



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312281-21

#### Development

Modifications to previously granted permission (F19A/0405) to include addition of a setback 3rd floor. 9 apartments in total, 1 additional car park space and associated site development works. An NIS (Natura Impact Statement) was submitted under parent permission (F19A/0405).

#### Location

Osprey, Kilrock Road, Howth, Co. Dublin, D13 N259

#### Planning Authority

Fingal County Council

#### Planning Authority Reg. Ref.

F21A/0530

#### Applicant

Emmet McLoughlin.

#### Type of Application

Permission

#### Planning Authority Decision

Refuse Permission

#### Type of Appeal

First Party

#### Appellant

Emmet McLoughlin.

#### Observer(s)

Sheena Tuite  
Johnny White

Margaret Ruxton  
Jeannette Byrne  
Paul and Mairead Byrne  
Ciara Ní Laoi  
Gabriel Fitzpatrick.

**Date of Site Inspection**

26<sup>th</sup> May 2022.

**Inspector**

Lucy Roche

# Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	6
3.1. Decision .....	6
3.2. Planning Authority Reports .....	7
3.3. Prescribed Bodies .....	8
3.4. Third Party Observations .....	8
4.0 Planning History.....	9
5.0 Policy Context.....	9
5.1. National Policy .....	9
5.2. Fingal Development Plan 2017-2023 .....	11
5.3. Howth Special Amenity Area Order 1999.....	13
5.4. Built Heritage.....	13
5.7. Natural Heritage Designations .....	14
5.8. EIA Screening .....	14
6.0 The Appeal .....	14
6.1. Grounds of Appeal .....	14
6.2. Planning Authority Response .....	16
6.3. Observations .....	16
6.4. Further Responses.....	19
7.0 Assessment .....	19
8.0 Recommendation.....	27
9.0 Reasons: .....	27

## 1.0 Site Location and Description

- 1.1. The appeal site is located at the junction of Balscadden Road and Kilrock Road, on the eastern side of Howth village and c400m southeast of Howth Harbour.
- 1.2. The appeal site has a stated area of 0.16ha and is occupied by a three-storey detached dwelling located close to the southern site boundary. Access to the site is off Kilrock Road to the east. Ground levels on the site fall significantly from the south-eastern corner west and northwest. Levels across much of the site are below the level of adjoining roads.
- 1.3. Housing on the western side of Kilrock Road comprises a row of dormer and two-storey houses. To the south of the site, there is a vacant plot which was the subject of an extant permission for residential development (FCC Ref No: F14A/0482). Asgard Park comprises a mature development of detached houses situated above an overgrown embankment bounding the site on its western side. The property to the northwest of the site, on the seaward side of Balscadden Road, is a protected structure (No. 936) Ben Eadair.

## 2.0 Proposed Development

- 2.1. Planning Permission has been sought for modifications to the plans previously granted permission under ABP Ref. 307006-20 (Fingal Reg. Ref. F19A/0405): including
  - The addition of a new set back third floor level containing 1 no. 4 bedroom penthouse apartment with balcony.
  - Changes to the previously permitted second floor layout to provide 1 no. 2-bedroom apartment and 1 no. 3-bedroom apartment in lieu of 2 no. 2-bedroom units previously permitted,
  - Amendments to basement and circulation areas. Proposed modifications include changes to the eastern circulation area to serve the ground and first floor apartment units only. The western circulation area will serve the second and third floors. At ground floor level there will be a new rear access to the ground floor unit to provide improved access to the private amenity space at the rear.

- 1 no. additional car parking space at surface level,
- Associated site, landscaping and engineering works necessary to facilitate the development.

2.2. The proposed development will result in:

- A four storey above basement level apartment block in lieu of the permitted three-storey above basement level apartment block with an increased height of c2.95m
- The addition of 1 no. apartment unit

2.3. Table 1 below provides a schedule of the key figures associated with the proposed development

<b>Table 1: Site / Development Details</b>		
<b>Site Area</b>	0.16	
<b>Existing Dwelling</b>	FFL	24.39
	Ridge Level	35.29
	Height	10.9m
	<b>Permitted</b>	<b>Proposed</b>
<b>Gross Floor Area</b>	1,120.5	1,451.36sqm
<b>No. of Units</b>	8	9
<b>Density</b>	c50units/ha	c56units/ha
<b>Ground Floor Level</b>	24.700	24.700
<b>Parapet Level</b>	34.381	37.150
<b>Height</b>	9.5	12.45 (+2.95m)
<b>Housing Mix</b>	8no two bed apartments (94-132sqm)	7no two bed apartments (94-95.5sqm)  1no three bed apartment (196sqm)

		1no 3/4 bed apartment (276.5sqm)
<b>Public Open Space</b>	230	216
<b>Parking</b>	8no spaces	9no. spaces

2.4. Table 2 below provide a schedule of the individual units proposed / amended under this application:

<b>Unit</b>	<b>Location</b>	<b>Floor Area (sqm)</b>	<b>Bedrooms</b>	<b>Private Open Space (sqm)</b>
<b>Apt 7</b>	Second Floor	94	2	16
<b>Apt 8</b>	Second Floor	196	3	40
<b>Apt 9</b>	Third Floor	276.5	3/4	148

### 3.0 Planning Authority Decision

#### 3.1. Decision

Fingal County Council did by order dated 22<sup>nd</sup> November 2021 refuse permission for the proposed development for 3no reasons as follows:

- 1 The proposed development given its height on this elevated site would result in an overly dominant feature within the landscape which is located within the buffer zone associated with the Howth SAAO, would be visually intrusive within the surrounding context and would represent an incongruous form of development within the established character of the area. The development in its proposed form would contravene DMS39 of the Fingal Development Plan 2017-2023 and as such would be contrary to the proper planning and sustainable development of the area.
- 2 Having regard to the reduced separation distance at penthouse level together with the increased height being proposed, it is considered that the proposed

development would give rise to significant levels of overbearance upon the site located to the south and as such would negatively impact upon the residential amenities of the surrounding area and would therefore be contrary to the proper planning and sustainable development of the area.

- 3 Having regard to the location of the subject site and the number of objectives to protect views within the vicinity of the site, it is considered that the proposed development would contravene Objective NH40 and NH51 of the Fingal Development Plan 2017-2023 which seek to protect the character integrity and distinctiveness of highly sensitive areas and protect views and as such the proposed development would be contrary to the proper planning and sustainable development of the area. The proposed development would set an undesirable precedent for other similar developments, which in itself and cumulatively would contribute to an erosion of the distinctive and attractive character of the area and would seriously injure the visual and residential amenities of the area

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The case planner notes that while permission has been sought for '*...the addition of a new set back third floor level*', the development as previously permitted under ABP Ref. 307006-20 (Fingal Reg. Ref. F19A/0405) already includes for a set-back penthouse level at 2<sup>nd</sup> floor level. Having inspected the drawings they consider that the applicants are seeking permission for the insertion of a 2<sup>nd</sup> floor plate and subsequent amendments to the as permitted penthouse level. etc
- The case planner while noting that infill development is acceptable within the 'RS' zoning considers that the development in its proposed form does not accord with the policies and objectives of the Fingal Development Plan 2017-2023, in particular: Objectives DMS39, NH40 and NH51. They consider that if permitted the proposed development would negatively impact upon protected

views within the vicinity of the subject site and would be seriously injurious to the visual amenities and established character of the area.

- Furthermore, they consider that the proposal would have a significant overbearing impact upon the residential amenities of the surrounding area.
- With respect to appropriate assessment, they consider that while the proposed development would result in the provision of an additional floor to the permitted scheme, no alterations to the footprint of the building are proposed and as such they consider the NIS submitted as part of the previous application will suffice for this proposal.
- They recommended that permission be refused for 3 reasons

### 3.2.2. Other Technical Reports

Parks and Green Infrastructure: Recommends a number of conditions regarding the implementation of the tree protection and landscaping plans. Contribution required to offset the deficit in public open space. The open space is not suitable for taking in charge and shall be maintained by a management company

Transportation: No objection subject to condition including the submission of proposals to reduce the corner radius at the junction and for the provision of bicycle parking.

Water Services: No objection

### 3.3. Prescribed Bodies

Irish Water: No objection

### 3.4. Third Party Observations

The planning authority received a number of third-party submissions during the course of their determination of the application. The issues / concerns raised in the



submissions received are similar in nature to those raised by observers to this appeal and have been summarised in 6.3 of this report.

## 4.0 Planning History

### 4.1.1. Appeal Site

APB Ref:307006-20 (F19A/0405): Permission granted (2020) for: Demolition of existing 3 storey dwelling house. Construction of a new 3 storey over basement apartment development consisting of 8 no. 2 bedroom apartments. New vehicular entrance, roads, footpaths, landscaping, services consisting of storm and foul water disposal, mains water supply and all associated site works

### 4.1.2. Adjoining lands to south.

FCC Ref: F14A/0482: Permission granted (2015) to construct 2 no. 2 storey dwellings over basement on a split-level site with 2 new entrances onto the public road and connect into existing public services with associated site works and landscaping. Appropriate period extended (2020) to 26<sup>th</sup> November 2025 under

FCC Ref: F14A/0482/E1; This permission (2020) extends the duration of F14A/0482 for a period of 5 years, expiring on the 26th November 2025

## 5.0 Policy Context

### 5.1. National Policy

#### 5.1.1. National Planning Framework

The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018 supports compact growth, and seeks to make better use of existing underutilised, serviced lands within built-up areas. The framework targets a greater proportion (40%) of future housing development to be within and close to the existing 'footprint' of built-up areas.

*National Policy Objective 35*

Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2. Eastern & Midland Regional Spatial & Economic Strategy (RSES) 2019-2031

The Dublin region is a global gateway to Ireland and the Dublin-Belfast Corridor is the largest economic agglomeration on the island of Ireland. Capacity constraints in housing and infrastructure must be addressed to ensure continued competitiveness as a national economic driver. The key enablers for growth include promoting compact urban growth to realise targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas. The spatial strategy for Dublin City and Suburbs is to support the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built-up area.

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

The 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009' note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill

5.1.4. Sustainable Urban Housing: Design Standards for new Apartments Guidelines for Planning Authorities (March 2020)

The primary aim of these guidelines is to promote sustainable urban housing, by ensuring that the design and layout of new apartments will provide satisfactory accommodation for a variety of household types and sizes – including families with children - over the medium to long term.

5.1.5. Urban Development and Building Heights - Guidelines for Planning Authorities

It is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. The Guidelines identify broad principles to be considered for buildings taller than prevailing building heights in urban areas and criteria for consideration at the level of the City / town, district / neighbourhood / street and the site / building.

**5.2. Fingal Development Plan 2017-2023**

5.2.1. Strategic Policy: Seeks to deliver 25 main aims one of which is to Consolidate development and protect the unique identities of the settlements including Howth

5.2.2. Settlement Hierarchy: Howth is location within the Metropolitan Area

5.2.3. Zoning: The subject site is zoned 'RS' Residential with the objective to provide for residential development and protect and improve residential amenity The vision for this zoning is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity. Residential development is permitted in principle.

5.2.4. Density: With respect to residential densities, the Plan states that regard should be had to the national guidance set out in the Sustainable Residential Development in Urban Areas Guidelines and the accompanying Urban Design Manual. The

Development Plan promotes higher densities at suitable locations such as along public transport corridors and in main town centres (objective PM41 applies)

5.2.5. Development Strategy. Chapter 4 sets out the development strategy for Howth. Future development will be strictly related to the indicated use zones including the infilling of existing developed areas rather than further extension of these areas. The strategy for Howth Peninsula is to ensure the conservation and preservation of this sensitive and scenic area, in particular through the implementation of the Howth Special Amenity Area Order

5.2.6. Landscape Character: The appeal site is located within the Coastal Character Type area. The Coastal Character Type is categorised as having an exceptional landscape value. This is a highly sensitive character area with a low capacity to absorb new development.

5.2.7. Relevant Objectives.

HOWTH 1: Ensure that development respects the special historic and architectural character of the area.

HOWTH 4: Protect and manage the Special Amenity Area, having regard to the associated management plan and objectives for the buffer zone.

PM44: Encourages and promotes the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.

NH35 Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks and large agricultural/horticulture units which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve.

NH40 Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.

- DMS28: A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.
- DMS39: New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates / gateways, trees, landscaping, and fencing or railings.
- DMS90 Requires balconies, ground floor private open space, roof terraces or winter gardens be suitably screened so as to provide an adequate level of privacy and shelter for residents.

### 5.3. **Howth Special Amenity Area Order 1999**

The site is located within the transitional area between the buffer around Howth Special Amenity Area and the Howth SAAO proper. The boundary of the SAAO area runs along the adjoining public roads. In considering planning applications within the buffer zone, it will be Council policy (inter alia):

- In respect of natural beauty to preserve prospects of the Special Amenity Area and to preserve open views from the Special Amenity Area

### 5.4. **Built Heritage**

- 5.5. The property to the northwest of the site, on the seaward side of Balscadden Road is a protected structure – No. 936 Ben Eadair, 16 Balscadden Road - Mid 19th century detached two bay two-storey house<sup>598</sup>
- 5.6. Kilrock House and its associated gate lodge on the western side of Kilrock Road are also protected structures (No.598) both are listed in the NIAH.

## 5.7. Natural Heritage Designations

The appeal site is not designated for any nature conservation purposes. The coast at Balscadden Bay immediately north of the appeal site, comprises part of Howth Head SAC (000202) and Howth Head pNHA. Howth Head Coast SPA (004113) extends around the coastline to within approx. 300m west / northwest of the appeal site. Other sites in the wider area include Baldoyle Bay SAC (000199), Rockabill to Dalkey Island SAC (003000) and Irelands Eye SPA (004117) and SAC (002193).

## 5.8. EIA Screening

Having regard to the nature and scale of the proposed residential development, comprising alterations to a previously granted planning permission, its location on zoned and serviced lands within this established urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a first party appeal, lodged on behalf of the applicant, Emmet McLoughlin, against the decision of the planning authority to refuse permission for the proposed development. The issues set out in the grounds of appeal are summarised as follows:

- The Fingal County Councils Planners report assessed the modifications to the height incorrectly and failed to address the cumulative effects to reduce the massing and improve the schemes setting within the landscape.
- The proposal for development on site is appropriate given the zoning of the site and current schedule of Government legislation which requires higher density and compact growth.

- The proposed development is consistent with Objective DMS39 as it respects the height and massing of the existing residential and environmental character of the area
- The landscape and visual assessment submitted found that the addition of a penthouse would have minimal impact on the localised landscape and visual character.
- The proposed scheme is lower than the existing dwelling on site. The height will not encroach on the Howth SAAO and is in line with existing properties.
- The proposed amendments have been designed in line with the Development and Conservation Standards set out within the Howth SAAO. Proposed boundary treatments are in line with that of the SAAO and have already been approved by Fingal County Council
- The proposed grass roof will better assimilate the apartment block into the character of the area.
- The footprint of the building is not moving any closer to the site boundary. Ground and first floor levels are as previously granted. The existing dwelling on site is far closer to the permitted houses on the adjoining site to the south than the currently proposed apartment block and would have a greater overbearing impact.
- The proposed development is a modest height increase which will not give rise to overbearance on surrounding properties. There is no overshadowing and no adverse effect on daylight / sunlight
- The proposed amendments have been designed to reduce any potential overlooking onto the lands adjoining the site to the south
- With respect to refusal reason no.3, there is a complete misunderstanding of the methodology set out within the Landscape and Visual Impact Assessment.
- The proposed development will not contribute to an erosion of the distinctive and attractive character of the area nor seriously injure the visual and residential amenities of the area

- The development continues to protect the “framed vista” from Kilrock Road and as such as no adverse impact on the Howth SAAO or any other protected natural features or views

## 6.2. **Planning Authority Response**

The planning authority’s response to the issues raised in the grounds of appeal are set out below.

- The planning authority based their assessment on the plans submitted as part of the application documentation and the measurements provided on such
- They remain of the opinion that the proposed amendment to the permitted development would not be in keeping with the surrounding context and would represent an incongruous form of development within the established character of the area
- A 4-storey building would not be appropriate at this location having regard to its location within the buffer zone associated with the Howth SAAO and the character of development within the vicinity
- There has been no change of circumstance to alter their opinion and they request the Board to uphold their decision and refuse permission for the proposed development

## 6.3. **Observations**

6.3.1. 7no observations been received from the following parties:

- Jennette Byrne
- Sheena Tuite
- Johnny White
- Margaret Ruxton
- Paul and Mairead Byrne
- Ciara Ní Laoi
- Gabriel Fitzpatrick



6.3.2. The issues raised in the submission have been grouped and summarised as follows:

Design and Layout:

- The new proposal is not for a new setback penthouse as claimed but for the insertion of another floor under the permitted setback penthouse
- The addition of a new floor amounts to a 30% increase in floor area which is not a minor modification.
- In the original application the applicant was required to reduce the proposal to 3 storeys
- The 4<sup>th</sup> floor penthouse could be sub-divided with no provision for additional parking facilities etc
- Concerns raised in relation to the size and location of the bin storage area (visual impact, attract vermin, noise during collection times, accessibility). Bin storage area should be moved to the northeast of the site.
- Lack of green infrastructure proposals including rainwater harvesting, solar panels etc

Visual Impact

- This is a visually sensitive site located within the Howth Special Amenity Buffer Zone. The proposed development would have a negative impact on the visual amenities of the area and would detract from listed views
- By reason of its mass, height and location forward of the established building line on Kilrock Road, the relative height of the proposed development in relation to the ridge line of the existing structure (with dormer roof) is completely irrelevant.
- The development would be inconsistent with the pattern of development in the area which comprises mainly detached houses, semi-detached houses, and a Victorian Terrace
- The proposed development would set an unacceptable precedent for similar development in the area

- The Visual Impact Statement does not accurately detail the proposed levels within the site, the height of the boundary wall or vegetation removal
- The proposed development fails to comply with the landscape character objectives of the CDP
- The proposal would result in the loss of existing stone wall

#### Impacts on adjoining properties:

- The proposed development would have a negative impact on the residential amenities of adjoining properties by way of overlooking / loss of privacy, and overbearing and would have a negative impact on property values
- The proposed development would impact on views from adjoining properties
- Possible damage to adjoining properties during the construction phase.
- There is no history of anti-social behaviour on site

#### Traffic and Transportation

- Visitor numbers to this area are significant and existing congestion at peak times blocks access for residents and emergency services The proposal will contribute to existing traffic problems.
- The location of the proposed entrance and electric gates will result in dangerous access and egress from the site and will impact visibility at the junction.
- Inadequate on-site parking will result in obstructive on-street parking.
- The proposed scheme does not provide for disabled parking or EV charging points

#### Flooding and Surface Water Drainage

- The increase in ground levels on site will interfere with drainage in the area
- There is history of landslides / cave collapse in the area contributed to heavy rain and surface water flows etc. Construction activity on site (including deep

excavation etc) poses a further treat. No assessment of this treat has been carried out.

- There is a history of flooding in the area contributed to heavy rain and surface water flows etc. The development of this site as proposed would contribute to surface water runoff and flooding on Balscadden Road, and would pose further risk to neighbouring properties and to the SAC
- The Coolcur Brook runs through the site under the road via a culvert. No consultation on how the proposed development is to connect to existing culvert on adjoining property so as to prevent flooding
- Concerns raised in relation to the capacity of the foul sewer network and impacts on its integrity during construction.
- The main foul sewer on Balscadden Road has previously overflowed with runoff to adjoining properties and to the SAC.

#### 6.4. Further Responses

None

### 7.0 Assessment

#### 7.1. Introduction and Background

- 7.1.1. The appeal site currently has the benefit of an extant planning permission granted under An Bord Pleanála Ref. No: 307006-20 which allows for the demolition of existing 3 storey dwelling on site and for the construction of a 3 storey over basement apartment block comprising 8 no. 2 bedroom apartments. It is of relevance to note that prior to the grant of permission the height and scale of the apartment block was reduced to address concerns raised by the planning authority in relation to the impact of the development on the residential and visual amenities of the area.
- 7.1.2. The applicant is now seeking permission to modify the previously permitted apartment block. The proposed modifications are set out in Section 2.0 of this report.

Essentially the applicant is seeking permission for a vertical extension to the permitted apartment block, with the addition of a third floor level and one additional apartment unit.

7.1.3. Having examined the application details and all other documentation on file, including the submissions / observations received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional / national policies and guidance, I consider the main issues for the Board in determining the current application and appeal relate to whether or not the proposed modifications would result in a diminution of the visual amenities of the area and /or the residential amenities of properties in the area above that associated with the current permitted development on site. My assessment, therefore, will focus on the proposed alterations for which permission is currently being sought. For clarify, I do not intend to reassess those issues raised by third parties, which have already been considered and approved under the extant parent permission ABP Ref. 307006-20, this includes issues relating to site access, groundworks, and drainage.

7.1.4. In the above context, I consider the main issues which arise in this appeal include:

- Compliance with Policy
- Visual Impact
- Impact on Residential Amenity
- Other

Appropriate Assessment also needs to be considered

## 7.2. Compliance with Policy.

7.2.1. The appeal site is zoned for residential use (RS), is currently occupied by a single detached dwelling, and has the benefit of an extant permission for a residential /

apartment development. I therefore consider the development of this site for residential purposes to be acceptable in principle.

- 7.2.2. The vision for the 'RS' zoned lands is to ensure that any new development in existing residential areas would have a minimal impact on and enhance existing residential amenity. The proposed development site would I consider qualify as an underutilised infill site. Objectives PM44 and DMS39 of the Fingal County Development Plan support the development of underutilised infill and corner sites in existing residential areas, however, it is recognised that a balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. This approach is I consider consistent with national policy and guidance regarding the promotion of infill residential development. Therefore, while I would support the development of this site for residential purposes having regard to the need to ensure the efficient use of zoned and serviced lands, I also consider it appropriate to ensure that any development proposal would successfully integrate with the existing pattern and character of development in the area and would not detract, to any material degree, from the residential amenities of neighbouring properties.

### 7.3. **Visual Impact**

- 7.3.1. The proposed development is located on Howth Head peninsula within transitional zone between the buffer zone of the Howth Special Amenity Area Order (SAAO) and the SAAO proper. This area is classified as a Coastal Character Type Landscape Area (a highly sensitive character type) under the Fingal County Development Plan 2017-2023. This is a highly scenic and visually sensitive area with a low capacity to absorb new development. The sensitivity of the area is reflected in the number of views listed for preservation under the Fingal County Development 2017-2023 including, views along Kilrock Road to the east, Balcadden Road to the north and northwest and the East Pier of the Harbour to the northwest. With regard to the above, I refer the Board to Objective NH35 of the County Development Plan which seeks to resist development which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve.

- 7.3.2. The site itself occupies an elevated position above the coast with views towards the sea and islands. It comprises a single, detached dwelling that is constructed on the southern site boundary. While occupying the most elevated position within the site, I note that the existing dwelling is largely screened from long distance views, particularly along Balscadden Road to the northwest, due to topography, vegetation, and the existing dwelling of Ben Eadair, a protected structure located to the northwest, downhill, of the appeal site.
- 7.3.3. The extant permission on site granted under ABP Ref. 307006-20, allows for the demolition of the existing dwelling and its replacement with a three-storey apartment block with a set back at second floor level. Having regard to the prevailing pattern of development within the immediate vicinity of the site, which comprises mainly detached / semi-detached houses, the construction of a three-storey apartment building (as permitted) at this location would, I consider, introduce a new form of development into the landscape thereby altering the character of the area, however, I am satisfied that that the appeal site could accommodate the height, scale and density of the permitted development without having a significant negative impact on the visual amenities of the area.
- 7.3.4. The modifications proposed under this application would allow for the construction of a 4 storey over basement apartment block in lieu of the permitted 3 storey over basement apartment block. Having considered the plans and particulars submitted in support of this application, including the Landscape and Visual Impact Assessment (VIA) and photomontages, and having visited the site and surrounding area I am of the opinion that the proposed modifications would not only increase the height of the permitted apartment block by c2.95m (from 9.5m to 12.45m) but would, due to the effective removal of the set back at second floor level, increase the overall mass and scale of the structure, resulting in a more incongruous form of development on this site. The development as proposed would I consider have a negative overbearing impact on Kilrock Road and would detract from protected views and the overall visually amenity of the area. I recommend that planning permission be refused in this regard.

#### 7.4. **Impact on Adjoining Properties:**

##### *Overbearing*

- 7.4.1. The second refusal reason of the planning authority relates to the impact of the proposed development on the amenities of the adjoining residential zoned lands to the south of the appeal site by way of overbearing. The lands to the south are at present undeveloped however they do have the benefit of an extant permission (FCC Ref: F14A/0482) which allows for the construction of 2no part two-storey part three storey, split level dwellings. As per the plans submitted, the closest permitted dwelling to the appeal site is located c3.47m from the southern site boundary and is to be constructed to a ridge level of 34.994m (c9.62m above the lower ground floor level). The second dwelling, located further to the south has a ridge level of 36.892m (c10.69m above the lower ground floor level).
- 7.4.2. The development of the appeal site, as permitted under ABP Ref. 307006-20, would allow for a separation distance of c5.5m between the proposed apartment block and the southern site boundary with an additional set back of c2.7m at second floor level. The proposed modifications maintain the separation distance between the apartment block and the southern site boundary but would effectively remove the set back at second floor level, this together with the provision of an additional storey at third floor level (with a set-back c1m), would increase the height of the apartment block by c2.95m (to a ridge level 37.150) as well the overall mass and scale of the structure.
- 7.4.3. In terms of overbearing, while the height of the apartment block as currently proposed would exceed the height of the permitted dwelling to the south by 2.16m, I am satisfied that the separation distance of c8.9m between the proposed apartment block and the permitted residential unit to the south would be sufficient to mitigate any significant overbearing impact and therefore I do not consider that it would be reasonable to refuse permission on this basis.

##### *Overlooking / Loss of Privacy*

7.4.4. In relation to overlooking, I am satisfied that the proposed development has been adequately designed to mitigate overlooking impacts on the adjoining lands to the south. As detailed on Section SH02, Drawing No.18-018-P05.2, the proposed third floor apartment is situated above (c200mm) the ground floor level of neighbouring houses in Asgard Park to the west, with a separation distance of c30m available between opposing windows. The separation distances, which exceeds the required standard of 22m together with the steep embankment between the proposed development site and Asgard Park, should I consider, be sufficient to ensure that an adequately level of privacy can be provided / maintained for both existing and proposed residential units. I would however recommend, having regard to the extent of glazing in the western elevation of the third-floor penthouse apartment, that opaque screens be provided to the western side of the third-floor balcony, in order to ensure a greater sense of privacy. Having regard to the separation distances available between the proposed apartment block and neighbouring dwellings to the south, which would exceed the required minimum distance of 22m I do not consider that undue loss of privacy in respect of these properties would arise.

#### *Visual Impact*

7.4.5. Third parties have raised concerns that the development of the site as now proposed would result in the loss of views from adjoining residential properties. Following consideration of the plans and particulars submitted in support of the application, including the Landscape and Visual Impact Assessment, which provides an account of the views from existing residential development overlooking the site, it would appear that the proposed 4-storey apartment block would be visible from neighbouring properties, particularly those in Asgard Park to the west of the appeal site, and that it has the potential to interrupt views, particularly ground level views from these properties, however, having regard to location of the proposed development on zoned and serviced lands within the built up area of Howth, the prevailing pattern of development in the area and the level of amenity currently afforded to properties in Asgard Park, I do not consider that the development as proposed would detract to any material degree from the residential amenities of these properties and as such I do not recommend that permission be refused on this basis.



### *Devaluation of Property*

7.4.6. I note the concerns raised by third parties in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

### 7.5. **Appropriate Assessment**

7.5.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered in this section. As a screening report for Appropriate Assessment was not submitted in support of the application, this screening assessment has been carried out de-novo.

7.5.2. The appeal site is not designated for any nature conservation purposes. The coast at Balcadden Bay, immediately north of Balcadden Road comprises part of Howth Head SAC (000202). Howth Head Coast SPA (004113) extends around the coastline to within approx. 300m west / northwest of the appeal site. Irelands Eye SPA (004117) and SAC (002193) lie approx. 1km and 1.4km off-shore respectively. Other sites in the wider area include Baldoyle Bay SAC (000199), Rockabill to Dalkey Island SAC (003000). There are no other Natura 2000 sites upon which the proposed development would have the potential to have an effect, given the nature, scale and location of the proposed development relative to other Natura 2000 sites.

7.5.3. The conservation objectives for these sites are as follows:

- Howth Head SAC (000202): to maintain the favourable conservation condition of the habitats of vegetated sea cliffs and European dry heaths.
- Howth Head Coast SPA (004113): to maintain or restore the favourable conservation condition of the species Kittiwake.

- Irelands Eye SPA (004117): to maintain or restore the favourable conservation condition of the species Cormorant, Herring Gull, Kittiwake, Guillemot and Razorbill
- Irelands Eye SAC (002193): To maintain the favourable conservation condition of Perennial vegetation of stony banks and Vegetated Sea cliffs of the Atlantic and Baltic coasts.
- Rockabill to Dalkey Island SAC (003000): To maintain the favourable conservation condition of Harbour porpoise and Reefs within the SAC.
- Baldoyle Bay SAC (000199): to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide, of Salicornia and other annuals colonizing mud and sand, of Atlantic salt meadows, of Mediterranean salt meadows.

7.5.4. A screening report for Appropriate Assessment has not been submitted in support of this amendment application however it is noted that Natura Impact Statement, prepared by Ash Ecology and Environmental Ltd was submitted to the Board for consideration under ABP Ref. 307006-20, the parent permission for this development proposal. The potential significant impacts identified in the NIS along with the proposed mitigations measures to prevent likely impacts were noted and considered the Board. The Board concluded that the proposed development would not adversely affect the integrity of European sites in view of the site's conservation objectives and that there is no reasonable scientific doubt as to the absence of such effects and permission for the development was subsequently granted. A letter from Ash Ecology and Environmental Ltd accompanies this application. This letter confirms that the modifications to the previously approved plans proposed under this application do not involve any alterations to the submitted NIS report as the conclusions remain the same i.e. that following

7.5.5. Having regard to the extant planning permission on the site, granted under ABP Ref. 307006-20, and the fact that the potential impacts of the development of this site have already been assessed under an Appropriate Assessment of that application

and having regard to the nature of the proposed development which seeks only to amend the previous grant of planning permission, I consider that it would be appropriate, in this instance, that an assessment of the potential impacts of the proposed development, if any, on the Natura 2000 network of sites, be restricted to the amendments sought.

7.5.6. The proposed amendments to the development permitted under Ref: ABP Ref. 307006-20 are set out in Section 2.0 of this report. Essentially the applicant is seeking permission for a vertical extension to the permitted 3 storey apartment block to provide for 1 no addition (penthouse) apartment. I consider that the amendments sought should not in themselves give rise to any new or different issues or impact pathways that would now need to be assessed.

7.5.7. In conclusion, having considered the Planning history of the site, in particular the parent permission, ABP Ref. 307006-20 which was subject to Appropriate assessment, the nature, scale and extent of alteration relative to the development subject of ABP Ref. 307006-20, and the information on file (which I consider adequate to carry out Appropriate Assessment Screening), I consider it reasonable to conclude that the alterations proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on the designated European sites. Appropriate Assessment (and submission of a NIS) is not therefore required.

## 8.0 Recommendation

8.1. I recommend that planning permission for this development be refused for reasons outlined below.

## 9.0 Reasons:

1.	Having regard to:  a) The location of the proposed development on a prominent site within a Coastal Landscape Character Area that is categorised by the Development Plan as having exceptional landscape value and to be
----	--

	<p>highly sensitive to development and the location of the site within the buffer zone of the Howth Special Amenity Area Order (SAAO)</p> <ul style="list-style-type: none"><li>b) The preserved views along Kilrock Road, Balcadden Road and from the East Pier of the Harbour as set out Fingal County Development Plan 2017-2022</li><li>c) The modifications proposed under this application</li><li>d) Objective NH35 which seeks to resist development which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve</li></ul> <p>it is considered that the increased height, mass and bulk of the proposed apartment block, as compared to that which was granted permission under An Bord Pleanála appeal number 307006-20 (planning permission register reference number F19A/0405) would form a discordant and obtrusive feature on this highly sensitive and scenic coastal landscape, would have a negative overbearing impact on Kilrock Road and would detract from preserved views along Balcadden Road and from the East Pier of the Harbour . The proposed development would therefore be contrary to the stated objectives of the County Development Plan, to the visual amenities of the area and to the proper planning and sustainable development of the area.</p>
--	--

---

Lucy Roche  
Planning Inspector

26<sup>th</sup> July 2022