been addressed in the Portmarnock LAP. The AA report for the LAP concluded that no negative effects would arise to the SAC/SPA from the implementation of the plan. Water quality in the coastal waters off Portmarnock is assessed as 'good' in the 2013-2018 reporting period.
- 7.7.7. They also note that the second River Basin Management Plan was published under the EU's Water Framework Directive. This sets out to attain 'good ecological status; of all waterbodies by 2027 at the latest.

Determination of Significance

- 7.7.8. The development will not result in the loss of any habitat within or adjacent to any SAC or SPA. It will not result in the loss of any semi-natural habitats of conservation value as the habitats on the site are of a highly modified nature. No habitats will be directly disturbed within or directly connecting to Natura 2000 sites. Indirect disturbance through amenity pressures on coastal areas is unlikely to occur due to the scale of the project. They noted that the AA that was carried out for the Portmarnock LAP concluded that negative effects would not arise from this source.
- 7.7.9. They provide that the development lands are not suitable for regularly occurring populations of wintering or wetland birds which may be features of interest for the Malahide Estuary SPA or the Baldoyle SPA. While the lands at Robswall are used by wintering birds there is no source of disturbance or disruption to these lands which could arise from this project either during the construction or operational phases. The development lands are physically removed from the open space at Robswall which the boundary vegetation (which acts as a visual screen) is to be largely retained as shown in Figure 5. They provide that no ex-situ impacts can occur to Natura 2000 sites from this project.
- 7.7.10. This site is not located adjacent to any water course. Risks to local water quality during the construction phase are therefore low. No effects to Natura 2000 sites can arise during construction phase. Additional loading to the Ringsend WwTP arising from this project are not considered to be significant as there is no evidence that pollution through nutrient input is affecting the conservation objective of any of the Natura 2000 sites in Dublin Bay.

Stage 1 Screening Conclusion

- 7.7.11. Their Assessment of the potential impact of the proposed development provides that it has been designed in a manner that includes best construction methods, will connect to existing services and that it will not adversely impact on the Natura 2000 sites. The conclusion of the AA Screening Report is that there will be no significant direct or indirect impacts to the conservation objectives of the habitats or species within the Natura sites within a 15km radius of the site. That having regard to the scale, location and nature of the works associated with this proposed development

that there will be no potential or likely adverse impact on any Natura 2000 sites identified and no deterioration will occur to the integrity of the proposed sites.

- 7.7.12. It is provided that on the basis of the screening exercise carried out that it can be concluded that the possibility of any significant impact with other plans and projects, can be excluded beyond a reasonable scientific doubt on the basis of the best scientific knowledge available. They conclude a Finding of No Significant Effects.
- 7.7.13. Based on the above and subject to condition that satisfactory arrangements being put in place regarding the management of surface water, I concur with the Planning Authority that, it is reasonable to conclude that on the basis of the information on the file, which I consider to be adequate in its nature and scope to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on downstream European sites, in view of the sites Conservation Objectives. As such I consider that a Stage 2 Appropriate Assessment and the submission of a NIS is not therefore required.

8.0 Recommendation

It is recommended that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Fingal County Development Plan 2017 -2023 and to the nature and scale of the proposed development on residentially zoned land, with the open space area on that part of the site zoned 'High Amenity', it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 20th day of July, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission authorises the development of six single dwelling units within the red line boundary of the subject site. There shall be no encroachment into adjoining lands or the area of Robswall Park.

Reason: In the interests of clarity.

3. The proposed development shall be amended as follows:
 - (a) The second floor and balcony areas proposed on House Types A1 and A2 shall be omitted.

Reason: In the interest of clarity and residential amenity.

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

Reason: In the interest of visual amenity.

5. (a) The roads and traffic arrangements serving the site (including road signage and markings relative to the access lane and to the junction with the R106 Regional Road), shall be in accordance with the detailed requirements of the planning authority for such works, and shall be carried out at the developer's expense.

(b) The internal road network serving the proposed development including access, turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such works.

(c) Proposed pedestrian access shall comply with the detailed standards of the planning authority for such works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

6. The development shall incorporate noise mitigation measures to ensure that appropriate noise levels for habitable rooms are achieved and maintained, having regard to the location of the site within the Outer Airport Noise Zone. The required measures shall be determined by a quantified noise assessment of the site which shall be carried out by an appropriately qualified and experienced professional at the expense of the developer. Full details of the assessment and the proposed noise mitigation measures/construction materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health.

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) A plan to scale of not less than 1:500 showing –
- (i) Existing trees, hedgerows, shrubs, specifying which are proposed for retention as features of the site landscaping.
- (ii) The measures to be put in place for the protection of these trees and landscape features during the demolition and construction period.
- (iii) Details of replacement tree planting for those trees that are felled to facilitate the proposed development. 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 which shall not include prunus species.

(iv) Details of screen planting along the north-western boundary with Robswall Park, which shall not include cupressocyparis x leylandii.

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.

Reason: In the interests of residential and visual amenity.

8. Trees to be removed on site shall be felled in late summer or autumn. Any disturbance to bats on site shall be in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist.

Reason: In the interest of nature conservation.

9. A tree bond of €5,000 shall be lodged with the Council prior to the commencement of development in order to ensure that the trees are protected and maintained in good condition throughout the course of development. The tree bond shall be held by the Council for a period of 2 years post construction and shall not be released until an arboricultural assessment report and certificate signed by a qualified arborist has been submitted and any remedial works have been fully undertaken to the satisfaction of the planning authority.

Reason: To ensure the protection and long-term viability of trees to be retained on site.

10. A management plan for the control of alien invasive plant species, including a monitoring programme, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and to prevent the spread of alien plant species.

11. Details of proposed boundary treatments at the perimeter of the sites, including heights, materials and finishes, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

12. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

13. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

14. All public services to the proposed development, including electrical, telephone cables and associated equipment shall be located underground throughout the entire site.

Reason: In the interest of visual amenity.

15. Lighting shall be provided along the access road in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any house and shall be designed to avoid light pollution of neighbouring properties and Robswall Park.

Reason: In the interests of amenity and public safety.

16. Proposals for a 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 signs and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility

17. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

This plan shall provide details of intended construction practice for the development, including hours of working, traffic management, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

18. 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.

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

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

Reason: In the interest of sustainable waste management.

20. 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.

Reason: To ensure the satisfactory completion of the development.

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

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

Angela Brereton
Planning Inspector

22nd of October 2021