



An
Bord
Pleanála

Inspector's Report

ABP-312176-21

Development

Demolition of house and attached flat and the construction of house and detached garage together with associated site works & services. The application is accompanied by a Natura Impact Statement.

Location

Within the site of the former Stella Maris Sisters of Charity Convent, Carrickbrack Road, Howth, Co Dublin, D13 YK71.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F21A/0453.

Applicant(s)

Greg & Lisa Gallagher.

Type of Application

Planning Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party.

Appellant

Roxanne White.

Observers

1. Julian King.
2. Mark Lennon & Nadia Pitt.

Date of Site Inspection

27th day of June, and 5th day of August,
2022.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The irregular 1.2524ha site is located on the southern side of Carrickbrack Road (R105) c85m to the west of its junction with Thormanby Road at its nearest point and c2.3km to the south of Harbour Road, Howth, as the bird would fly. The site itself contains a 2-storey dwelling house that dates back to the 1930s with a later single storey rear extension.
- 1.2. This dwelling was originally constructed as a retreat forming part of the buildings and grounds of the Stella Maris Convent and was called St. Josephs House. It can be described as a mainly two storey five bay house with an arcaded basement level supporting a walled balcony with a southerly aspect addressing the coast. There is a non-original replacement conservatory over the central bay on the south façade. This opens directly onto the aforementioned balcony and the balcony is supported by round-arched basement level openings. It is located towards the northern portion of the site towards Carrickbrack Road and is placed into a sloped site.
- 1.3. The site at its widest point aligns with Carrickbrack Road and it extends in a southerly direction towards the coastal cliffs. Before which it is bisected in a west to east direction by the Cliff Path Walk. The southern portion of the site through which this walk bisects is not developed. The site contains a number of mature trees and benefits from panoramic coastal views. It is currently served by a shared entrance with the adjoining property to the east known as 'Glenaveena' (Note: formerly the Stella Maris Convent).
- 1.4. In relation to the adjoining property to the east, of note this property contains an architectural interesting and of merit Victorian 2-storey dwelling dating to c1859. This dwelling is attributed to the architectural practice of Deane and Wood. With its design attributed to renowned Irish Architect Benjamin Woodwords. This property in recent years has been subject of significant renovation and restoration works to restore it to its former glory and it is now referred to by its original name of 'Glenaveena'. These works are on foot of grant of permission P.A. Ref. No. F20A/0712.
- 1.5. During the time it was the home of the Stella Maris Convent an interesting corrugated modest in size chapel was constructed in close proximity to the north western corner of the main building. This structure is subject to also restoration and is one of the later

building layers of special interest and merit in Glenaveena's reduced in size former curtilage.

- 1.6. 'Glenaveena' is listed on the NIAH Survey (Note: Ref. No. 11367003) under which it has a 'Regional' Rating and its Categories of Special Interest are given as 'Architectural' and 'Artistic'.
- 1.7. The pattern of development on this stretch of Carrickbrack Road, particularly to the east of the subject site consists of mainly substantial dwellings on large sites. There are also stretches of undeveloped land. With this including to the west of Glenaveena.
- 1.8. The stretch of Carrickbrack Road has a strong sylvan character and there are a variety of architectural designs present though one of the characteristic features are the substantial in size garden and cliff top garden plots they occupy. During inspection I observed a steady stream of traffic in both directions along the Carrickbrack Road.

2.0 Proposed Development

2.1. Planning permission is sought for the following:

- Demolition of existing two-storey house and attached single storey flat. The gross floor space given for demolition is 253m².
- Construction of replacement two-storey, six-bedroom, flat/green roofed, detached contemporary dwelling with rear (south-facing) terrace at ground floor level, rear (south-facing) balcony at first floor level and 1 no. rooflight. The gross floor space of the proposed contemporary in design and external material treatment dwelling is given as 551m² and has a maximum height of 10.35m.
- Construction of detached single storey garage (Note: c66m² and height of 3.45m).
- Provision of new private access road to adjoin existing access road serving Eircode Nos. D13WEY8 & D13YK71.
- All ancillary site works, inclusive of landscaping, boundary treatments and SuDs drainage, necessary to facilitate the development.

2.2. The application is accompanied by a **Natura Impact Statement** and a letter of consent to include land outside of the applicant's legal interest within the redline site area.

- 2.3. The Planning Application Form indicates that the site is served by an existing connection to public mains and that the proposed wastewater management would be from a new wastewater treatment plant as well as surface water drainage would be from a new Aquacell soakaway.
- 2.4. The applicant submitted their response to the Planning Authority's **further information** request on the 26th day of October, 2021. This was not deemed to be significant, and it was not required by the Planning Authority to be accompanied by new public notices. This response is accompanied by the missing surface and foul water drainage related reports, and it includes a revised western elevation treatment consisting of 4 no. linear window openings of equal proportions having a width of 400mm and a height of 3.4m. In addition, two additional openings having a width of 1m and a height of 1.2m serving the laundry room/store and the other having a width of 1.8m and a height of 2.5m serving bedroom labelled no. 5 are also now proposed.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By order dated the 19th day of November, 2021, planning permission was granted for the proposed development as revised by the applicant's further information response subject to 15 no. conditions. The conditions included:

- | | |
|---------------------|---|
| Condition No. 2: | Requires materials and finishes to be as per submitted drawings. |
| Condition No. 3: | Restricts the use to a single dwelling. |
| Condition No. 4(a): | Omits the window openings along the western elevation at first floor level serving bedroom no. 5 and the storeroom/laundry room. |
| Condition No. 4(b): | Requires all other windows at first floor level on the western elevation to be fixed, non-openable, and be fitted permanently with obscure glass. |

Condition No. 5:	Requires all bathrooms/en-suite windows and window openings at first floor level to be fitted and maintained with obscure glass.
Condition No. 6:	Deals with Arboriculture.
Condition No. 7:	Requires payment of a Tree Bond.
Condition No. 8:	Deals with Landscaping amendments.
Condition No. 9:	Sets out surface and foul water requirements.
Condition No. 10:	Sets out the Transportation Departments requirements.
Condition No. 11:	Deals with Construction and Demolition Waste.
Condition No. 15:	Financial Contribution.

This order is accompanied by a number of notes including Note 1 which sets out the requirements of Section 34(13) of the Planning and Development Act, 2000, as amended and Note 3 which highlights that encroachment and oversailing are civil matters.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officer's report**, dated the 10th day of November, 2021, it includes the following comments:

- The concerns raised by the Third Parties have been assessed and they are satisfied that the siting and scale of the proposed development does not give rise to any concerns.
- Proposed development provides suitable protection to the trees, vegetation, and the wider environment.
- The surface and foul water drainage measures to serve the proposed replacement dwelling is acceptable.
- Amendments to the western elevation are deemed to be acceptable, subject to the four linear and matching in width as well as height windows be fitted with obscure glazing.

- It is recommended that the proposed window serving the laundry room/store and bedroom no. 5 shown in the amended revised drawings submitted as part of the applicant's additional information response be omitted on the basis that they would give rise to significant levels of overlooking of the neighbouring property.
- The proposed development is deemed to be acceptable.
- Concludes with a recommendation to grant permission subject to conditions.

The **initial Planning Officer's report**, dated the 14th day of October, 2021, raised concerns in relation to the treatment of the western elevation and water services. It concluded with a request for additional information on the following matters:

Item No. 1: Requests that the applicant submit the site characterisation and treatment option design report in order to assess this application further.

Item No. 2: Requests that the applicant submit an infiltration test and soakaway design report.

Item No. 3: Raises concerns that the western elevation consists of a blank façade. It is requested that the applicant address this and the overbearance that arises from the same.

3.2.2. **Other Technical Reports**

Transportation: No objection, subject to safeguards. I note the following comments from the Transportation Planning report (undated):

- The proposed development is located within the 50kmph speed limit.
- There is sufficient space on site to accommodate the parking needs of the proposed development.
- The required sightlines as set out in the Design Manual for Urban Roads and Streets for a 60km/hr speed limit with a bus route are achievable for the required 2.4m setback.
- There is a grass verge between the front boundary wall and the public footpath facilitating adequate inter-visibility between vehicles emerging from the site and pedestrians using the public footpath.

Parks and Green Infrastructure: No objection, subject to safeguards.

Water and Drainage: Final Report - no objection, subject to safeguards.

Conservation: A report dated the 12th day of October, 2021, includes the following comments:

- While the building has no statutory architectural heritage protection the preference in this case would be its adaptive reuse which could incorporate appropriately designed extension. However, should planning permission for demolition be granted there are concerns that need to be addressed in relation to the positioning of the replacement building and its impact on Glenaveena and its setting.
- Should demolition be permitted the following is requested:
 - The replacement dwelling should be appropriate in its scale and form, its position on the site and in its impact on Glenaveena.
 - It should be more sensitively sited to lessen the impact on the eastern elevation of the former convent.
 - The separation distances should be increased, and the new dwelling should be setback towards the northern part of the site, rather than aligning with the south elevation of Glenaveena.
 - The impact on Glenaveena would be lessened by mirroring the proposed plans so that the deeper section of the plan is located closer to the eastern portion of the site rather than adjacent to Glenaveena.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection, subject to safeguards.

3.4. Third Party Observations

3.4.1. The Third-Party Appellant submitted an observation to the proposed development as submitted and a second observation responding to the additional information revisions to the Planning Authority. I have noted the content of these submissions which are attached to file, and I consider that the substantive planning issues contained within them correlate with those raised by the appellant in their appeal submission to the Board which is summarised under Section 6.1 of this report below.

4.0 Planning History

4.1. Site

4.1.1. None.

4.2. Immediate Setting to the East – ‘The End’, Baily, Carrickbrack Road, Howth.

ABP-305744-19 (P.A. Ref. No. F19A/0344):

On appeal to the Board planning permission was **refused** for a development consisting of construction of a 2-storey extension, refurbishment of dwelling, existing dwelling will be connected to the proposed extension at lower ground floor level for the following reasons and considerations:

- “1. *The existing dwelling, ‘The End’, is a late 20th Century house designed by Irish architect Andrew Devane of Robinson Keefe Devane. The End is considered to be an innovative and significant building of its time that provided a symmetry and contributed to the local vernacular and cultural heritage and is well integrated into its locational setting. The proposed extension by reason of its scale, bulk, height, design, location and unsympathetic interventions would dominate and have a significant negative impact on the architectural integrity of the existing dwelling. As such it would be contrary to Objectives CH37 and CH38 and PM46 of the Fingal Development Plan 2017-2023 and to the proper planning and sustainable development of the area.*
2. *The subject site is located within the Howth Special Amenity Area Order where more restrictive policies apply to provide for sympathetic development to protect the special amenity of the area. The design of the proposed extension would be contrary to Policy 3.4.2 (extensions) of the Order in that it would not in character with the existing structure. It would appear visually dominant and would not enhance the character of the existing building in this sensitive landscape and would negatively impact on views from the Cliff Walk and from the coastal area. As such it would be contrary to Objectives RF51 and NH40 of the Fingal Development Plan 2017-2023 and to the proper planning and sustainable development of the area.*
3. *It is considered that insufficient information has been submitted to relative to surface and foul water drainage systems to ensure that the proposal would be*

in accordance with current standards for such works and would not be prejudicial to public health. As such it would be contrary to the proper planning and sustainable development of the area.”

Decision date: 06/03/2020.

ABP-305480-19 (P.A. Ref. No. F19A/0344): On appeal to the Board planning permission was **granted** subject to conditions for a development consisting of demolition of garage, Construction of garage, Alterations to driveway, front boundary wall/fencing, driveway and all associated development works.

Decision date: 10/03/2020.

4.3. Immediate Setting to the West – ‘Glenaveena’, formerly known as Stella Maris Convent), Bailly, Carrickbrack Road, Howth.

ABP-310666-21 (P.A. Ref. No. F20A/0712):

On appeal to the Board the financial contribution condition was omitted on the basis that the Planning Authority had not applied their Development Contribution Scheme correctly. Under this planning application permission was sought for the removal of prefabricated structure and change of use of existing chapel building to residential use and associated works. In addition, retention permission is sought for the demolition of outbuildings and retention as well as completion of external alterations to existing house together with all associated site works.

Decision date: 29/10/21.

4.4. Within the Wider Vicinity to the East

- **Carnalea, Thormanby Road, Howth, Co Dublin (Note: c150m to the east of the site).**

ABP-306073-19 (P.A. Ref. No. F19A/0447):

On appeal to the Board permission was **granted** for a development consisting of the retention permission for alterations to previously approved development (P.A. Reg. Ref. F16A/0225) for: (i) demolition of 34sq.m. car port, located adjacent to the front boundary with Thormanby Road and construction of a 2.25m high, 32sq.m. replacement green-roofed car port to accommodate 2 no. cars to front (north) of

approved dwelling; (ii) works to the front of the approved dwelling to accommodate level access at ground floor comprising the lowering of the ground level, reconfiguration of the driveway, retaining walls and landscaping and internal alterations to ground-floor layout; (iii) alterations to fenestration details at ground-floor level including reduction in bay window on east elevation (serving approved dining room), provision of bay window on west elevation (serving approved living room), provision of 2 no. new windows on north elevation (serving approved TV room), removal of previously approved window on east elevation and provision of 1 no. new corner window on north/east elevation (serving approved play room) and provision of 2 no. new windows on north elevation (serving approved utility/boot room); and (iv) 94sq.m. extension to basement level, incorporating 3 no. sliding doors (serving gym, lower landing and games room) and 1 no. door (serving garden store) on southern elevation. No changes have occurred to the ridge/eave's height of the approved dwelling. The proposal also includes boundary treatment, landscaping, and all ancillary works necessary to facilitate the development.

Decision date: 28/02/2020.

- **Glenlion House, Thormanby Road, Baily, Howth (Note: c250m to the east of the site).**

ABP-307886-20 (P.A. Ref. No. F20A/0046):

On appeal to the Board planning permission was **granted** subject to conditions for a development consisting of (i) demolition of existing two storey dwelling; (ii) construction of two storey dwelling comprising kitchen, scullery, living room, TV room, dining room, WC and cloak room at ground floor level, and 5 no. ensuite bedrooms and walk-in robes, family room/study, gym, wine store, utility room, plant room and shed at lower ground floor level; and (iii) drainage, landscaping, boundary treatments and all associated works necessary to facilitate the development. An updated Natura Impact Statement following the request for further information.

Decision date: 14/12/2020.

- **Glenlion Pines, Thormanby Road, Howth (Note: c205m to the east of the site).**

ABP-309279-21 (P.A. Ref. No. F20A/0174):

On appeal to the Board planning permission was **granted** subject to conditions for a development comprising of the following: (i) Demolition of existing two-storey, three-bed dwelling and (ii) Construction of a replacement three-storey six-bedroom dwelling to include (iii) 1 no. pool with ancillary shower, 2 no. changing rooms and 1 no. wc, open plan kitchen/living/dining area, family room, play room, mud room and back kitchen at ground floor level (iv) 4 no. en-suite bedrooms, 1 no. cinema, play room, laundry room, storage room, bicycle storage, plant room at lower ground floor level; (v) 2 no. en-suite bedrooms at first floor level; and (vi) All ancillary landscaping, engineering and development works necessary to facilitate the development. The proposed dwelling will have an internal lift to access all three floors

Decision date: 27/05/2021.

- **Deepwater, Thormanby Road, Baily, Howth, (Note: c228m to the east of the site)**

ABP-309820-21 (P.A. Ref. No. F20A/0297):

On appeal to the Board planning permission was **granted** subject to conditions for a development consisting of the demolition of part of the ground floor at the rear of the dwelling (25.38m²), and the construction of single storey extension to rear of 39.05m² consisting of new kitchen, dining room, living and utility, internal alterations, new terrace to rear garden, upgrading of existing windows, re-alignment of existing roof at the rear, including upgrading of 4 dormer windows to existing bedrooms to first floor (increasing floor area by 4.55m²), installation of 10kw photovoltaic panels, installation of a 1.6m high boundary railing to the western boundary with associated planting and landscape works, insulation upgrades, cladding of front wall with natural stone, new vehicular gate, and for all associated site work.

Decision date: 24/08/2021.

- **Glenlion Cliffs, Thormanby Road, Howth (Note: c325m to the east).**

ABP-309227-21 (P.A. Ref. No. F20A/008):

On appeal to the Board planning permission was **granted** subject to conditions for a development consisting of the refurbishment and extension of existing dwelling (resulting in 220 sqm GFA, total), provision of a disabled access lift, green roof for the

purposes of drainage attenuation and visual screening; modifications to existing terrace area (including raising the terrace level to match the internal finished floor level of the dwelling), provision of a home studio accessible by an external stairs from the terrace area, changes in level, hard and soft landscaping, boundary treatments, drainage works, and all associated site development and excavation works above and below ground. A Natura Impact Statement was lodged with application.

Decision date: 24/09/2021.

5.0 Policy & Context

5.1. National

- Project Ireland 2040 - National Planning Framework, 2018.
- Government Policy on Architecture, 2009-2015.
- EPA – Code of Practice, for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021.

5.2. Regional

- Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy, 2019 to 2031.

5.3. Development Plan

- 5.3.1. The Fingal County Development Plan, 2017-2023, as varied, is applicable, under which the site is subject to two separate land use zonings. The northern portion of the site being the part of the site on which the works subject of this application is located on lands zoned 'RS'- Residential. The land use zoning objective for such land is: *"to provide for residential development and protect and improve residential amenity"*.
- 5.3.2. The southern part of the site, on which no works or land use changes are proposed being the part on which the existing dwelling is located is zoned 'HA' – High Amenity. The land use zoning objective for such lands is: *"to protect and enhance high amenity areas"*; and, the vision for this land use zone is: *"to protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these*

areas opportunities to increase public access will be explored. Residential uses are permitted in principle in this zone subject to compliance with the Rural Settlement Strategy.”

5.3.3. The site is located in an area which is designated as a Highly Sensitive Landscape. The Development Plan contains objectives to preserve views from the pathway adjoining the site to the east, adjacent pathways to the south and south-west and from Thormanby Road to the north of the site to Protect & Preserve Trees, Woodlands and Hedgerows on the site, (Map 10). Of relevance in such landscape settings are the following Development Plan objectives:

- Objective NH33 - Ensure the preservation of the uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape when determining a planning application.
- Objective NH36 - Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it:
 - Causes unacceptable visual harm
 - Introduces incongruous landscape elements
 - Causes the disturbance or loss of (i) landscape elements that contribute to local distinctiveness, (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns, (iii) vegetation which is a characteristic of that landscape type and (iv) the visual condition of landscape elements.
- Objective NH40 - Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.
- Objective NH44 - Protect and enhance the character, heritage, and amenities of the Howth in accordance with the relevant Orders.

5.3.4. The site is located within Howth Peninsula.

- 5.3.5. Chapter 4 of the Development Plan indicates that the development strategy for this locality includes ensuring the conservation and preservation of this sensitive and scenic area, in particular through the implementation of the Howth Special Amenity Area Order.
- 5.3.6. Chapter 5 of the Development Plan deals with the matter of location of houses between the sea and adjoining roads. It sets out under Objective RF51 to ensure that the development of any coastal site through the extension or replacement of existing buildings or development of any new buildings is of an appropriate size, scale, and architectural quality and that it does not detract from the visual amenity of the area or impact negatively on the natural or built heritage.
- 5.3.7. Given that the site includes part as well as adjoins the curtilage of a period property listed in the NIAH Survey and also given that the site in its entirety formed part of this properties historic curtilage when constructed. The following objectives are relevant:
- Objective CH33: Promotes the sympathetic maintenance, adaption and re-use of historic building stock and encourage the retention of the original fabric and significant features, whether protected or not.
 - Objective CH37: Seeks the retention, appreciation and appropriate revitalisation of the historic building stock and vernacular heritage of Fingal in both the towns and rural areas of the County by deterring the replacement of good quality older buildings with modern structures and by protecting (through the use of Architectural Conservation Areas and the Record of Public Structures and in the normal course of Development Management) these buildings where they contribute to the character of an area or town and/or where they are rare examples of a structure type.
- 5.3.8. Section 12.11 of the Development Plan in relation to site assessment sets out that this should include an evaluation of the character of the site in its setting, including existing buildings. It also notes that it is an objective of the Development Plan to retain and re-use historic building stock and vernacular structures.
- 5.3.9. Chapter 12 of the Development Plan on the matter of '*Historic Building Stock & Vernacular Heritage*' states: "*the retention and reuse of the historic building stock that contributes to the distinctive character of the rural or urban areas of Fingal is supported and encouraged by the Council*". It includes Objective DMS160 which indicates that

where development is being proposed for a site that contains historic buildings and/or structures that contribute to the distinctive character of the rural or urban areas of Fingal regard will be had to a number of factors including:

- An assessment of the existing buildings on site and development proposals should seek to retain and incorporate existing buildings of merit and any elements that contribute to its distinctive character.
- Direction for the design should be taken from historic building stock of the area but can be expressed in a contemporary architectural language.

5.3.10. Objective PM45 of the Development Plan is of relevance. It seeks to: *“promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area”*.

5.3.11. The appeal site lies within a Coastal Landscape Character Type and on the prominent headland of Howth, which is also the subject of a Special Amenity Area Order (1999). Policies of the plan provide for residential development at a density of 1 dwelling per hectare in the vicinity of the site and to protect and preserve trees, woodlands and hedgerows on the site. Views from the footpath to the south and east of the site are identified as protected views. The Coastal Landscape Character Type is considered to be highly sensitive to development (Table LC01) and the plan sets out principles to guide development in such areas and landscape character assessment policy objectives (Note: Objectives NH33-NH39). Essentially these objectives seek to preserve the uniqueness of landscape character type and ensure that development reflects and reinforces this character. Objective NH36 is of relevance as it seeks that new development would not impinge in any significant way on highly sensitive areas or detract from the scenic value of the area.

5.3.12. Special Amenity Areas, including the Howth Special Amenity Area, are afforded protection under policy objectives NH44 of the Development Plan in accordance with the relevant Order.

5.3.13. Natura 2000 sites are afforded protection under policy objective NH15 of the Development Plan.

5.3.14. Chapter 12 of the Development Plan sets out the Development Management Guidelines. With Section 12.4 dealing specifically with residential development.

5.4. Other

- 5.4.1. The appeal site lies within the Howth Special Amenity Order (SAAO) Operational Plan, 2021-2025, land to which is subject to a Special Amenity Area Order (1999). The subject site forms part of a parcel of land subject to the land use zoning 'Residential Area Within the Special Amenity Area' and 'Other Areas within the Special Amenity Area' with the footpath that bisects the northern portion of this site identified as a "*Public Right-of-Way in the Development Plan*".
- 5.4.2. Schedule 1 of the Order sets out a number of objectives for the enhancement of the Special Amenity Area including Objective 1.1 which seeks to conserve its natural and cultural assets.
- 5.4.3. Schedule 2 of the Order sets out objectives for the preservation of the character or special features of the area, these include, to preserve views from public footpaths and roads (Objective 2.1), to preserve woodland (Objective 2.5) and to preserve the wooded character of existing residential areas (Objective 2.6).
- 5.4.4. Policy 2.1.1 of the Order indicates that the Council will preserve views from the network of footpaths and roads shown on Map B.
- 5.4.5. Applications for planning permission must consider the visual impact of the proposals on views from these paths and roads.
- 5.4.6. Policy 2.6.2 of the Order requires that roots of existing trees in fair or good condition shall be protected.
- 5.4.7. Schedule 3 of the Order sets out objectives in respect of development in residential areas, as defined in Map A. These include to protect residential amenity, to protect and enhance the attractive and distinctive landscape character of the areas and to ensure that development does not reduce the landscape and environmental quality of adjacent natural, semi-natural and open areas.
- 5.4.8. Objectives 3.1, 3.2 and 3.3 of the SAAO seek to:
- To protect residential amenity.
 - To protect and enhance the attractive distinctive landscape character of these areas.

- To ensure that development does not reduce the landscape and environmental quality of adjacent natural, semi-natural and open areas.

5.4.9. Policy 3.1.1 of the SAAO applies development control policy which restricts new development within an acceptable range of land use activities. In this regard, it sets out that permitted in principle is residential development in accordance with specified density criteria (Map A).

5.4.10. Policy 3.1.2 sets out the design guidelines that apply to new developments. In relation to new buildings, it states: *“new buildings should generally be in keeping with the character of other buildings in the vicinity. However, favourable consideration may be given to buildings of contemporary design, provided that the design is of high quality and that, in visual terms, it subordinates the building to the surrounding natural environment”*.

5.5. Natural Heritage Designations

5.5.1. The Howth Head SAC (Site Code: 000202) forms part of the southern portion of the site. At its deepest point it is c100m in its depth and the SAC expands across the entire width of this portion of the site. Of note also the southern portion of the site also forms part of the pNHA Howth Head (Site Code: 000202). This overlaps with the entirety of the SAC on this site but its depth extends slightly further to the north than the SAC lands. Within proximity to the site are the following Natura 2000 Sites:

- Rockabill to Dalkey Island SAC (Site Code: 003000) at its nearest point lies c10m to the south of the site.
- Howth Head Coast SPA (Site Code: 004113) at its nearest point lies c670m to the east of the site.
- North Bull Island SPA (Site Code: 004006) at its nearest point lies c765m to the west of the site.
- North Dublin Bay SAC (Site Code: 000206) at its nearest point lies c1.9km to the west of the site.

5.6. EIA Screening

- 5.6.1. Given that the development sought under this application is confined to zoned and serviced residentially zoned land setback from Howth Head SAC (Site Code: 000202) alongside having regard to its nature and scale and the nature of the receiving environment 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.

5.7. Built Heritage:

- 5.7.1. The site includes part of the existing curtilage of Glenaveena and the site in its entirety formed part of its original grounds. This 2-storey period dwelling is listed in the NIAH Survey (Note: NIAH Reg. No. 11367003) under which it is given a '*Regional*' Rating and its Categories of Special Interest are given as '*Architectural*' and '*Artistic*'. The description given reads:

"Detached three-bay two-storey Venetian Gothic house, built 1859, to design by Benjamin Woodward, with return to rear. Chapel and single storey added to rear, c.1970. Ten-bay single storey building linked to south elevation uPVC porch to entrance elevation added c.1995.

ROOF: Hipped; slate; concrete ridge tiles; nap rendered chimney stacks; yellow clay octagonal pots; consoled timber eaves; cast-iron rainwater goods; gable-fronted to chapel; timber belvedere over apex with pyramidal roof having sprocketed eaves double-pitched to wing; concrete profiled tiles.

WALLS: Nap rendered; ruled and lined; quoined corner piers; unpainted; nap rendered to chapel; painted; cast-concrete panels to wing; painted.

OPENINGS: Square-headed window openings; granite sills; consoled granite balconies to first floor with cast-iron railings; replacement uPVC casement windows; trefoil-headed window opening with original timber casement window; replacement uPVC projecting porch; lancet-arch door opening to chapel; tongue-and-grove timber panelled door; square-headed openings to wing; uPVC casement windows."

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of this Third-Party Appeal can be summarised as follows:

- Though the Planning Authority deemed the proposed development to be acceptable in principle it is requested that the Board considers aspects of the design which are of concern. Alongside mitigate potential problems with adherence to the various planning objectives relevant to development at this location.
- The Board should consider moving the footprint of the replacement dwelling northwards towards the existing house location and reduce the terrace height.
- The relocation of the replacement house 17m forward of the dwelling for which demolition is sought is not supported. Nor are the raised site levels at the location where it is proposed to be sited including where the terrace and paving is proposed 28m south of the dwelling for which demolition is sought.
- The placement and higher ground levels, if permitted as proposed, would result in an incongruous juxtaposition with adjoining period property, 'Glenaveena', and would dwarf this architecturally and culturally renowned significant building.
- The retaining structure on the high terrace would be an oddity in its setting and as viewed from the Cliff Path.
- The proposed position of the replacement dwelling on site together with the proposed raised levels would damage protected views.
- The existing building is tall and narrow. Its position and design fits into its site.
- The drawings submitted do not accurately represent the site context nor do they clearly set out the dimensions of the dwelling for which demolition is sought.
- Stella Maris - Glenaveena is listed in the NIAH. Buildings included in the NIAH but not designated Protected Structures are under review for the next Development Plan in terms of Protected Structure designation.
- The 1970s portacabin structure has been recently removed and now the historic building of Glenaveena can be appreciated from public spaces. This proposal now

seeks to block views to it by the positioning of the replacement dwelling in close proximity to it.

- 'The End', the historic building to the east of the site is also a proposed Protected Structure and the positioning of the replacement dwelling would also damage its setting.
- There are three structures in adjoining sites that have the potential to be designated Protected Structures under the next Development Plan.
- St. Josephs also adds to the architectural richness of this locality.
- There is no direct overlooking from St. Josephs of Glenaveena with there being 12m separation distance at its nearest point and the fact that St. Josephs is positioned at a slight angle. Nor is there any direct overshadowing, blocking of light or infringement of privacy.
- The lack of separation between Glenaveena and the proposed replacement dwelling is out of context with its setting.
- The conclusions of the Planning Authority's Conservation Officer in this case are concurred with.
- The dark double stairs that would arise from this proposal would be an eyesore when viewed from Cliff Path and would give rise to undue overlooking of rooms as well as private amenity spaces of 'Glenaveena'.
- Small trees may have been more appropriate than conditioning opaque glazing on the revised western elevation.
- Houses in this locality have more significant separation distances to that proposed under this application between the replacement dwelling and Glenaveena.
- The only close distances that arose for replacement dwellings where the footprint of the dwelling to be replaced was kept.
- Houses in this locality are not parallel to one another like that proposed.
- Several dwellings nearby have been permitted for demolition and replacement. None of these were permitted to move the replacement dwellings so far south of the original dwellings footprints. The maximum that has been permitted in similar developments in this locality to date is c3m. To move a dwelling significantly south

at this site sensitive location has no precedent within the SAAO or as viewed from the Cliff Paths.

- A recent application P.A. Ref. No. F21A/0066 was refused permission by the Planning Authority for reasons including the 11m relocation was deemed to be inappropriate. It was also considered that the replacement dwelling was excessive in height and mass. It is considered that this is a similar circumstance to St. Josephs and to permit this proposal would set an undesirable precedent.
- The proposed replacement dwelling would entirely block morning light into Glenaveena.
- Nearby replacement dwellings have terraces that are lower and smaller in mass.
- The relocation of the replacement dwelling northwards and reduction in the terrace area would improve the visual outcome on the landscape setting and would retain protected views.
- It is not considered that the revised western elevation is successful in addressing visual overbearance and it does not improve residential amenities.
- The height of the western elevation is similar to a three-storey building. The height is also much greater here due to the augmenting of the ground levels higher.
- Concern is raised that the expansive area of glazing on the southern elevation and terrace would give rise to nuisances of glare and glint.
- There is no evidence provided by the applicant that would support that the proposed dwelling would be a more efficient building to operate than the old building for which demolition is sought under this application.
- It is requested that the Board include winter vegetative screening in the landscape plans to provide screening and to protect views. In the absence of such planting the proposed replacement dwelling would be too visible in its context, including when viewed from the Cliff Path.
- It is requested that the condition requiring the construction and demolition waste plan include the provision of protection of trees within St. Josephs and the adjoining property of 'The End'.

- Concerns in relation to surface water runoff and potential pollution arising from the same are raised.

6.2. Applicant Response

6.2.1. The applicant's response can be summarised as follows:

- The Architectural Heritage Impact Assessment accompanying this application concludes that the subject site contains no protected structures and is not within any architectural conservation area.
- The subject building for which demolition is proposed was formerly known as St. Joseph's and is understood to have been constructed in the 1930s in the grounds of the former Stella Maris Convent building, which was recorded by the National Inventory of Architectural Heritage in 2005 as being of architectural and artistic interest at a regional level. It is not included in the Record of Protected Structures and is in separate ownership.
- The appellant in their appeal submission to the Board seek that a number of changes be made to the conditions attached to the grant of permission. These include that the footprint be moved northwards, that the height of the terrace in front of the proposed new dwelling be reduced and that the separation distance between the proposed new building and neighbouring former Stella Maris Convent building to be increased. These have been addressed by the applicant as part of their additional information response and reflect the report of the Councils Architectural Conservation Officer comments on the original application.
- Reference is made to the Boards conclusions in appeal case ABP-310666-21.
- Specialist issues are also raised by the appellant in terms of potential for impact on the adjacent SAC.
- Redeveloping a house to meet the applicant's requirements on the footprint of the existing St. Josephs building would be impeded by the need to create separate access to this latterly subdivided site and due to the steeply sloping nature of the ground there would be a greater issue with overlooking and visual overbearance of the Stella Maris Convent building.

- It is recognised that the proposed development will alter the existing appearance of the sloping land, however, the primary views from the public footpaths at the southern extent of the site area over Dublin Bay, with corresponding visibility of the established, diverse array of historic and modern detached houses to the north. Neither view is believed to be diminished by the proposed new structure.
- The range of publicly visible dwellings on the southern side of Carrickbrack Road individually respond to the topography and seaward vistas in a manner that does not impede key views from the public spaces behind them. Therefore, the proposed development is a reiteration and is proportionate to residential development at this location.
- The replacement dwelling would not result in any undue impact to the landscape or views within its immediate setting.
- Both the replacement dwelling and 'Glenaveena' have identical front and rear building lines with near identical height. The western elevation was revised in response to the Planning Authority's further information to provide more visual interest and it would not result in any visual overbearance of 'Glenaveena'.
- The separation distance between the replacement dwelling and 'Glenaveena' exceeds 7m and is considered appropriate. There will be no undue residential and/or visual amenity impacts arising from the it and this adjoining property.
- A condition dealing with light pollution and glare is not objected too.
- The wording of Condition No. 11 which deals with the matter of Construction and Demolition Waste and Condition No. 13 which deals with spillage or Deposit of Construction Materials of the grant of permission is sufficient to ensure the proper planning and sustainable development of the area as well as the protection of residential amenities.
- The proposed dwelling has been designed and scaled in an appropriate manner to avoid undue loss of residential amenities in the area.
- The appellants concerns were fully addressed by their additional information response to the Planning Authority.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response can be summarised as follows:

- No comment to make.
- Should the Planning Authority's decision be upheld it is requested that Conditions No.s 7 and 9 of the Planning Authority's notification to grant permission are included in the Boards determination.

6.4. Observations

6.4.1. The observation received by the Board on the 13th day of January, 2022, from Mack Lennon and Nadia Pitt, can be summarised as follows:

- Procedural issues are raised in relation to the Planning Authority's handling of this application.
- The revisions to the design have resulted in severe visual overbearance, poorly articulated western elevation and blanked off windows with no design purpose or function.
- No objection is raised to the demolition of St. Josephs and its replacement with a new structure of the proposed square footage and contemporary style.
- The amenity value of the trees on site are valued by them and it is considered that their concerns can be met without damage to these trees. Including the proposed design could be altered and the replacement dwelling could be repositioned in order to protect the amenities of both properties.
- Reference is made to the fact that Glenaveena is listed in the NIAH survey and in time it will become a Protected Structure. In the meantime, it should be afforded the authoritative consideration of the conservation officer.
- Glenaveena has a finished floor level of 73.5 and the current ground level of the adjoining site upon which the replacement dwelling is sought is 72.9. The applicants propose a finished floor level of 74.5. This is considered to be an arbitrary level which would give rise to unnecessary overlooking of their property. In relation to overlooking it is considered that this would arise from habitable rooms on the western elevation which has two glazed opposing openings. These are within 5.8m and are 1m above

the floor levels of Glenaveena and 1.5m above its ground level. This would give rise to an elevated view that would be difficult to mitigate by hedging. It is requested that the finished floor level match that of Glenaveena or lower to address this issue.

- The proposed dwelling is a two-storey building with the height of a three-storey building due to internally very high ceilings and its placement on an elevated plinth above ground level by 1.5m. The ridge height and eave's structure are as one. The 9.8m flat roof height means that the dwelling would diminish significantly Glenaveena whose steeply sloped roof has an eaves height of 7.2m. This would give rise to visual overbearance given the proximity of the proposed replacement structure to Glenaveena.
- The drawings submitted misrepresent the relationship between the replacement dwelling and Glenaveena. They also misrepresent the topography of the site.
- The raised walkway adjoining their property would be 1.45m higher above the neighbouring ground level and this would give rise to additional unnecessary overlooking of the eastern elevation of Glenaveena and also their private space amenity.
- The raised walkway on the western elevation is 1.2m wide and between 1.5m to 2m above the ground level of both sites. It would therefore read as a balcony in its context, and it should be re-sited or have a reduced ground level to prevent overlooking.
- The replacement dwelling has been orientated to the west of the site as opposed to the eastern boundary of the site.
- The applicant has misrepresented their property showing in the submitted drawings that it contains a 28m wide prefabricated structure. This was demolished at the time of the application being sought. The site in its context is considered to be generally misrepresented.
- By presenting their property as having the demolished prefabricated structure and car parking area the drawings dramatically misrepresent the actuality of their property and the works carried out to restore its character.
- The views shown from the Clifftop walk do not provide a fair representation of the visual outcome the proposed development would have.

- The effect of squeezing two large structures adjacent to one another does not have precedent in this immediate setting.
- It is contended that the actual separation distance between Glenaveena and the proposed replacement dwelling is less than is shown in the drawings.
- The documents provided deliberately misrepresent vital measurements.
- The proposed development includes a large 196m² terrace on its southern elevation. This structure projects 9m beyond the proposed rear building line and would have a finished floor level of 74.5 when the ground level at its location is 72.35. This elevated structure in terms of its height and scale would give rise to unnecessary overlooking of their property including their private amenity space. This would be injurious to their residential amenities.
- The Planning Officer disregards the inadequacies, errors and omissions in the submitted drawings as well as they dismiss the concerns raised by the Planning Authority's Conservation Officer which clearly requests for the dwelling to be sited away from Glenaveena.
- The Planning Officer merely notes that the property is NIAH listed and not a Protected Structure. If a building with heritage merit is not yet a Protected Structure, should it be treated with absolutely no regard for basic conservation objectives.
- The Planning Officer ignores reasonable concerns about prospective overlooking and the unprecedented proximity of placement of the replacement dwelling.
- The only attribute the Planning Officer considered gave rise to overbearance was the western façade of the replacement dwelling. This is not accepted to be the case considering the walkway, the terrace, the height, through to finished floor levels. Overbearance is a product of scale, height, and proximity. The blankness of the western façade is a secondary consideration in this regard.
- The excessive height of the structure is at odds with its context.
- The residential amenity objectives of Howth SAAO seek to protect and improve.
- The Planning Officer completely ignores residential amenity impact that would arise to their property in their assessment and provides more consideration on the protection of trees.

- The 22.6m replacement dwelling width is 50% wider than Glenaveena.
- It is not accepted that the proposed replacement dwelling given its height and position relative to their property would not give rise to diminishment of their residential amenity by way of overshadowing. This concern can only be addressed by lowering the finished floor level and moving the dwelling away from their eastern boundary.
- The spirit of the zoning cap of one house per hectare in this location is to protect its unique character and visual amenity. Surely the placement of a large structure in such tight proximity to Glenaveena with a limited separation distance of 7m is contrary to this as well as is conflicts with the established pattern of development along the Cliff Path. To permit this type of placement would give rise to an undesirable precedent.
- There is no comparison in terms of the residential use of the 69m² former chapel building as part of the observer's property to the demolition of an existing dwelling of 200m² and the net increase of the replacement dwelling by 360m².
- Glenaveena would be dwarfed by the proposed replacement dwelling.
- This submission is accompanied by a document from the observers' architects. It includes the following comments:
 - Objective DMS28 of the Development Plan suggests a separation distance that is only of relevance in suburban contexts to allow for adequate maintenance and access. The 2.3m is not applicable to this type of site context.
 - Glenaveena contains six windows facing the proposed new house. These serve bedrooms; a ground floor living space and a library. The external walkway in its entirety overlooks these windows.
 - The principal outer walls are indicated at 7.3m apart; however, the walkway projects approximately 1.2m from the west wall of the proposed new house. In addition, the principal living room serving Glenaveena has a bay window that projects into this 7.3m separation distance by 1.5m. Thus, the separation distance at this point is 4.6m.
 - The proposed replacement structure would give rise to overlooking, overshadowing, overbearance and reduction of light. The Board should look at mitigation measures including moving the house further eastwards; further northwards; reduction in height of the replacement dwelling and/or placing it a

lower ground level or as suggested by the Planning Authority's Conservation Officer flipping it round.

- The Board is requested to overturn the decision of the Planning Authority as the most sensible approach is to seek for the redesign of the replacement dwelling.
- The observer's submission is accompanied by impact assessment of the proposed replacement dwelling on Glenaveena. This includes the following comments:
 - The replacement dwelling is incorrectly sited, whereas the St. Josephs the original retreat house of the Stella Maris convent was appropriately sited in its context although there were a number of options available at the time.
 - St. Josephs is a plain but handsome building. Its southern façade is articulated and responds well to its site and its relationship to Glenaveena.
 - The 1950s chapel building also included fenestration that was modulated to harmonise with the original Victorian dwelling.
 - The importance of Glenaveena should not be underestimated. It has a visually prominent setting, and the retreat house was setback from the Victorian dwelling allowing it to breathe in its setting.
 - Reference is made to its NIAH listing.
 - Glenaveena is a building of Regional Importance which gives it the status of a Protected Structure by way of Ministerial recommendation under Section 28 of the Planning and Development Act, 2000, as amended.
 - Reference is made to the Architectural Heritage Protection Guidelines for Planning Authorities and the Office of the Planning Regulator who sets out that where a NIAH survey has been carried out those structures listed of international, national, or regional importance will be recommended for inclusion on the RPS.
 - The Local Authority and the Board on appeal have a duty to have regard to Section 28 guidelines.
 - Reference is made to Section 13.7.2 of the Architectural Heritage Protection Guidelines which provides clear recommendations for Planning Authorities in

dealing with planning applications in such situations. This includes views to and from the Protected Structure.

- Glenaveena is a building to be seen in the round. Thus, each of its elevations are important.
- The Conservation Officer recommended that the dwelling be more sensitively located on site to lessen the impact on the eastern elevation of Glenaveena. The Planning Officer ignored this recommendation.
- The Architectural Heritage Impact Assessment submitted with this application considers the placement of St. Josephs to be visually overbearing on Glenaveena. This is not accepted, and it is considered that the replacement dwelling proposed would be visually overbearing on Glenaveena by way of its location.
- Reference is made to the inaccuracies present in the documentation submitted with this application.
- Reference is made to Policy 3.1.2 of the Howth Special Amenity Area Order which requires new building to generally be in keeping with the character of other buildings in its vicinity.
- Concern is expressed in relation to the extent of glazing proposed on the southern elevation and the height of the proposed replacement dwelling which are considered to be out of context with Glenaveena.
- Concern is raised with the elevated plinth which is considered to be overbearing.
- Relocation and redesign of the proposed replacement dwelling could allow it to better respond to its setting and be less visually incongruous from public view points.
- To grant permission for the proposed replacement dwelling as proposed and as revised would give rise to an undesirable precedent.

6.4.2. The observation received by the Board on the 14th day of January, 2022, from Julian King, can be summarised as follows:

- This piece of land is a site of outstanding natural beauty in and by itself.

- The proposed replacement dwelling would be visually incongruous and squeezed up against the Glenaveena.
- The proposed building would be an eyesore in the landscape when viewed from the Cliff Path.
- The proposed building as shown in the application drawings does not appear to fit within the space allowed by the proposed distance to Glenaveena and its boundary as well as the exclusion zone generated by the site's specific tree constraints. .
- The tree constraint plans show that there is greater width available to the north of the position to where the proposed building is to be located.
- The 10m height proposed dwelling in relation to the western boundary of the site and Glenaveena is not supported.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. By way of this application planning permission is sought for a development that comprises of the demolition of a Victorian period house (St. Joseph's) and its attached flat. This Victorian period building does not benefit from any specific protection but having inspected the site and setting. Notwithstanding, I would consider that this building in its own right is a built feature that is not out of context with its landscape setting and pattern of development that characterises this area despite a number of unsympathetic alterations made to it. Including the attached flat structure through to the replacement windows. Alongside this I consider that St. Josephs is a building of social interest given its connection with the former Stella Maris Convent.
- 7.1.2. Therefore, the general principal of the removal of this historic building from a planning perspective, in my view, one that requires careful consideration and precaution. Particularly from a local planning policy context given that the applicable Development Plan under Chapter 12 and Objective DMS160 advocates the retention as well as reuse of historic building stock that contributes to the distinctive character of the rural or urban areas of Fingal.
- 7.1.3. Furthermore, Schedule 2 of the Howth SAAO, sets out objectives for the preservation of the character or special features of the area. Alongside it also seeks to preserve

views from public footpaths under Objective 2.1, In this regard the site is bisected by a public right of way (Cliff Path Walk) and is visible from this route. With St. Josephs one of the built features of interest as one walks this public route in the vicinity of it.

- 7.1.4. In addition, by way of this application planning permission is also sought for the construction of a contemporary dwelling house and detached garage, together with associated site works and services on the subject appeal site. A site which could be described as having an irregular upside-down L-shape, with the widest point corresponding with the alignment of the Carrickbrack Road and on a plot with a stated site area of 1.2524ha site.
- 7.1.5. The demolition of the period dwelling (St. Josephs) on site; however, is first required in order for the proposed development to meet the specific objectives for residential development at this location under the Howth SAAO which restricts density to 1 no. dwelling per hectare. Therefore, subject to the demolition of St. Josephs the density of the proposed development would be consistent with local planning provisions.
- 7.1.6. In addition, the drawings accompanying this application show that the proposed development works are sought entirely on the northern portion of the site that is zoned 'RS' (Residential).
- 7.1.7. For clarity I note that the land use zoning objective for such land under the Development Plan is to provide for residential development as well as to protect and improve residential amenity.
- 7.1.8. The Development Plan also sets out a vision for such zoned land as ensuring that any new development would have minimal impact on existing residential areas and amenity.
- 7.1.9. The general principle of residential development is deemed to be acceptable on 'RS' zoned land, subject to safeguards. Which given the contemporary architectural response to the proposed development includes but is not limited to compliance with Objective PM45 of the Development Plan which seeks that such approaches respect the character and architectural heritage of the area.
- 7.1.10. In addition, the Howth SAAO includes Policy 3.1.2 which advocates that new buildings should generally be in keeping with the character of other buildings in the vicinity and

where buildings of contemporary design are proposed that their design is of high quality and that, in visual terms, they are subordinate to their surrounding environment.

- 7.1.11. The appeal site is located on the southern side of the steadily trafficked Carrickbrack Road (R105) in close proximity to its junction with Thormanby Road on Howth Head in a suburban location characterised by residential development set on substantial mature plots with a number of buildings of recognised architectural and other merit.
- 7.1.12. The southern side of this stretch of Carrickbrack Road is one where the ground levels fall steadily and, in some places, dramatically towards the cliff edge of Howth Head. With the lands in the immediate proximity of this cliff edge being recognised as being of high vulnerability to change due to them forming part of Howth Head SAC (Site Code: 000202). Alongside being in close proximity to a number of Natura 2000 sites. With the boundaries of the aforementioned Natura 2000 site encompassing the northern portion of the appeal site and with the Natura 2000 site boundaries overlapping with the northern portion of the sites 'HA' land use zoning.
- 7.1.13. For clarity I note that the land use zoning objective for such lands as provided for in the Development Plan is to protect and enhance these high amenity areas.
- 7.1.14. In addition, the vision for such zoned land is also to protect them from inappropriate development as well as reinforce their character.
- 7.1.15. As such the site and its setting is one that has a transitional zonal character with the 'HA' zoned land in this setting largely devoid of any significant man-made insertions.
- 7.1.16. Whilst the Development Plan permits residential development 'HA' zoned land it is subject to compliance with the strict criteria of the Development Plan's rural settlement strategy.
- 7.1.17. Moreover, it and the overall site in general is subject to demonstrating compliance with Howth SAAO due to the sensitivity of the site's location on the peninsula of Howth.
- 7.1.18. Given the environmental sensitivity of part of the site and its setting as part of a Natura 2000 site the principal of the proposed developments acceptability requires an 'Appropriate Assessment'. This I propose to carry out separately at the end of my assessment below.
- 7.1.19. In addition, up to recent times the site occupies part of the land and buildings of the Stella Maris Convent. This 2.9ha site based on publicly available information appears

to have been subdivided in two c2019 upon its sale by the Religious Sisters of Charity who appeared to have owned this plot for circa 125years prior. With the irregular upside-down L-shaped extending along the main northern stretch of the larger site bounding the Carrickbrack road but excluding the vehicular entrance located in its westernmost end. And with its western boundary running alongside the remaining parcel of land which contains the main driveway that served the 2.9ha site, another Victorian period property referred to as 'Glenaveena', a modest church structure dating to circa 1929, and a number of ancillary buildings as well as various outdoor amenity spaces.

- 7.1.20. Of relevance to this application 'Glenaveena' is a Victorian period building that is listed in the National Inventory of Architectural Heritage (Note: Reg. No. 11367003) and which the NIAH dates to c1855 to 1865.
- 7.1.21. In addition, the NIAH survey data entered sets out a 'Regional' rating and identifies its categories of special interest as 'architectural' and 'artistic'. I note that the survey of this building was carried out by the NIAH on the 19th day of July, 2005, and in the intervening 17 years it has been subject to alterations, additions, and removal of unsympathetic works as part of restoring its former built integrity. This has resulted in the original architectural design and intent of this building as appreciated in the round as well as internally being substantially more legible to appreciate in terms of its visual integrity and authenticity. These positive improvements are also appreciable from the public domain of Cliff Walk Path that also bisects the reduced site upon which Glenaveena now sits. As such the survey is now significantly outdated and does not fully reflect Glenaveena's current circumstance. Particularly as appreciated in the round in its setting.
- 7.1.22. Against this context and given that the restoration of Glenaveena's character predates this application it is of a concern in my view that the documentation submitted with this application appear to suggest that the character of this property is substantially altered by way of suggesting that unsympathetic alterations and additions are still in situ. It is in this context in which the impact of the proposed development is considered by the applicant in their documentation submitted with this application and only minimally addressed by the First Party in their appeal response to the Board.

- 7.1.23. For clarity, the Board should note that the submitted drawings do not in my view provide an accurate account of the actual site context of the proposed development. This I consider is a concern in relation to the suite of drawings submitted given the regional importance of 'Glenaveena' in the NIAH register and is identified building with two categories of special interest. Arguably there is also further merit in terms of the special interest of this building given that it is a building whose design is directly attributed to Benjamin Woodward. Though this building is not provided specific protection and safeguarding as a designated Protected Structure, it is nonetheless a building for which a higher level of precautionary and consideration should be had in terms of considering alterations and additions to it or indeed any changes, including new built insertion within its immediate visual setting.
- 7.1.24. Alongside given the recent renovations of Glenaveena which has, in my view, significantly reversed many of the unsympathetic alterations as well as additions made to it and its setting. Such that its integrity, legibility, and intactness of Benjamin Woodward's original Venetian Gothic style designed house is appreciable not only from the grounds in which it is sited but also from the public domain as well as from other buildings of interest that formed part of the building and spaces that evolved over the years after its probable completion in 1859, including the Victorian building of St. Josephs and the later addition of the modest chapel in 1929. It is not unreasonable in my view to consider that at some future point of time its built heritage merit and whether or not its lack of designation as a Protected Structure is revisited in the interests of safeguard this built heritage feature of interest on the southern peninsula of Howth Head for future generations enjoyment. Alongside safeguarding the built heritage features of merit at this location for future appreciation and understanding of this areas special built and natural landscape qualities as well as attributes for which the SAAO seeks to protect and safeguard.
- 7.1.25. Moreover, given the submission made by the current owners of Glenaveena any grant of permission should in my view seek clarity to whether or not consent is still *in situ* for the site area indicated in red. Due to this redline area including part of this adjoining property's land and given that there appears to be now issues arising in terms of what they have consented for.
- 7.1.26. This in my view is a significant issue with this application. Given the proximity of the proposed new building and its associated works to Glenaveena. With the

development works as shown in the submitted drawings to be in part dependent upon the owners of Glenaveena's consent.

- 7.1.27. Whilst I am cognisant that this is a civil issue, I nonetheless raise a concern that should the Board permit the proposed development as revised. With the revised proposal including some qualitative improvements to the design in terms of reducing the potential level of residential impact that would arise on occupants of Glenaveena from the proposed new dwelling. The matter of consent from third party landowners, i.e., the owners of Glenaveena and its curtilage, in my view would require clarification by way of additional information prior to the grant of any permission.
- 7.1.28. For clarity I note that this would similarly be the case with the original proposal submitted. I do not consider that this is a matter that can be dealt with by way of condition or the insertion of an Advisory Note setting out 34(13) of the Planning and Development Act, 2000, as amended. This section of the said Act states that: '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*'.
- 7.1.29. In relation to the other works proposed as part of this application, i.e., the construction of a detached single garage; the provision of a new private access to adjoin the existing access road serving it and Glenaveena; through to the ancillary site works and services to facilitate the new development. On this particular matter I concur with the Planning Authority that these give rise to no substantive concerns subject to standard safeguards that are appropriate to this site's sensitive setting. However, the matter of whether the demolition of St. Josephs and the design, particularly the position of the new dwelling house on site relative to Glenaveena, would need to be deemed first acceptable on foot of their planning considerations.
- 7.1.30. I also consider that given that the development sought under this application would be confined to the brownfield area of the site; the lands to which they relate are zoned residential and there would be no significant loss or deterioration of the biodiversity as well as sylvan character of the northern most portion of the site.
- 7.1.31. Taking the above planning matters into consideration, having regard to all information on file, including the Third-Party appeal submissions, responses, and observer submissions from other Parties to this appeal together with regard to all relevant local,

regional and national planning policies as well as guidance, it is my view that the remaining key issues for consideration in this appeal case are:

- Built Heritage Impact (Residential & Visual Amenity Impact)
- Appropriate Assessment
- Other Matters Arising

7.1.32. I propose to assess these below.

7.1.33. For clarity, my assessment is based upon the proposed development as revised for the reasons previously given, i.e., that the revised proposed includes improved outcomes in terms of potential impact of the proposed development on the residential amenity of properties in its setting.

7.2. Built Heritage Impact

7.2.1. As set out in my assessment above the general principle of the proposed residential development on land zoned as residential within the applicable Development Plan and Howth SAAO is deemed to be acceptable, subject to safeguards.

7.2.2. In terms of the demolition of the existing period dwelling house on site 'St. Josephs' and the later flat structure, I note to the Board that the St. Josephs is not listed on the RPS as a Protected Structure nor is it listed in the NIAH Inventory.

7.2.3. I consider that the later flat structure to be no architectural or merit that would support its retention on site.

7.2.4. The demolition of both of these structures is proposed to facilitate the construction of a contemporary dwelling on site to the south of the site and aligning with the front and rear building line of Glenaveena.

7.2.5. In relation to the removal by way of demolition of an unsympathetic and of no merit attached additions to St. Josephs I raise no significant planning related concerns.

7.2.6. In relation to the demolition of St. Josephs, however, given that it is a period building that formed part of the additions and structures added to Glenaveena during its ownership by the Stella Maris Convent. Alongside the juxtaposition of the new dwelling house in close proximity to Glenaveena, a structure for which the NIAH rates as regional in its importance, this requires in my considered opinion detailed consideration in terms of potential built heritage, visual through to residential amenity

impacts. The latter matters of residential and visual amenity whilst being issues that are interwoven with the potential impacts on Glenaveena, a residential property, occupying land adjoining the site I propose to consider under separately in my assessment below.

7.2.7. I note to the Board that the First Party as part of the documentation provided with this application includes a document titled: *‘Architectural Heritage Impact Assessment – Replacement dwelling, Former Stella Maris Convent, Carrickbrack Road, Howth, County Dublin’*, dated August, 2021. This document indicates that it was prepared by qualified built heritage specialists following a desktop assessment of the site on the applicants behalf.

7.2.8. This report suggests that St. Josephs was constructed around the same time as the chapel building which is still present on the grounds of Stella Maris Convent site in c1930. I note that this building is located in close proximity to and up to recent times was attached to ‘Glenaveena’. The report indicates that up until 2019 it formed part of the Stella Maris Convent complex and its function was a ‘residence’. The report also sets out a detailed description for St. Josephs which reads as follows:

“A rectangular two-storey, five-bay house built on a sloping site with an arcaded basement level supporting a ground-level walled balcony to the sea-front, south facade overlooking the terraced lawns and mature planting of the sloping site. The roof is hipped with two chimney stacks on the rear elevation. Walls are dashed with rusticated render bands to corners and replacement windows to square-head openings. There is a replacement conservatory over the central ground-level bay on the south façade opening onto the balcony supported on round-arched basement level openings. Replacement French windows flank conservatory. The building currently shares vehicular access with the adjacent former convent building to the late twentieth-century R105”.

7.2.9. In relation to the potential built heritage impact the proposed development sought under this application would have this report concludes that: *“the proposal for a replacement dwelling house on the site at Stella Maris, where there are no existing protected structures, to be wholly appropriate and sympathetic to the historic character and significant architectural fabric of the built heritage on this long-established site on the southern slope of Howth Head”*...*“while undoubtedly introducing a contemporary structure of scale and daring modern design to the site, it is felt that the provision of such a starkly contrasting, but high-quality building close to the historic former convent*

building will be appropriate for the emerging wider site. Permission is currently being sought by a separate applicant to restore much of the original nineteenth-century character to the southern elevation of the former convent and remove insensitive twentieth century additions. Although the proposed improvements to the former convent and the planned replacement dwelling for the subject site are considered to be positive developments, the nature of the site in relation to its topography, position, and mature planting within and round its boundaries means that there will be negligible or undetectable visual impact on the historic character and built heritage value of the area. Given the orientation of the subject site and the topography of the immediate area, it is noted that the proposed house will not be visible from the public realm along Carrickbrack Road to the immediate north of the site. The dwelling will thus have no impact on the visual amenity of the streetscape with even the construction phase having an imperceptible impact".

- 7.2.10. There is a history of residential buildings constructed on the southern side of Howth Peninsula. Including in the immediate vicinity of the site and to the south of the Carrickbrack Road and Thormanby Road. With the placement of dwellings at this particular location characterised by large garden plots with mature landscaping, generous separation distance between them; placements of dwellings and planting to provide maximum visual screening for privacy and prevention of overlooking; placement of dwellings at lower ground levels to Carrickbrack Road and Thormanby Road, including placement with Finished Floor Levels cut into the sloping topography that falls down to the cliff edge; and, in terms of the placement of individual dwellings including their associated principal private amenity space on site deliberately sited so that views of the coast could be maximised, whilst at the same time the residential amenity of the dwelling offered maximum seclusion. In my observation of the pattern of development in this locality it is predominantly the case that the surviving period properties through to more recent built insertions sought designs and layouts that had a hierarchy of buildings and spaces. With the dwelling houses being the principal-built structure on site together with other built insertions being secondary and subordinate to them.
- 7.2.11. This was the case with the adjoining property Glenaveena when originally constructed through to the time that St. Josephs was constructed on its original grounds of in the early 20th century by the Stella Maris Convent.

- 7.2.12. I draw attention to the Board the comments of the Planning Authority's Conservation Officer in relation to this proposed development and in relation to the position of St. Josephs on site. They indicate that it was positioned on the site of Glenaveena to ensure that views were not blocked from the main convent building. Which it notes that at that time was based in the period dwelling of Glenaveena.
- 7.2.13. The Planning Authority's Conservation Officer further indicated that the positioning of St. Josephs demonstrated its lesser position in the hierarchy of buildings on the site relative to Glenaveena.
- 7.2.14. In relation to the building itself the Planning Authority's Conservation Officer noted that there is a uniformity to its south facing façade with an attractive rhythm of basement arched bays supporting the balcony and whilst they acknowledge that the interiors are simple in their design alongside that the building is not attributable to any particular designer/architect they consider that its location on site is sensitive in that it minimises its impact on Glenaveena.
- 7.2.15. I concur with the Planning Authority's Conservation Officer's comments in relation to the positioning of St. Josephs within the original curtilage of Glenaveena.
- 7.2.16. I also consider that the lateral separation distance by way of placement of St. Josephs in the north eastern corner of the site was also deliberate to ensure that Glenaveena remained visually the predominant building as appreciated from its immediate surrounds and from the public domain located to the cliff edge to the south as well as coast beyond.
- 7.2.17. As a built form, St. Josephs was significantly set into the sites falling topography that at this point is significantly lower than the adjoining public road. Over time planting has created further screening in a location where there is a strong sylvan character due to the presence of many mature trees. With its grey render finish and modest glazing, it was also positioned in close proximity to Carrickbrack Road which at this point has a curving convex alignment. As such St. Josephs location appears to have been nestled into the landscape to the north east rear of Glenaveena and together with the other factors at this location it was not visually prominent as viewed from Glenaveena and it gave Glenaveena space to be appreciated in the round. As well as this nestled location despite the built form of St. Josephs its setback nature into the landscape, the considerable ground level difference between it and the public road to

the north together with the natural and built features surrounding it diminished its visual obtrusiveness in the southern peninsula of Howth Head, particularly when viewed from the public domain of the Cliff Path Walk.

- 7.2.18. In terms of the pattern of development that characterises the predominantly residential setting of the site and in particular focusing on the land to the south of the Carrickbrack Road and to the east of the site. This locality is characterised by nineteenth and twentieth century villa style properties with the majority of properties single and two storey in their built form having generous spacing between them and the nearest neighbouring dwelling; its sylvan landscaping, particularly around east, west and northern boundaries; open southern boundaries; variety of architectural designs and built forms; varying and more random placement of structures, in particular positioning seeks vantage points on this sloping land that varies significantly as it falls to the cliff edge in order to maximise sea and coastal views; avoidance of the more rugged topography that characterises the land immediately adjoining the cliff edge through to low density.
- 7.2.19. I am cognisant from an examination of the planning history, including having regard to recent appeal cases, alongside my observations of this locality that there has also been a loss of period dwellings in this area over most recent decades in favour of modern and contemporary replacement dwellings with some seeking to different positions on site to that of the demolished dwelling which they seek to replace.
- 7.2.20. This is in contrast with the more prevalent suburban residential development characteristics. Including those arising from an examination of the wider site setting of Howth Peninsula. This includes as one journeys towards the centre of Howth village and towards Sutton from the site by public road. As one journeys away from the site these more distant suburban areas of Howth Head display more expected and prevalent suburban Dublin city characteristics in terms of their pattern of development. Including but not limited to higher densities; less generous separation distance from other neighbouring properties and the public domain; more homogeneity in built form, building lines, architectural design response and hierarchy of buildings as well as spaces.

7.2.21. Against this context I raise a number of concerns with regards to the demolition of the proposed dwelling in order for the construction of a contemporary replacement dwelling sought under this application.

7.2.22. Firstly, St. Joseph though not a building afforded any statutory collection being a building not afforded any statutory protection; notwithstanding the Planning Authority's Conservation Officer in their report highlighted: *"that adaptive re-use is a key foundation of sustainable development to reduce both unnecessary construction waste and the high carbon footprint of producing new building materials"* and they therefore favoured that this approach be taken in this case. They also considered that this approach could also include an appropriately designed and scaled extension to the original St. Josephs building. Given that the attached apartment was of no particular merit to warrant its retention.

7.2.23. I consider that this conclusion is with basis having regard to national, regional and local planning provisions. These include but are not limited to:

1) National Context

- *The National Planning Framework (NPF)*

- Section 6.6 of the NPF sets out the high-level policy priorities in the housing sector includes 'Building Resilience' through re-use, adaptability and accessibility in the country's housing stock to ensure integration to deliver vibrant sustainable communities. It also sets out that the utilisation of existing stock is one of the means to meeting housing demands and as such is included as one of the national core principles for the delivery of future housing at every level of governance.
- Section 9.2 of the NPF on the matter of resource efficiency and transition to a low carbon economy indicates that the circular economy approach is also applicable to land use management through encouraging the reuse of existing building.
- National Policy Objective 53 of the NPF advocates *"support the circular and bio economy including in particular through greater use of renewable resources and by reducing the rate of land use change from urban sprawl and new development"*.

- National Policy Objective 54 of the NPF seeks reduction in *“our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.”*
- ‘Government Policy on Architecture, 2009-2015’.
- This document indicates that the role of the State as a custodian of older and historic buildings seeks to promote best practice in sustainable use and maintenance of its own building stock. It states that the: *“continuing use of the existing building stock should be an important objective in both public and privately led development”*. Under Action 22 it sets out that in meeting sustainability objectives public authorities assisted by the development and implementation of sustainable planning will be encouraged to introduce measures including encouraging adaptive re-use of buildings that would be compatible with their character and significance as well as to develop sustainability policies and objectives that specifically address the re-use of existing building stock.

2) Regional Context

- *The Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy, 2019 to 2031, (RSES).*
 - This document indicates out that layers of architectural history provide an environment that can be of local, national through to international value and it sets out that the reuse of historic buildings should be promoted. In addition, it indicates that the National Inventory of Architectural Heritage is an invaluable built heritage resource for local authorities and the general public. It states: *“the repair and reuse of historic buildings is an integral part of sustainable development. Design consideration should promote the regeneration of historic buildings to provide contemporary family homes.”*

3) Local Context

- Development Plan - Fingal County Development Plan, 2017-2023.
- Chapter 12 of the Development Plan which deals with the matter of ‘Historic Building Stock & Vernacular Heritage’ states: *“the retention and reuse of the*

historic building stock that contributes to the distinctive character of the rural or urban areas of Fingal is supported and encouraged by the Council”.

- Objective CH33 of the Development Plan promotes the sympathetic maintenance, adaption and re-use of historic building stock and encourage the retention of the original fabric and significant features, whether protected or not.
- Objective CH37 of the Development Plan seeks the retention, appreciation and appropriate revitalisation of the historic building stock and vernacular heritage of Fingal in both the towns and rural areas of the County by deterring the replacement of good quality older buildings with modern structures and by protecting (through the use of Architectural Conservation Areas and the Record of Public Structures and in the normal course of Development Management) these buildings where they contribute to the character of an area or town and/or where they are rare examples of a structure type.

7.2.24. Against this context together with the documentation provided with this application I consider that the appropriate approach for St. Josephs would be removal of unsympathetic building layers, i.e., the attached apartment; sympathetic adaption of the interior and exterior building fabric as part of accommodating qualitative residential amenity for future occupants. I also consider that this building can accommodate qualitative light weight extensions to it. Particularly in place of the flat structure and the area to the north of the flat structure. At such locations the visual setting of Glenaveena would not be unduly compromised. This is an approach also advocated by the Planning Authority’s Conservation Officer who appears to have had access to the interior of St. Josephs as part of the preparation of their report.

7.2.25. There have also been substantial improvements in recent decades to what measures can be taken to improve the sustainability and comfort of period buildings in terms of making them more climate resilient alongside providing more economical and qualitative places to live.

7.2.26. Further given the austere and limited interior-built fabric of quality of St. Josephs there is also potential for the interior spaces to be sympathetically modified and adapted. Whilst still maintaining and conserving built fabric of merit like for example the main staircase.

- 7.2.27. I therefore do not consider that this substantive and in good structural condition period dwelling that is a surviving building layer associated with Glenaveena merits removal. It is also positioned at a location that respects and allows subservience to Glenaveena as well as other buildings of architectural merit including 'The End' which adjoins the southern boundary of the site.
- 7.2.28. Moreover, this conclusion is further added to by what in my view is the lack of sympathy of the proposed replacement dwelling to the intrinsic character and attributes of its immediate setting. This is irrespective of the contemporary design resolution put forward for the replacement building itself which in a less sensitive to change site setting and context could in my view be more successfully absorbed and result in less built heritage, residential and visual amenity impacts than it would do at this location.
- 7.2.29. Secondly, in relation to the positioning of the replacement dwelling on site it is not proposed to utilise the same location as the existing dwelling and its attached apartment. Instead, it is proposed to position the proposed garage structure at this location instead (Note: setback by 15.2m from the northern boundary of the site) and to position the replacement dwelling at its nearest point 35.5m from Carrickbrack Road. The space in between as said would contain the proposed garage as well as would incorporate existing and proposed landscaping as well as pathways to the immediate east, west and north of the garage structure. The garage structure would open onto the end of the driveway which at this point is wide and is indicated to accommodate the parking needs of future occupants. On the opposite side at the end of the drive is the proposed replacement dwelling with its western elevation setback c7.3m from the eastern elevation of Glenaveena and 2.9m from the boundary between the site and the now reduced plot of land on which Glenaveena is sited. The southern elevation of the replacement dwelling follows the building line of the southern elevation of Glenaveena and incorporates its slight southerly inclination.
- 7.2.30. In relation to the positioning of the replacement dwelling and its close proximity to Glenaveena I consider it to be significantly out of character and at odds with the established placement of dwellings in this setting. Indeed, there would be a much greater separation distance proposed under this design resolution for the proposed garage and the replacement dwelling. Which at its nearest point is c13m and at its furthest point c17.5m. Moreover, the asymmetrical placement of the replacement

dwelling, the mirroring of the northern and southern elevation building line of Glenaveena, and the modest separation distance given the substantive size of the proposed replacement dwelling and Glenaveena on site further is at odds with the placement of dwellings in this locality. The design solution in relation to these aspects is one that lacks sensitivity to the site setting and the pattern of development that characterises this area. Alongside is one that echoes more dense positioning that one would see in more dense suburban settings where their characteristics in terms of buildings and spaces is in part defined by the consistency in building lines, separation distances and the like.

- 7.2.31. I note that the design resolution puts forward a more generous separation distance of 19.8m between the replacement dwelling and the adjoining property 'The End' which is located to the east and with its main dwelling positioned to the south east. In relation to this property at its nearest point 8m from the boundary between the site and this adjoining property with this widening to 9.8m at the south eastern corner of the replacement dwelling.
- 7.2.32. At this location there is denser visual screening present in the form of mature trees and hedges.
- 7.2.33. Notwithstanding this positive factor, the visual incongruity of the modulated and augmented topography in order to cater for the proposed dwelling with ground and finished floor levels above that of its surroundings is out of character also with this adjoining property and it's built as well as natural and topographical attributes. Similar to Glenaveena but resulting in lesser residential and visual amenity impact would be visually overbearing and at odds with the pattern of development in its setting.
- 7.2.34. The built heritage impact is further added to in terms of Glenaveena by the overall built form of the proposed replacement dwelling and its associated additions, in particular the outdoor terrace adjoining its southern elevation.
- 7.2.35. In relation to the proposed replacement dwelling, I note that the finished floor level is over 2m with the topography of the site and that of the land to the east as well as west outside of the redline area sloping towards the cliff edge at varying degrees of inclination. This is added to by the 10.116m height of the eastern elevation and 10.10215m of the western elevation. Alongside the 22.6m width; the depth of 16m of the western elevation and the 10.025m depth of the eastern elevation.

- 7.2.36. It is of interest in my view that the design resolution puts forward a depth of 10.025m on its eastern elevation despite their being greater lateral separation distance to the eastern site boundary and the residential property known as 'The End'. With a 16m depth elevation alongside Glenaveena which, as said, would under this proposal be situated in close proximity to the replacement dwelling with Glenaveena being more sensitive to change from a built heritage perspective. But also, at such close proximity such a substantial structure as the replacement dwelling proposed has greater potential to give rise to overshadowing, overlooking, perception of being overlooked, diminished daylighting/natural light to the main dwelling and its associated spaces through to giving rise to visual overbearance. These concerns are added to by the design resolution seeking to position the deepest part of the proposed two storey over 10m built form on the western end given the sensitivity of Glenaveena to change.
- 7.2.37. I also consider that the 10m height of the proposed replacement dwelling is visually overbearing relative to the c6.9m eaves height of Glenaveena and its 9.485m ridge height. It is of note that later structures in close proximity to the main envelope of Glenaveena, in particular the chapel structure that appears to have been constructed with a finished floor level of +76.978m, i.e., c4m above ground level of the ground alongside its southern principal façade, had a ridge height below it (Note: RL +82.598m whereas Glenaveena RL +83.00m).
- 7.2.38. Despite the use of extensive glazing on the southern and northern elevation of the replacement dwelling and despite the glazing openings on the western elevation of the replacement dwelling there is a lack of subservience in the design resolution put forward and the solid to void ratio of the western elevation is such that it is highly solid. Thus, adding to the lack of visual subservience of this flat roofed new built insertion as viewed as part of the visual setting of Glenaveena.
- 7.2.39. Moreover, this solidity is added to by the raised plinth of the southern terrace accessed from the southern elevation of the proposed replacement dwelling and the proposed raising of the ground levels by c2m to accommodate it.
- 7.2.40. Further the raised terrace accessed from the southern elevation of the property. This structure is significantly raised above the adjoining ground levels of the adjoining property of Glenaveena in the round.

- 7.2.41. It is also probable, in my view, that it is similarly the case in terms of its difference in ground levels of the adjoining property to the east. Alongside it is highly probable its significantly above that of the finished floor levels of The End. The difference that would arise to this adjoining property to the east cannot be quantified based on the information provided with this application.
- 7.2.42. In relation to the property to the west, Glenaveena, the terrace built insertion requires modulation of the ground in order to raise the ground levels by over 2m to create the platform and base for this private amenity space that would require access to the adjoining rear private amenity space by way of stairway.
- 7.2.43. It is of note that this stairways at its southern point would have a given ground level of GL +72.497m with this stairway linking to another external stairs that would run along the western elevation of the replacement dwelling to the driveway which has a given ground level of GL +77.00m. Thus, a difference of 4.5m and of note the drawings show significant modulation and augmentation of the existing ground levels and the landform on site to accommodate the raised ground levels for the replacement dwelling, its associated outdoor amenity space terrace through to external stairs. Which would result in these structures imposing over the adjoining property to the west Glenaveena and the land as well as potentially buildings thereon associated with the property to the east.
- 7.2.44. I therefore consider that the positioning of the proposed replacement dwelling and its associated private amenity terrace to the south and the external stairways to the west of these two structures is at odds with the pattern of development that characterises this area, the level of modulation of ground levels is poorly considered relative to adjoining properties and in a location that has a transitional character with the replacement dwelling occupying a position that is not only closer to land zoned 'High Amenity' under the Development Plan. But also forms part of the Howth SAAO and the High Amenity portion of the southern section of the site forms part of a designated European Site Note: Howth Head SAC).
- 7.2.45. In relation to the latter comment I note that these structures and their associated infrastructure which includes a waste water treatment system would be just over 9m from Howth Head SAC and also proposed Natural Heritage Area of Howth Head at their nearest point.

- 7.2.46. Moreover, in my view the documentation included with this application does not robustly set out that such ground modulation and augmentation would not have any adverse consequences on the period Victorian structure of Glenaveena. As said this building is listed in the NIAH as a building rated as 'Regional' in it is built heritage importance.
- 7.2.47. Furthermore, the overall design resolution for the considerations set out above fails in terms of the design resolution put forward to demonstrate that it was reasonably and with balance informed by its setting so as to minimise the potential for adverse impacts arising. Particularly in relation to built heritage impact the siting and the design would give rise to significant adverse diminishment of the immediate visual setting of Glenaveena and in turn diminish its integrity, legibility through to its appreciation from within its reduced curtilage through to when viewed from the public domain, including Cliff Path Walk that lies in close proximity and downhill of the site to the south.
- 7.2.48. In terms of the residential amenity impact of occupants of Glenaveena, the positioning of the replacement dwelling and its associated built features, in particular the raised terrace and stairway, would if permitted give rise to adverse residential amenity impacts. Including by way of direct overlooking and perception of being overlooked from the terrace area, the external staircase and southern elevation over and above that which is characteristic of residential properties in this area.
- 7.2.49. With this being irrespective of the use of opaque glazing in the western window openings.
- 7.2.50. In addition, the replacement dwelling, the terrace, and external stairs as a whole having regards to their built form, mass, and volume; the orientation of the site through to the proximity of these structures to the existing residential property of Glenaveena would in my view give rise to overshadowing and reduced daylight/natural light to the interior spaces of this Victorian property over and above that of its existing circumstance.
- 7.2.51. Alongside at a level that would diminish qualitative amenities of this dwelling for its occupants.
- 7.2.52. Moreover, the close proximity, the lack of subservience and visual solidity of the western elevation together with the stairwell and terrace would be visually oppressive when viewed from the interior and immediate exterior spaces of Glenaveena. Thus,

giving rise to a significant change in context should the proposed development be permitted as sought under this application as revised.

- 7.2.53. I also consider that the level of residential amenity impact to the adjoining property to the east given the more substantive lateral separation distance between the replacement dwelling and the presence of mature trees for screening would not be as seriously injurious to that of the adjoining property to the west.
- 7.2.54. Given that the proposed development would be confined to the area of the site that is zoned 'RS'- residential under the Development Plan. With the land use zoning for such lands including but not limited to the protection and improvement of residential amenity and with a stated vision "*to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity*", I consider that the proposed development, if permitted, would be contrary to this.
- 7.2.55. Moreover, having regard to the transitional zonal character of the site regard should be had also to the vision set out in the Development Plan for 'HA' – High Amenity Land which seeks to protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness, and sense of place. As the proposed development is inconsistent with the pattern of development that characterises this area and having regard to the fact that Glenaveena is one of the surviving period villas that add to the unique character, distinctive and sense of place of this location, to permit a proposed development that would diminish the appreciation of features visible from the high amenity zoned land would be inconsistent with Development Plan objective Howth Objective 1 which seeks to *ensure that development respects the special historic and architectural character of the area*".
- 7.2.56. It would also add to the cumulative diminishment of the high amenity zoned land in this location by way of inappropriate manmade built insertions and it would therefore be contrary to Objective NH36 of the Development Plan. This Development Plan objective seeks to ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. With this Development Plan objective clearly setting out that new development in highly sensitive areas shall not be permitted if it causes no unacceptable visual harm; does not introduces incongruous

landscape elements through to disturbance of historic elements that contribute significantly to landscape character.

- 7.2.57. In addition, to this it would also be contrary to Development Plan Objective RF51 which seeks to ensure that the development of any coastal site including the construction or replacement of existing buildings or development of any new buildings that these new insertions are of an appropriate size, scale, and architectural quality and that it does not detract from the visual amenity of the area or impact negatively on the natural or built heritage.
- 7.2.58. This particular Development Plan objective in my view reinforces objective DMS160. Which seeks protection for historic buildings that contribute to the distinctive character of urban areas of Fingal, including those not afforded specific protection.
- 7.2.59. Glenaveena is a building that in my view that does contribute in a positive way to the distinctive character of urban Fingal and this proposal provides insufficient justification to support the demolition of St. Josephs, a building that is part of the historical evolution of building layers within the original curtilage of Glenaveena that remained intact up to recently for a building that would give rise to significant diminishment of its setting in a landscape that is afforded layers of visual amenity protection in order to protect and safeguard it for current as well as future generations from inappropriate development.
- 7.2.60. Based on the above considerations I consider that the proposed development should be refused for the built heritage, residential and visual amenity adverse impacts that are set out above.

7.3. Appropriate Assessment

7.3.1. Compliance with Article 6(3) of the Habitats Directive

- 7.3.2. In accordance with the obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment.
- 7.3.3. This matter is considered fully in this section with regard had to all relevant guidance provided by the EU and the NPWS on the matter of 'Appropriate Assessment'. I am

cognisant that the competent authority must be satisfied that the proposal sought under this application will not adversely affect the integrity of the European site before consent can be given.

- 7.3.4. The site despite being located in part within the boundaries of Howth Head SAC (Site Code: 000202) is not connected to or necessary to the management of this or any European site due to its modified state containing none of the priority habitat associated with the named European Site. It is notwithstanding, subject to the provisions of Article 6(3) due to the development sought under this application potential to have a significant effect, either individually or in combination with other plans or projects on the Howth Head SAC it forms part of and due to the proximity of the site to a number of other European sites in view of their site's conservation objectives.
- 7.3.5. **Background:** The documentation accompanying this application includes as lodged on the 27th day of August, 2021, includes a report titled '*Appropriate Assessment Screening & Natura Impact Statement - Information for a State 1 (AA Screening) and State 2 (Natura Impact Statement) AA for a proposed residential development at Stella Maris, Carrickbrack Road, Howth, Co. Dublin*'. This report was prepared by Altermar Marine & Environmental Consultancy and is dated the 24th of August, 2021.
- 7.3.6. This document sets out that it provides an assessment of the potential effects of the proposed development, on its own or in combination with other plans or projects, on European sites in its zone of influence, in view of best scientific knowledge and in view of the conservation objectives of these sites and whether or not it will adversely affect the integrity of the European sites.
- 7.3.7. It is also accompanied by documents titled: 'Ecological Impact Assessment (EclA) for the proposed residential development at Stella Maris, Carrickbrack Road, Howth, Co. Dublin'; 'Outline Construction Environmental Management Plan (CEMP) for a proposed residential development at Stella Maris, Carrickbrack Road, Co. Dublin', and 'Invasive Species Survey and Management Plan for a proposed residential development at Stella Maris, Carrickbrack Road, Howth, Co. Dublin'. These documents are prepared by the same authors as the Appropriate Assessment and Natura Impact Statement document and have dates August, 2021, for their preparation.

7.3.8. The methodology for screening for Appropriate Assessment used by the authors is consistent with both EU Guidance and the Department of Environment, Heritage and Local Government and can be summarised as follows

- 1) Description of the plan or project and local site or plan area characteristics.
- 2) Identification of relevant European sites and compilation of information on their qualifying interests and conservation objectives.
- 3) Assessment of likely significant effects-direct, indirect, and cumulative, undertaken on the basis of available information.
- 4) Screening Statement with conclusions.

7.3.9. Page 4 of this report provides a description of the proposed project and sets out that it is comprised of the following:

- Demolition of existing two storey house and attached single storey flat.
- Construction of replacement two storey, six bedroom, flat/green roofed, detached contemporary dwelling with rear terrace at ground floor level, rear balcony at first floor level and 1 no. rooflight.
- Construction of a detached single garage.
- Provision of new private access road to adjoin existing access road that serves St. Josephs and Glenaveena.
- All ancillary works, including landscaping, boundary treatment and SuDS drainage necessary to facilitate the development.

7.3.10. A wide potential zone of influence was examined by the authors in relation to the proposed development sought at this appeal site. This is evident under Table 1 of the document which sets out the proximity of the site to European sites up to a distance of 14.2km. In this table nine Special Areas of Conservation (SAC) including Howth Head SAC which the southern portion of the site is located within, and nine Special Protection Areas (SPAs) are identified. I note to the Board the 18 European Sites and their distances from the works are identified are as follows:

Table 1: Proximity of European Sites from works

Name of European Site	Site Code	Distance from Works
Howth Head SAC	IE0000202	9.3m
Rockabill to Dalkey Island SAC	IE0003000	155m
Howth Head Coast SPA	IE0004113	670m
North Bull Island SPA	IE0004006	915m
North Dublin Bay SAC	IE0000206	1.8km
Baldoyle SAC	IE0000199	2.6km
Irelands Eye SPA	IE0004117	3.2km
Irelands Eye SAC	IE0002193	3.6km
Baldoyle SPA	IE0004016	3.9km
South Dublin Bay and River Tolka SPA	IE0004024	5.9km
South Dublin Bay SAC	IE0000210	7.2km
Malahide Estuary SAC	IE0000205	8.3km
Malahide Estuary SPA	IE0004035	8.9km
Dalkey Island SPA	IE0004172	9.6km
Lambay Island SPA	IE0004069	12.8km
Lambay Island SAC	IE0000204	13.1km
Rogerstown Estuary SPA	IE0004015	13.7km
Rogerstown Estuary SAC	IE0000208	14.2km

7.3.11. Table 2 and 3 of this document sets out an overview of the authors initial screening of the nine identified European Sites as well as sets out the qualifying interests for each European site based on the Source/Pathway/Receptor methodology in relation to the links between the proposed works sought under this application and each of the respective European site with the potential to result in adverse effects, without adoption of mitigation measures. It notes that outside of the nine European sites identified that there are no direct or indirect hydrological pathways from the proposed development site to the European sites beyond Rogerstown Estuary SAC/SPA which has a lateral separation distance of 14.2km and 13.7km respectively. These tables screen in the following European Site only for the following reasons and conclusions set out below with the other 17 European Sites screened out due to no significant effects likely to arise:

- Howth Head SAC

Screened In Reasons:

- During the excavation, demolition and construction phases dust and noise will be generated and silt/pollution from works could exit the site into this European site by way of uncontrolled surface water runoff and dust. As such mitigation measures are required.
- There is a direct hydrological connection to this European Site via surface water drainage/runoff during the construction phase at the driveway entrance which is located 9.3m from the SAC at this point. As such risk of contamination of surface water runoff entering the SAC which is downhill of the works. As such mitigation measures are required.
- Removal of existing foul drainage on site and the provision of a new waste water treatment plant whilst upon completion together with other SuDS measures do not give rise to any adverse impact on the SAC. It is considered that such works require caution and mitigation measures are required.

Conclusion:

Having regard to the precautionary principle, it is concluded that significant effects on Howth Head are likely in the absence of mitigation measures due to the proximity and possible emissions from surface water runoff and dust. With this being the case, a Natura Impact Statement is required.

7.3.12. On the matter of in-combination effects with other existing and proposed developments in proximity to the application it was considered that this would be unlikely, neutral, not significant and localised. In relation to this assessment a number of recent planning applications were examined. With these relating to the residential properties known as 'Glenaveena' located to the west, 'The End', 'Journey's End', 'Glenlion House' and 'Glenlion Cliffs' to the east. On this matter it was concluded that no significant effects on European sites would arise as a result of the proposed development in combination with other projects and no in-combination effects are foreseen.

7.3.13. The AA Screening section of this report concluded that based on best scientific knowledge the possibility of significant effects caused by the proposed project can be excluded from the following European sites:

- *Special Areas of Conservation*
 - Rockabill to Dalkey Island SAC
 - Baldoyle Bay SAC
 - Irelands Eye SAC
 - North Dublin Bay SAC
 - Malahide Estuary SAC
 - South Dublin Bay SAC
 - Lambay Island SAC
 - Rogerstown Estuary SAC
- *Special Protection Areas*
 - Howth Head Coast SPA
 - North Bull Island SPA
 - Irelands Eye SPA
 - Baldoyle Bay
 - South Dublin Bay and River Tolka Estuary SPA
 - Malahide Estuary SPA
 - Dalkey Islands SPA
 - Lambay Island SPA
 - Rogerstown Estuary SPA

7.3.14. However, it was considered by the authors that in the absence of mitigation measures, that there is potential for surface water runoff and dust to enter Howth Head SAC, which has a conservation objective that seeks the maintenance of habitats and species within the European sites at favourable conservation condition (Note: Qualifying Interests – Reefs (1170) and *Phocoena phocoena* (Harbour Porpoise) (1351)) . With this contributing to the overall maintenance of favourable conservation status of those habitats and species at a national level. It is therefore concluded by the authors of this document that as it cannot be excluded on the basis of best objective scientific information following screening, that in the absence of control or

mitigation measures, that the project, individually and/or in combination with other plans or projects, will have a significant effect on the named European site and therefore an Natura Impact Statement (NIS) for Howth Head SAC is necessary in these circumstances.

7.3.15. **Conclusion**

7.3.16. The development sought under this application was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended.

7.3.17. Having reviewed the documents, I am satisfied that the information provided with this application and that publicly available together with my inspection of the site and its setting allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.3.18. I note that the project site is located in and within close proximity to the Howth Head SAC (Site Code: 000202).

7.3.19. Given that the project consists of demolition of a substantive existing dwelling house, a substantive replacement dwelling, a garage structure, regrading and reprofiling of the site through to the provision of modifications to landscaping, access and foul as well as surface water drainage with the redline site area in part included within the Howth Head SAC boundaries. With the site occupying a coastal cliff top location on the southern peninsula of Howth Head. With the ground levels changing significantly from its northernmost boundary which aligns with Carrickbrack Road and to where it meets the cliff edge on its southernmost point and beyond. Which at this point falls steeply to the shoreline to the south. Together with the residential function of the existing and proposed residential function of the site being dependent upon on-site treatment of waste water and surface water. In light of these factors, I consider that there is potential for these works, if permitted, to have significant effect to the qualifying interests of Howth Head SAC. This I consider is due to the nature, scale and extent of the development sought and the potential for hydrological pathways to exist between the project area and this named European site. Alongside having regard to the fact that the site also in part forms part of the named European site; the limited separation distance of the remainder of the site to Howth Head SAC; the ground

conditions; the geological and topographical characteristics of the site as well as its immediate setting.

- 7.3.20. In relation to other European sites, I note that these are located with more significant lateral separation distance to the site. In addition, the area of the site where the works sought under this application would take place could be described as brown field land and is zoned under the Development Plan as well as the Howth SAAO as residential. Therefore, having regards to the nature, extent and scale of the project together with the characteristics of the site, its setting, through to the qualifying interests of these more remote European sites I concur with the authors of the screening report submitted that based on best scientific knowledge, having inspected the site and its setting, there is no tangible pathway or connection that exists between the source and the receptor. As such I concur with the authors of the screening report that the other European sites identified in Table 1 and as examined under Tables 2 and 3 of their report can be reasonably excluded on the basis that no adverse impact would arise from the development on the conservation features and objectives of this site.
- 7.3.21. In conclusion, having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites and I concur with the screening assessment conclusion that significant effects cannot be ruled out on Howth Head SAC. Having regard to the foregoing, it is reasonable to conclude that significant effects cannot be ruled out and a Stage 2 Appropriate Assessment is required in this case.
- 7.3.22. **Stage 2 – Appropriate Assessment:** The Howth Head SAC is the relevant European site for Stage 2 Appropriate Assessment (Natura Impact Statement (NIS)) in this case. The aim of this assessment is to consider whether or not the project would adversely affect the integrity of this European site, either individually or in-combination with other plans and projects in view of the conservation objective of this site.
- 7.3.23. The Appropriate Assessment Screening & Natura Impact Statement document accompanying this subject application includes a Stage 2 - Natura Impact Statement. This commences on Page 36 of this document, and it is indicated therein that it relates to the proposed development examining its potential effects on Howth Head SAC from surface water runoff and dust. Previous to this and as set out above the authors of

the screening report provide a brief description of the project sought under this application as part of their Stage 1 screening assessment.

- 7.3.24. They also set out a summary of European sites over which the project could give rise to likely significant impacts from which it concludes that following an assessment of European sites within the potential zone of influence that the demolition, construction and operational phases of the project was deemed to be Howth Head SAC, which forms part of the site.
- 7.3.25. They further set out that using the 'precautionary principle' relevant to possible effects on European sites within a potential zone of influence of up to 14.2km from the location of the project works that all other European sites within this geographical radius investigated as part of the screening report could be excluded. With this conclusion being based on no direct pathway from the site to these European sites within this geographical radius during demolition, construction or operational phases.
- 7.3.26. It was therefore concluded on the basis of best objective information no significant effects are likely to occur that would adversely impact upon the conservation interests and objectives of these sites.
- 7.3.27. This document sets out that the NIS provides an evaluation for the potential for direct, indirect effects, alone or in combination with other plans or projects, having had regard to the use of mitigation measures. With regard being had to the fact that Howth Head SAC is located within and immediately adjoining the appeal site.
- 7.3.28. It sets out the NPWS Site Synopsis for Howth Head SAC with this including its particular Conservation Objectives in relation to the Vegetated Sea Cliffs; the overall objective for this habitat; its associated area; its range; its structure and function; its physical structure i.e., functionality and hydrological regime; its vegetation structure zonation/height/typical composition species and subcommunities/negative indicator species through to an examination of the encroachment of bracken and woody species.
- 7.3.29. Under Table 6 of the document, it sets out the qualifying interests, management objectives, conditions for underpinning site integrity for Howth Head SAC. The qualifying interests are indicated as follows:
- Vegetated sea cliffs of the Atlantic and Baltic Coasts [1230]

- European Dry Heaths [4030]

- 7.3.30. In relation to the Vegetated Sea Cliffs of the Atlantic and Baltic Coasts it indicates that the current conservation status as 'inadequate' and for the European Dry Heaths the current conservation status as 'bad'.
- 7.3.31. Table 7 of the document sets out the site-specific objectives for Howth Head SAC in detail in terms of its qualifying interests examining these under the headings of attributes, measure and target.
- 7.3.32. At page 46 this document sets out an analysis of the potential impacts on Howth Head SAC during demolition, construction, and operational phases from the proposed project. It notes the proximity of the proposed works at the driveway entrance to the SAC which at this point would have a lateral separation distance of 9.3m. Under this section of the report it also notes that there would be a hydrological pathway from the site to Howth Head via surface water runoff and dust during demolition and construction phases with this potentially impacting upon the existing ecology of the site and the surrounding area; through to potential construction impacts arising from site clearance, reprofiling, excavation, transportation of materials and the various building phases of the proposed project. Which it notes could lead to the transportation of silt, dust, and pollutants into the named European site.
- 7.3.33. It further sets out there is potential for silt laden runoff and contamination to flow downhill to proximate European site from the main works area although there are existing features on site including an uninterrupted wall and area of unmanaged grassland that naturally mitigates impacts rendering the likelihood of this impact extremely remote and not at a level of significance that would negatively impact on the SAC. Notwithstanding, it advises an abundance of caution mitigation measures should be place.
- 7.3.34. In relation to ecology, it notes that there is no flora or terrestrial mammal species of conservation importance were recorded by the authors during their site visit and that they observed that the grass land and dense scrubland of the site is located within the SAC. However, these they note are not located within the works area. The features of interest of Howth SAC were observed by the authors as being present in the near vertical cliff face at the lower end of the site.

7.3.35. In relation to operational impacts, it notes that all onsite drainage would be connected to separate foul and surface water runoff. With the latter compliant with SuDs.

7.3.36. Table 8 of the document in relation to the Vegetated Sea Cliffs of the Atlantic and Baltic Coasts and the European Dry Heaths notes that the proposed development would closely border Howth Head SAC with these qualifying interests situated outside of the proposed works area but are situated within the site outlined in proximity to the vertical cliff slopes proximate to the marine environment. It sets out that the proximity is 150m from the works area and that the potential impacts of construction on Howth Head SAC, includes covering of vegetation with silt laden surface water runoff and dust during construction works as well as there being potential for contamination of surface water to enter the SAC from the driveway during operation. It notes that the overall objective of the named European site is to '*maintain favourable conservation condition*'.

7.3.37. Table 9 sets out mitigation measures with the potential impacts on the Howth SAC being identified as follows:

- Habitat degradation.
- Dust deposition.
- Pollution.
- Silt ingress from site runoff.
- Downstream impacts.
- Negative impacts on the aquatic environment, aquatic species and qualifying interests.

7.3.38. The mitigation measures are detailed and can be summarised under the following broad headings:

- Air & Dust Management Plan.
- Site Policy on Dust.
- Site Management including contractor responsibility.
- Monitoring.
- Measures to specific earthworks.

- Waste management.
- Measures specific to demolition.
- Measures specific to storage/use of materials, plant and equipment.
- Surface Water Management Plan.
- Inspection of various works by the project ecologist(s).

7.3.39. In the absence of mitigation measures dust, surface water and pollution may enter the SAC during strong winds, heavy rain (via surface water) but that the impact would be minor, temporary and dust levels would not significantly impact the vegetations structure: zonation given that the main works would occur 150m from the qualifying interests. It states: *“based on the abundance of caution construction and operation phase mitigation measures should be in place to ensure that the SAC is not impacted”* and that: *“this should include the presence of an ecologist on site to oversee the demolition, excavation of the site, the implementation of a surface water management plan and road sweeping truck cleaning and covering, as the main access road is on a steep slope that leads to Howth SAC”*.

7.3.40. In relation to vegetation composition of the named European site it states that the: *“target attribute is to ensure that the typical flora of vegetated sea cliffs is maintained, as well as the range of sub communities within the different zones”*; and, that: *“the short term impacts during the construction phase will not be at a level to significantly impact the range of sub-communities within the different zones within Howth Head SAC. However, measures should be in place to limit the potential impact of the project on the vegetation within Howth Head SAC”*.

7.3.41. In relation to adverse effects on the conservation objectives of the named European site likely to occur from the project, post mitigation, it is considered by the authors that the series of mitigation measures proposed would ensure that surface water runoff is clean and uncontaminated, and dust would not significantly impact the Howth Head SAC.

7.3.42. It is also considered that successful implementation of the mitigation measures to limit surface water and dust impacts on the named European site, that no significant impacts are foreseen from the construction or operation of the proposed project. With

residual impacts of the proposed project localised to the immediate vicinity of the proposed works and would not impact on the named European site.

- 7.3.43. It is the view of the authors that the mitigation measures set out in this report satisfactorily address the potential impacts on Howth Head SAC through the phases of development and that no significant adverse impacts on the conservation objectives of the named European site are likely following their implementation as outlined.
- 7.3.44. It is emphasised by the authors that these measures outlined in the report are complied with to ensure that the proposed development sought under this application does not have environmental impacts on proximate European sites. That these measures seek to protect the ground and surface water which are the primary vectors from the site.
- 7.3.45. In relation to in-combination effects recent planning permissions permitted in the area and pending decision at the time of the report are examined with these relating to the 'Glenaveena' to the west (Note: P.A. Ref. No. F20A/0712), 'The End' (Note: P.A. F19A/0126) and 'Journeys End' (P.A. F13A/0177) to the east. A finding of no significant in combination effects for these residential planning applications as a result of the proposed development was concluded.
- 7.3.46. It is concluded by the authors that on the basis of the best scientific information available that the project sought under this application either alone or in combination with other plans or projects will not have an adverse effect on the integrity of the Howth Head SAC in view of its conservation objectives.
- 7.3.47. **Conclusion:** I have considered the development sought under this application, the project, similarly in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act, 2000, as amended, and having carried out screening for Appropriate Assessment I am satisfied that significant effects on the Howth Head SAC are likely from the nature, scale and extent of the works sought under this application in the absence of standard controls or mitigation measures. This I consider is primarily as a result of the site including and being within as well as proximate to Howth Head SAC, the site's locational landscape attributes, the geological attributes, the ground conditions, the topography, the ground and surface water hydrology of the site relative to the named European site and the potential impacts from surface water runoff, dust, and pollution that could arise during

demolition, excavation, regrading/reprofiling of the works area, construction and operational phases of the development sought under this application.

7.3.48. Based on these factors I consider that it was necessary and appropriate requirement for a Stage 2 Appropriate Assessment (NIS) to have been carried out in order to assess whether the proposed project, either alone or in combination with other plans or projects, in view of the conservation objectives of the Howth Head SAC, would adversely affect the integrity of this European site, in the absence of mitigation measures during the demolition, excavation, regrading/reprofiling of the works area, construction and operational phases. I am also satisfied that all other European sites within the ZOI were appropriately screened out in the initial screening based on best scientific knowledge as has the findings that no cumulative impact or in-combination effects on any European sites are likely.

7.3.49. In conclusion I concur with the authors of the Appropriate Assessment Screening and Natura Impact Statement report, with this report including a detailed Stage 2 Natura Impact Statement for Appropriate Assessment, that the development sought under this application, either individually or in combination with other plans or projects would not adversely affect the integrity of Howth Head SAC (Site Code: 00020), or any other European site, in view of their conservation objectives subject to the full implementation of the detailed controls and mitigation measures included in this assessment should permission be granted and the project implemented.

7.3.50. This conclusion is based on a complete assessment of all aspects of the proposed project alone (and in combination with other projects) including possible demolition, site works, construction related pollution, wastewater treatment and invasive species. Subject to the implementation of the proposed development in full compliance with the mitigation measures set out in the said report, for which I consider that there is no reasonable doubt as to the effectiveness and robustness of those measures in their totality, I consider that there is no doubt as to the absence of adverse effects on the conservation objectives of Howth Head SAC.

7.4. Other Matters Arising

7.4.1. Foul Drainage

The existing dwelling is served by an existing connection to a proprietary wastewater treatment system and a connection to the public mains water supply.

The further information accompanying this application includes a document titled: 'Site Characterisation Report EPA 2009 CoP', dated May 2021.

Of concern the EPA Code of Practice, 2009, document referred to was superseded by a new Code of Practice in March, 2021.

Of additional concern, the Site Characterisation report indicates that it has been designed with to cater for a population equivalent of 8 despite the proposed replacement dwelling house containing 6 generously sized bedrooms with three of these including en-suites. All bedrooms are shown to contain double bedrooms. Like the previous Code of Practice this related to wastewater treatment systems that catered for population equivalents of 10. It is therefore concerning that this 551m² replacement dwelling house which is more than double the size of St. Josephs for which planning permission is sought for its demolition seeks to meet the foul water drainage requirements by way of what appears to be a wastewater treatment system that does not cater for the population equivalent capacity of the replacement dwelling house which is 12.

These are substantive concerns in my view given the site's location in a highly sensitive to change ecological setting where ground and surface water are the principal vectors from which pollution could make its way to the Howth Head SAC that forms part of the site and the coast which lies in close proximity to the cliff edge at this location.

This is despite the Site Characterisation Report indicating an average T-value of 34.58 min/25mm, a P-value of 40.69 min/25mm, that ground water was not encountered on-site at the base of the trial hole and that additional surface water drainage measures are also proposed as part of the proposed works.

I also note that the accompanying Appropriate Assessment Screening and Natura Impact Statement highlighted the vulnerability of ground and surface water at this location.

In addition, the fact that the proposed development is sited over a poor aquifer.

On the basis of the documentation provided I am not satisfied that it demonstrates that the proposed development, if permitted, would not be prejudicial to public health.

On the basis of these concerns should the Board be minded to grant permission I recommend that it first seek additional clarification on this matter. This I consider is a **new issue** in the context of this appeal case.

7.4.2. Residential Amenity Impacts – Other

The further information included modest amendments to the western elevation of the replacement dwelling to reduce the level of overlooking and perception of overlooking arising from the clear glazed window openings originally proposed on this elevation. Given the level of ground level difference between the replacement dwelling and the adjoining property of 'Glenaveena' to the west, the proximity of the replacement dwelling to the eastern elevation of Glenaveena I recommend that the Board, should it be minded to grant permission for the proposed development that it includes a condition that seeks opaque glazing of all window openings on the western elevation of the replacement dwelling.

In addition, given the level of difference in height between the stairs aligning with the western elevation of the replacement dwelling and the adjoining property 'Glenaveena' that appropriate boundary screening details are sought by way of condition with the details of these to be subject to the written agreement of the Planning Authority.

It would also be appropriate that the external stairs is re-sited to the east of the proposed replacement dwelling where it would not give rise to the same level of residential diminishment of amenities by way of overlooking and visual overbearance. At this amended location additional screening would also be necessary to safeguard the residential amenities of the occupants of 'The End' given the difference in ground levels between the two sites and the potential for overlooking as well as visual overbearance to arise.

7.4.3. Water Supply

Irish Water in their submission to the Planning Authority, dated the 27th day of August, 2021, raised no objection subject to a number of conditions in the event of a grant of permission. This proposal relates to an existing dwelling house served by an existing connection to public mains water supply and the provision of a replacement existing dwelling house on site. There appears to be no capacity issues or other factors of concern in terms of water supply for future occupants of the proposed replacement dwelling. Should the Board be minded to grant permission for the proposed

development I recommend that an appropriately worded condition be imposed requiring compliance with Irish Waters recommended conditions.

7.4.4. **Ground Works**

Despite the significant ground levels required to accommodate the proposed replacement dwelling these works are not included in the description of the development sought. This is not just a concern in that such raised ground levels will give rise for a greater actual level of overlooking and perception of being overlooked from the adjoining property of Glenaveena. Particularly in terms of the external stairway along the western elevation of this proposed building adjoining the boundary with Glenaveena, the raised external amenity space accessed directly from the southern elevation of the proposed replacement dwelling but also will give rise to greater perceptions of actual and oblique overlooking of Glenaveena's main private amenity space from the second-floor level setback balconies spaces.

7.4.5. **Visual Amenity Impact: Glare**

The extension to the proposed replacement dwelling is of contemporary design with significant expanses of reflective surfaces on the southern elevation and the southern boundary of the terrace accessed from the southern elevation.

Concerns are raised by Third Parties to this appeal that the significant dimensions of glass and highly reflective external materials could be highly visually obtrusive in its highly sensitive to change and of high scenic quality landscape setting by way of obtrusive glare.

I consider that this is a reasonable concern given that placement of the proposed replacement dwelling on site and the southerly aspect of the mainly glazed rear elevation together with the glazed boundaries defining the terrace area.

Chapter 7 of the Development Plan recognises that whilst *“adequate lighting is essential for a safe and secure environment, light spillage from excessive or poorly designed lighting is increasingly recognised as a potential nuisance to surrounding properties and a threat to wildlife. Insensitive lighting can cause what is termed ‘light pollution’”*. It also states that: *“Fingal as a predominantly rural County is sensitive to light pollution through sky glow which can affect the tranquillity of the countryside. Light pollution can have a negative impact on biodiversity by affecting the normal diurnal*

patterns of plants and animals” and in relation to new developments it states that: *“lighting fixtures should provide only the amount of light necessary for the task in hand and shield the light given out so as to avoid creating glare or emitting light above a horizontal plane”* through to that there is no unacceptable adverse impact on neighbouring or nearby properties or on the surrounding countryside.

Subject to appropriate conditions such as those requiring all external treatments to be agreed including appropriate non-reflective glazing to be included to ensure that the extension in its totality remains as a subordinate feature to its host dwelling.

But importantly also such a condition is appropriate and necessary given that the location of the dwelling and its extension on a prominent coastal cliff edge that is visible from many land and marine vantage points.

Visual glare in this context would result in diminishment of this high amenity area through to have a real potential to result in harmful visual glare nuisance.

Such a condition would be consistent with Objective LP01 of the Development Plan which essentially seeks that there is no light spillage or light pollution arising from new developments into the surrounding environment.

I therefore recommend the Board should it be minded to grant permission that they include an appropriate condition to deal with this concern in the interests of safeguarding the visual amenities of the site’s setting.

7.4.6. Services – Other

Should the Board be minded to grant permission for the proposed development I recommend that it includes Condition No. 9 and 10 of the Planning Authority’s notification to grant permission as these conditions appropriately and in a manner consistent with best practice deals with surface drainage, foul water drainage as well as sets out the Planning Authority’s Transportation Department requirements.

7.4.7. Invasive Species

On the matter of invasive species this matter has been addressed by the applicant in the document title ‘Invasive Species Survey and Management Plan’ prepared by Altemar Marine & Environmental Consultancy and dated the 20th day of August, 2021. As part of preparation of this document it is indicated that two site surveys were carried out on the appeal site (Note: 27th day of September, 2020, and the 3rd day of August,

2021). During this inspection Hottentot Fig was observed at a single location on the site in the vicinity of the driveway and Three-corned Leek (*Allium triquetrum*) along the paths to the rear of the convent. It notes that these are species listed under Third Schedule listed under Regulations 49 and 50 of the European Communities (Birds and Natural Habitats) Regulations, 2011 (Note: Regulation 50 not enacted at the time the named document was prepared and this report). No other invasive species were observed.

I further note the presence of Hottentot Fig and the Three-corned Leek (*Allium triquetrum*) at the northern portion of the site and in that vicinity.

This report sets out proposed management of the invasive species observed on site in order to achieve its complete removal.

On the basis of this reports findings together with having carried out an inspection of the site I consider it is appropriate that this matter is dealt with by condition should the Board be minded to grant permission for the proposed development sought under this application.

7.4.8. Arboriculture

This application is accompanied by a document titled; 'Arboricultural Report', prepared by Charles McCorkell and dated June, 2021. This report includes:

- An assessment of the existing trees on site, their quality and value in accordance with BS 5837:2012 – Trees in relation to design, demolition, and construction.
- An overview of the site context and observations of trees on site.
- An examination of the impact the proposed development would have on the tree population on the site, methods to reduce impact on trees and measures to protect trees during works.

The author considers that the trees and shrubs for which removal is sought to facilitate the proposed development are of low quality and limited public amenity value. Thus, it is considered that their loss would have a negligible impact on the character and visual appearance of the wider surrounding local landscape. It is also noted that the design has taken the loss of these natural features into consideration as well as includes high-quality tree planting as part of the landscaping scheme proposed. Such

tree planting would in the long term mitigate the loss of trees and enhance the amenities as well as visual appearance of the character of the local area.

On the basis of this report findings together with having carried out an inspection of the site I consider it is appropriate that should the Board be minded to grant permission for the proposed development sought under this application that an appropriately worded condition is included requiring full implementation of the mitigation measures included in this report. I note that Condition No. 6 of the Planning Authority's notification to grant planning permission seeks this requirement.

I also recommend that the Board include Condition No.8 of the Planning Authority's notification to grant permission which seeks for qualitative in biodiversity and visual improvements to the landscaping scheme put forward with this application. I concur with the Planning Authority that the implementation of these requirements would give rise to qualitative improvements to the outcome of the scheme on this highly sensitive to change setting and as such they are in the interest of the proper planning and sustainable development of the area.

Moreover, given the sylvan character afforded by a number of mature trees on site to the visual amenity of the setting and the level of visual screening they give rise too I consider the payment of a Tree Bond as required under Condition No. 7 of the Planning Authority's notification to grant permission is appropriate in this circumstance.

7.4.9. External Lighting

Given the high sensitivity to change of the site setting, it's visibility in what is recognised and afforded protection as a high amenity setting should the Board be minded to grant permission of the proposed development sought under this application I recommend that it include an appropriately worded condition that requires all external lighting to be subject to prior agreement with the Planning Authority in the interests of safeguarding and protecting the visual amenities of this area from potential adverse impacts and diminishment from undue, poorly designed and excessive external lighting.

7.4.10. Financial Contributions

Section 48 financial contributions are applicable to the development sought under this application. Therefore, should the Board be minded to grant permission for the proposed development sought under this application I recommend that it include a condition requiring the payment of the same. I note to the Board that Condition No. 15 of the Planning Authority's notification to grant permission provides a calculation for the same and the payment of such a contribution is reasonable in respect of the public infrastructure and facilities benefitting the development in the area of the Planning Authority and which is provided, or which is intended to be provided by, or on behalf of the Local Authority.

7.4.11. **Oversailing/Encroachment**

I have already noted concerns in relation to the whether the applicant has consent to carry out the works sought in their entirety given the comments contained in the Third-Party observation received by the Board during its determination of this appeal case. Should the Board be minded to grant permission for the proposed development as a precaution I recommend that include an advisory note that sets out the provisions of Section 34(13) of the Planning and Development Act, 2000, as amended, which sets out that a person shall not be entitled solely by reason of a permission to carry out any development.

8.0 **Recommendation**

8.1. I recommend that planning permission is **refused**.

9.0 **Reasons and Considerations**

1. Having regard to the prevailing pattern of development; the site location in an area of transitional residential and high amenity function as identified by the Fingal County Development Plan, 2017-2023, and the Howth Special Amenity Order (SAAO), 1999, and as such being highly sensitive to change; the presence of a period structure ('St. Joseph's') on site which forms part of this historic building stock of Howth Head, in particular the building layers of interest associated with Glenaveena and the Stella Maris Convent; with Glenaveena being a historic Victorian period property listed on the NIAH Survey (Ref. No. 11367003) under

which it is identified as having a 'Regional' Rating and its Categories of Special Interest identified as 'Architectural' and 'Artistic'.

This building together with its associated building layers and spaces of merit and interest contribute significantly to informing the unique character, the built heritage, and the qualitative visual amenity attributes of its landscape setting.

It is considered that the proposed development, by reason of the demolition of St. Josephs for which there is inadequate justification for and is a type of development that would be contrary to the said Development Plan objectives CH33, CH37 and DMS160 which seeks adaptive reuse through to protection for historic buildings that contribute to the distinctive character of urban areas of Fingal.

In addition, Howth Objective 1 of the Development Plan which seeks to ensure that development respects the special historic and architectural character of the area.

It is also considered that the design resolution put forward under this application, in particular its built form, height, mass, scale and placement of the replacement dwelling on site with the limited lateral separation distance proposed between it and Glenaveena. Together with the locality mirroring of the northern and southern building line of Glenaveena and its inclination of the replacement dwellings main envelope would be at odds and out of characteristic with the pattern of development in this locality.

Further, the lack of subordination of the overall built form of the replacement dwelling to Glenaveena; would diminish and seriously detract from the architectural character and setting of Glenaveena as appreciated in its visual setting including as appreciated from the public domain, in particular Cliff Path Walk and other coastal vantage points on the southern peninsula of Howth Head.

The proposed development would therefore adversely injure the visual amenities of this sensitive to change area.

In addition, the placement of the replacement dwelling with such a close juxtaposition to Glenaveena together with its substantial built form, height, mass, and scale, would seriously injure the amenities of this adjoining residential property by way of overlooking, overshadowing and visual overbearance.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector
11th day of August, 2022.